

# 1. Commonwealth

## CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9</b>  1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.  4. Where such separation results from any action	<b>Family Law Act 1975</b>	Cth	60CA	In deciding whether to make a particular parenting order in relation to a child, a Court must regard the best interests of the child as the paramount consideration. A parenting order may deal with a number of matters including whom a child will live with and what contact or communication the child will have with any other person.
			60CC(1) and (2)	In determining what is in the child's best interests, the Court must consider primarily:  (a) the benefit to the child of having a meaningful relationship with both of the child's parents; and  (b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.
			60CC(3)(a)	In determining what is in the child's best interests, the Court must also take into account additional considerations, including any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the court thinks are relevant to the weight it should give to the child's views.
			61DA	When making a parenting order (including as to the person with whom the child will live) in relation to a child, the court must apply a presumption that it is in the best interests of the

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.				<p>child for the child's parents to have equal shared parental responsibility for the child. The presumption does not apply if there are reasonable grounds to believe that a parent of the child (or a person who lives with a parent of the child) has engaged in:</p> <p>(a) abuse of the child or another child who, at the time, was a member of the parent's family (or that other person's family); or</p> <p>(b) family violence.</p>

## 2. New South Wales

### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9</b>  1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is	<b>Children and Young Persons (Care and Protection) Act 1988</b>	NSW	9	The safety, welfare and well-being of the child or young person are paramount. Wherever a child or young person is able to form his or her own views on a matter concerning his or her safety, welfare and well-being, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child or young person and the circumstances.
			112	The parents of a child should have responsibility for the child unless it is not in the best interests of the child that his or her parents have responsibility for him or her.
			34	The Director-General may take whatever action is appropriate for the safety and well-being of the child or young person, including seeking orders from the Children's Court or developing a parental responsibility contract (in consultation with parents).
			96	Parents and other persons who have care of the child or young person may attend the Children's Court, unless the child or young person wishes otherwise.
	<b>Children (Protection and Parental Responsibility Act)</b>	NSW	6	A Court is to have regard to whether the taking of the action under consideration is in the best interests of the child. Without limiting the matters that the Court may take into

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>contrary to the child's best interests.</p> <p>4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.</p>	<b>1997</b>			<p>account, the Court is to consider:</p> <p>(a) the nature of the relationship of the child with the child's parent or parents; and</p> <p>(b) the attitude to the child, and to the responsibilities of parenthood, demonstrated by the child's parent or parents, and the welfare, status and circumstances of the child and of the child's parent or parents.</p>
			7	A court exercising criminal jurisdiction with respect to a child may require the attendance, at the place where the proceedings are being or are to be conducted, of one or more parents of the child. The court may specify which parents are to attend.
	<b>Crimes Act 1900</b>	NSW	26	A Court may issue a local leave permit to allow a female inmate to be absent from a correctional centre to serve her sentence in an appropriate environment with her young child.
	<b>Infants' Custody and Settlements Act 1899</b>	NSW	5	The Supreme Court may, upon the application of the mother of any minor, make such order as it may think fit regarding the custody of the minor and the right of access thereto of either parent, having regard to the welfare of the minor, and to the conduct of the parents, and to the wishes as well of the mother as of the father.

### 3. Victoria

#### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9</b>  1) States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2) In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3) States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.	<b>Corrections Act 1986</b>	Vic	31	At the request of the prisoner who is the child's parent, the Secretary may permit the prisoner's child to live with the prisoner in the prison if the Secretary believes it is in the best interest of the child.
	<b>Children, Youth and Families Act 2005</b>	Vic	10	(1) Best interest of the child must always be paramount.  (3) In determining what decision to make or action to take, consideration must be given to the following:  (a) need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that relationship is limited to that necessary to secure the safety and wellbeing of the child; and  (b) the need to strengthen, preserve and promote positive relationships between the child and the child's parent, family members and persons significant to the child; and  (c) the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances; and  (d) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>4) Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.</p>				<p>to the child; and</p> <p>(e) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any placement option is considered; and</p> <p>(f) the desirability when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent; and</p> <p>(g) the desirability of siblings being placed together when they are placed in out of home care.</p>
			11	<p>In making a decision in relation to a child, the decision maker must take into consideration the following principles:</p> <p>(a) the child's parent should be assisted and supported in reaching decisions and taking actions to promote the child's safety and wellbeing; and</p> <p>(b) where a child is placed in out of home care the child's care giver should be consulted as part of the decision-making process and given an opportunity to contribute to the process; and</p> <p>(c) the child and all relevant family members (except if their participation would be detrimental to the safety or wellbeing of the child) should be encouraged and given adequate opportunity to participate fully in the decision-</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				making process.
			13	Provides additional considerations to be made by the decision maker when placing an Aboriginal child in out of home care. For example, if the child cannot be placed with family members, where possible, the child should be placed with an aboriginal family and within close proximity to the child's natural family (cl 13(2)).
			14	<p>Outlines further principles for placement of Aboriginal child:</p> <p>(a) self-determination and express wishes of the child; and</p> <p>(b) child with parents from different Aboriginal communities; and</p> <p>(c) child with one Aboriginal parent and one non-Aboriginal parent; and</p> <p>(d) placement of child in care of a non-Aboriginal person.</p>
			240	<p>If a protection intervener is satisfied on reasonable grounds that a child is in need of protection, he or she may:</p> <p>(b) with or without a warrant, take the child into safe custody or cause another protective intervener to take the child into safe custody pending the hearing of a</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				protection application
			241	<p>If a protective intervener is satisfied on reasonable grounds that a child is in need of protection and that it is inappropriate to take the procedure set out in section 240, he or she may:</p> <p>(b) take the child into safe custody or cause another protective intervener to take the child into safe custody.</p> <p>(1) In this event, the parents of the child must be given a written statement outlining the reasons for the child being taken into safe custody. The child must then be taken before the Court to have an interim accommodation order made.</p>
			319	<p>Under the Act, the Court can make permanent care orders for a child if the child if the child has not been in the care of its parents for 6 months, if the Court is satisfied that it would not be in the best interests of the child for the parent to resume custody and guardianship of the child.</p> <p>The Court must also be satisfied that the person named in the application as guardian is suitable.</p>
			362	<p>In determining which sentence to impose on a child, the Court must, as far as practicable, have regard to:</p> <p>(a) the need to strengthen and preserve the relationships between the child and the child's family; and</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(b) the desirability of allowing the child to live at home
	<b>Family Violence Protection Act 2008</b>	Vic	83	Allows the Court to make an order to exclude child respondent from residence under a family violence intervention order. In making such an order, the Court must be satisfied that the child will have appropriate accommodation and supervision.
			91	If the Court decides to make a family violence intervention order and the protected person or the respondent is the parent of a child, the court must decide whether or not it will or may jeopardise the safety of the protected person or child for the child to live with, spend time with or communicate with the respondent.

## 4. Queensland

### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9</b>  1) States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2) In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3) States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.  4) Where such separation results from any action	<b>Adoption Act 2009</b>	Qld	6	Guiding principles for Act:  (a) the process for a child's adoption should include considering the views of the child's parents and the child if he or she is able to form and express views about the adoption, having regard to the child's age and ability to understand.  (j) although a final adoption order changes legal relationships, it may be in an adopted child's best interest for the child to have an ongoing relationship with their birth family.
			9	Child's best interest is a guiding principle of the Act.
			Division 4	The Act provides for ensuring parents have the capacity to consent to the adoption of their child and specifically for non-adult parents.
			Division 5	Prior to consent to adoption taking place, the decision maker must be satisfied that considerable lengths have been taken to identify the child's father and give him notice of the adoption.
	<b>Child Protection Act 1999</b>	Qld	5A	Paramount principle of the Act is that the safety, wellbeing and best interests of a child are paramount.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.			5B	<p>Other general principles:</p> <p>(a) the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family;</p> <p>(b) in protecting a child, the State should only take action that is warranted in the circumstances;</p> <p>(c) if a child is removed from the child's family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests;</p> <p>(d) if a child is removed from the child's family consideration should be given to placing the child as a first option, in the care of kin;</p> <p>(e) if a child is removed from the child's family, the child should be placed with the child's siblings, to the extent that is possible; and</p> <p>(f) a child should be able to maintain relationships with the child's parents and kin, if it is appropriate for the child.</p>
			5D	Provides for additional principles to be considered in relation to the protection of Aboriginal or Torres Strait Islander Children.
			18	Allows the investigating officer to take a child into custody, if the child is at immediate risk of harm.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			28	The Court may decide an application for a temporary assessment order to take the child into the chief executive's custody. The Court can order the parent not have contact with the child.
			51AE	Magistrate is able to make a temporary custody order for the child only if the magistrate is satisfied:  (a) the child will be at unacceptable risk of suffering harm if the order is not made.
			59	The Children's Court may make a child protection order if they are satisfied:  (a) the child is in need of protection and it is desirable and appropriate for the child's protection.  The Court must be satisfied that there is no parent able and willing to protect the child within the foreseeable future or the child's need for emotional security will be best met in the long term by making the order.  The Court can direct a parent not to have contact, direct or indirect with the child (s 62).
			87	Chief executive is to provide contact between the child and child's parents as soon as it's appropriate in the circumstances. However, the chief executive can refuse to grant contact if it is in the best interest of the child.
			Part 2	Outlines the process a parent can take to appeal the decision makers decision regarding the custody of their

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				child.
			Part 4	Process for judicial review
	<b>Domestic Violence and Family Violence Protection Act</b>	Qld	51(4)(c)	The court can make a domestic violence order without the consent of the aggrieved, if a police officer reasonably believes that the order promotes the safety, protection and wellbeing of the aggrieved, any named person and any child affected by the order.
			62	<p>This section applies if the court is considering imposing a condition on a domestic violence order which would prevent or limit contact between the respondent and a child of the respondent.</p> <p>The court must not limit contact between the respondent and their child, unless to the extent necessary for the child's safety, protection and wellbeing.</p>
			63 + 64	<p>This section allows the court to impose an ouster condition on the respondent which can limit access to the aggrieved person's premises.</p> <p>Before making such conditions the court must consider:</p> <p>(a) whether any child of the aggrieved can continue to live safely in the resident if the ouster condition is made; and</p> <p>(b) preventing or minimising disruption to the aggrieved and any child living; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(c) the importance of the child living with the aggrieved being able to maintain social connections and support that may be disrupted or lost if they cannot live in the residence; and  (d) continuity and stability in the care of the child;
			121	If a child is detained by police, the parents of the child need to be advised.
			126	A child must only be taken into custody as a last resort and for the least time is justified in the circumstances. The child must be held in custody only in a way that allows the child to be held separately from any adults being held in custody at the same time.  A police officer must notify the parent of the child, or the chief executive that has guardianship under the <i>Child Protection Act</i> .
	<b>Young Offenders (Interstate Transfer) Act 1987</b>	Qld	7	A child must not be transferred out of Queensland unless it is appropriate in the following circumstances:  (a) the place and intended place of residence of the parent or guardian
	<b>Youth Justice Act 1992</b>	Qld	2(e)	It is an objective of the Act to recognise the importance of families of children and communities, in particular Aboriginal and Torres Strait Islander communities, in the provision of services.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			305	Parent is entitled to know the whereabouts of their child held in custody.

## 5. South Australia

### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9:</b>  1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.	<b>Children's Protection Act 1993</b>	SA	4(6)(c)	A child who is placed or about to be placed in alternative care must be consulted about, and (if the child is reasonably able to do so) take part in making, decisions affecting the child's life, particularly decisions about contact with the child's family.
			16	An officer who removes a child from a dangerous situation must, if possible, return the child to the child's home unless the officer is of the opinion that it would not be in the best interests of the child to return home.
			21(1)(e)	If the Court is satisfied that there are sufficient grounds for making an order that it would be in the best interests of the child the subject of the application that such an order be made, the Court may make an order directing a party to the application to refrain from having contact with the child.
			38(1)(e)	The Court may direct a party to the application to do one or more of the following:  (a) to cease or refrain from residing in the same premises as the child; and  (b) to refrain from coming within a specified distance of the child's residence; and  (c) to refrain from having any contact with the child except



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.				in the presence of some other person;
			47A	In any proceedings under the <i>Children's Protection Act 1993</i> , the Court may, on the application of:  (a) a member of the child's family; or  (b) a person who has at any time had the care of the child; or  (c) a person who has counselled, advised or aided the child, hear submissions the applicant wishes to make in respect of the child, despite the fact that the applicant is not a party to the proceedings.
			52AAB	The Chief Executive may, by written notice, direct a person not to communicate, or attempt to communicate, with a specified child (in any way or in a way specified in the notice) during a specified period.
	<b>Guardianship of Infants Act 1940</b>	SA	6(1)	The court may, upon the application of a person who has a proper interest in the welfare of an infant, make such orders for the custody of, and access to, the infant as it thinks fit.
			10	Where a parent has abandoned or deserted his infant, or allowed his infant to be brought up by another person at that or some other person's expense for such length of time and in such circumstances as to satisfy a court of competent jurisdiction that the parent was unmindful of his parental duties, the court shall not make an order for the delivery of the infant to the parent unless the parent has satisfied the court that having regard to the welfare of the infant he is a fit person to have the custody of the infant, and that it is in the

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				interests of the infant that he should be delivered to the parent.
			11	Where in any proceeding before the court or any other court of competent jurisdiction the custody or upbringing of an infant is in question, the court in deciding that question shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody or upbringing, is superior to that of the mother, or the claim of the mother is superior to that of the father.
			18	No agreement contained in any separation deed made between the father and mother of an infant shall be enforced if the court is of opinion that it will not be for the benefit of the infant to give effect thereto.
	<b>Intervention Orders (Protection of Abuse) Act 2009</b>	SA	10(2)(b)	In determining whether it is appropriate to issue an intervention order and in determining the terms of an intervention order, the issuing authority must take into account how the intervention order would be likely to affect contact (in accordance with a relevant <i>Family Law Act</i> order or <i>Children's Protection Act</i> order or otherwise) between any child of, or in the care of the protected person or the defendant.
	<b>Problem Gambling Family Protection Orders Act 2004</b>	SA	5(2)	The Authority may make a problem gambling family protection order that:  (a) requires the respondent to refrain from contacting,

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>harassing, threatening or intimidating a family member, or any other person at a place where the family member resides or works, to demand or request money for the purposes of gambling activities; or</p> <p>(b) specifies conditions subject to which the respondent may approach or contact a family member or any other person at a place where a family member resides or works.</p>

## 6. Western Australia

### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9:</b>  1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.  4. Where such separation results from any action	<b>Children and Community Services Act 2004</b>	WA	7	In performing a function or exercising a power under the <i>Family Court Act 1997</i> in relation to a child, a person, the Court or the State Administrative Tribunal must regard the best interests of the child as the paramount consideration.
			8	In determining what is in a child's best interests the following matters must be taken into account:  (a) the need to protect the child from harm; and  (b) the capacity of the child's parents to protect the child from harm; and  (c) the capacity of the child's parents, or of any other person, to provide for the child's needs; and  (d) the nature of the child's relationship with the child's parents, siblings and other relatives and with any other people who are significant in the child's life; and  (e) the attitude to the child, and to parental responsibility, demonstrated by the child's parents; and  (f) any wishes or views expressed by the child, having regard to the child's age and level of understanding in determining the weight to be given to those wishes or views; and  (g) the importance of continuity and stability in the child's

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.</p>				<p>living arrangements and the likely effect on the child of disruption of those living arrangements, including separation from:</p> <ul style="list-style-type: none"> <li>(i) the child's parents; or</li> <li>(ii) a sibling or other relative of the child; or</li> <li>(iii) a carer or any other person (including a child) with whom the child is, or has recently been, living; or</li> <li>(iv) any other person who is significant in the child's life;</li> <li>(h) the need for the child to maintain contact with the child's parents, siblings and other relatives and with any other people who are significant in the child's life; and</li> <li>(i) the child's age, maturity, sex, sexuality, background and language; and</li> <li>(j) the child's cultural, ethnic or religious identity (including any need to maintain a connection with the lifestyle, culture and traditions of Aboriginal people or Torres Strait Islanders); and</li> <li>(k) the child's physical, emotional, intellectual, spiritual, developmental and educational needs; and</li> <li>(l) any other relevant characteristics of the child; and</li> <li>(m) the likely effect on the child of any change in the child's</li> </ul>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>circumstances.</p> <p>This section does not limit the matters that may be taken into account in determining what is in the best interests of a child.</p>
			12(2)	<p>In making a decision under the <i>Family Court Act 1997</i> about the placement under a placement arrangement of an Aboriginal child or a Torres Strait Islander child, a principle to be observed is that any placement of the child must, so far as is consistent with the child's best interests and is otherwise practicable, be in accordance with the following order of priority:</p> <p>(a) placement with a member of the child's family; or</p> <p>(b) placement with a person who is an Aboriginal person or a Torres Strait Islander in the child's community in accordance with local customary practice; or</p> <p>(c) placement with a person who is an Aboriginal person or a Torres Strait Islander; or</p> <p>(d) placement with a person who is not an Aboriginal person or a Torres Strait Islander but who, in the opinion of the CEO, is sensitive to the needs of the child and capable of promoting the child's ongoing affiliation with the child's culture, and where possible, the child's family.</p>
			23(2)	<p>The CEO or an authorised officer may disclose relevant information to a public authority, a Commonwealth agency, a corresponding authority, a service provider or an interested</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				person.
			33	<p>If the CEO determines that action should be taken to safeguard or promote a child's wellbeing, the CEO must do one or more of the following:</p> <p>(e) provide, or arrange for the provision of, social services to the child and, if appropriate, a parent or other relative of the child; and</p> <p>(f) arrange or facilitate a meeting between an officer and any one or more of the following people:</p> <p>(i) a parent or other relative of the child; or</p> <p>(ii) a person who is significant in the child's life; or</p> <p>(iii) a representative of a service provider; or</p> <p>(iv) a representative of a public authority, for the purpose of developing a plan to address the ongoing needs of the child in a way that ensures the best outcome for the child; and</p> <p>(g) enter into a negotiated placement agreement in respect of the child; and</p> <p>(h) cause an investigation to be conducted by an authorised officer for the purpose of ascertaining whether the child may be in need of protection; and</p> <p>(i) take, or cause to be taken, intervention action in respect of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the child; and</p> <p>(j) take, or cause to be taken, any other action in respect of the child that the CEO considers reasonably necessary.</p> <p><b>'Intervention action'</b> means action that involves:</p> <p>(k) making an application for a warrant (provisional protection and care) under section 35; or</p> <p>(l) taking the child into provisional protection and care under section 37; or</p> <p>(m) making a protection application.</p>
			35	<p>An authorised officer who believes that a child is in need of protection may apply to a judge or magistrate for a warrant (provisional protection and care) if the officer:</p> <p>(n) is unable to find the child; or</p> <p>(o) believes that leaving the child at the place where the child is living poses an unacceptable risk to the child's wellbeing; or</p> <p>(p) believes that if a parent of the child or other person becomes aware of a proposed protection application in respect of the child, the child will be moved from the place where the child is living and the officer will be unable to find the child.</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>The judge or magistrate may issue the warrant if the judge or magistrate is satisfied that there are reasonable grounds for the authorised officer to believe that the child is in need of protection and that</p> <p>(q) the authorised officer has been unable to find the child; or</p> <p>(r) there are reasonable grounds for the authorised officer to have a belief referred to in paragraph (b) or (c) above.</p>
			37	An officer may, at any time, take a child into provisional protection and care without a warrant if the officer suspects on reasonable grounds that there is an immediate and substantial risk to the child's wellbeing.
			41	<p>An officer may move a child to a safe place if the officer finds the child at a place other than the child's usual place of residence and the officer believes on reasonable grounds:</p> <p>(s) that the child is not under the immediate supervision of a parent of the child or an adult capable of adequately supervising the child; and</p> <p>(t) that there is a risk to the wellbeing of the child because of the nature of the place where the child is found, the behaviour or vulnerability of the child at that place, or any other circumstance.</p>
			44 - 46	<p>The CEO may make a protection application.</p> <p>If, on a protection application, the Court finds that the child is</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>in need of protection the Court may:</p> <p>(u) make the protection order sought in respect of the child; or</p> <p>(v) make another protection order in respect of the child.</p> <p>The Court must not, on a protection application, make a protection order in respect of a child unless the Court is satisfied that making the order would be better for the child than making no order at all.</p>
			84-85	<p>An authorised officer may at any time require a carer of a child, a parent of a child or any other person who has the care or control of a child to hand the child over to the authorised officer.</p> <p>A person who is required to hand over a child under must comply with the requirement.</p> <p>If a person does not comply with a requirement of an authorised officer, the officer may apply to a judge or magistrate for a warrant (apprehension).</p> <p>A judge or magistrate may issue a warrant (apprehension) if the magistrate is satisfied that the person has not complied with the requirement.</p>
			88C	<p>The CEO may from time to time make an arrangement for the placement of a provisionally protected child or a protected child in a secure care facility ('a <b>secure care arrangement</b>').</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>The CEO must not make a secure care arrangement unless the CEO is satisfied that:</p> <p>(w) there is an immediate and substantial risk of the child causing significant harm to the child or another person; and</p> <p>(x) there is no other suitable way to manage that risk and to ensure that the child receives the care the child needs.</p>
			147	In protection proceedings each parent of the child is a party to the proceedings.
	<b>Family Court Act 1997</b>	WA	66A	In deciding whether to make a particular parenting order in relation to a child, a court must regard the best interests of the child as the paramount consideration.
			84	<p>A parenting order may deal with one or more of the following:</p> <p>(y) the person or persons with whom a child is to live; and</p> <p>(z) the time a child is to spend with another person or other persons; and</p> <p>(a) the allocation of parental responsibility for a child; and</p> <p>(b) if 2 or more persons are to share parental responsibility for a child, the form of consultations those persons are to have with one another about decisions to be made in the exercise of that responsibility; and</p> <p>(c) the communication a child is to have with another person</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>or other persons; and</p> <p>(d) maintenance of a child; and</p> <p>(e) the steps to be taken before an application is made to a court for a variation of the order to take account of the changing needs or circumstances of:</p> <p>(i) a child to whom the order relates; or</p> <p>(ii) the parties to the proceedings in which the order is made;</p> <p>(f) the process to be used for resolving disputes about the terms or operation of the order; and</p> <p>(g) any aspect of the care, welfare or development of the child or any other aspect of parental responsibility for a child.</p>
			88	<p>A parenting order in relation to a child may be applied for by:</p> <p>(h) either or both of the child's parents; or</p> <p>(i) the child; or</p> <p>(j) a grandparent of the child; or</p> <p>(k) any other person concerned with the care, welfare or development of the child; or</p> <p>(l) any guardian, whether appointed under this Act or by will or otherwise; or</p> <p>(m) any person acting in a fiduciary capacity who is, under</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				any will, gift, settlement, or otherwise by law, possessed of any fund for the maintenance or education of the child, or any fund a portion of which may be applied for the maintenance or education of the child.
			89	In proceedings for a parenting order, a court may, subject to sections 70A and 89AB and Part 5 Division 5 of the <i>Family Court Act 1997</i> make such parenting order as it thinks proper.
			162	In addition to the jurisdiction that a court has under the <i>Family Court Act 1997</i> in relation to children, a court also has jurisdiction to make orders relating to the welfare of children.  In deciding whether to make an order in relation to the welfare of a child, a court must regard the best interests of the child as the paramount consideration.

## 7. Northern Territory

### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9:</b>  1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is	<b>Adoption of Children Act 1994</b>	NT	8(1)	For the purposes of the administration of the Act, adoption shall be regarded as a service for the child concerned, and the welfare and interests of the child shall be the paramount consideration.
			8(2) & Schedule 1	In determining the welfare and interests of a child, regard shall be had to the ethnicity and religion of the birth parents of the child and, in so doing, to the following principles:  (1) it is preferable that the child should be placed with a family that has the same ethnic and cultural origins as the child's birth parents in order to facilitate an environment that will promote the child's cultural heritage and identity; and  (2) where the child is an Aboriginal child, recognition is to be given to:  (i) the absence of adoption in customary Aboriginal child care arrangements, arrangements for the custody and guardianship of the child being made within the child's extended family or with other Aboriginal people who have the correct relationship under customary Aboriginal law; and  (ii) the desire and effort of the Aboriginal community to preserve the integrity of its culture and kinship relationships so that efforts must be made to find placements within

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>contrary to the child's best interests.</p> <p>4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.</p>				<p>families, kin groups or ethnic communities as appropriate;</p> <p>(3) there should be appropriate consultation with the child's parents or other relatives, or representatives of appropriate associations, organisations or groups, in order to ascertain what is the best course of action to promote the ethnic welfare and development of the child; and</p> <p>(4) where it is the express wish of the birth parents of a child that the child be placed with a family that has particular religious convictions, preference is to be given to the placement of the child with such a family.</p>
			10	<p>An order for the adoption of a child shall not be made unless the Court is satisfied that, as far as practicable and having regard to the age and understanding of the child, the wishes and feelings of the child have been ascertained and due consideration given to them.</p> <p>An order for the adoption of a child who has attained the age of 12 years shall not be made unless:</p> <p>(a) the child has consented to the adoption; or</p> <p>(b) notwithstanding that the child has not consented to the adoption, the Court is satisfied that there are special reasons related to the welfare and interests of the child why the order should be made.</p> <p>An order for the adoption of a child who, on the date the order is made, has attained the age of 18 years shall not be</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				made unless the child consents to the adoption.
			11	<p>Where an order for the adoption of an Aboriginal child is to be made, the Court shall satisfy itself that every effort has been made (including consultation with the child's parents, with other persons who have responsibility for the welfare of the child in accordance with Aboriginal customary law and with such Aboriginal welfare organisations as are appropriate in the case of the particular child) to arrange appropriate custody:</p> <p>(a) within the child's extended family; or</p> <p>(b) where that cannot be arranged, with Aboriginal people who have the correct relationship with the child in accordance with Aboriginal customary law.</p> <p>In making an order for the adoption of an Aboriginal child, where, in the opinion of the Court, the custody referred to above is not possible or would not be consistent with the welfare and interests of the child, the Court shall ensure that a placement is made that is consistent with the best interests and welfare of the child and in so doing shall:</p> <p>(a) give preference to the adoption of the child by applicants one or both of whom are Aboriginal persons who are, in the opinion of the Minister, suitable to adopt the child; and</p> <p>(b) take into consideration the placement of the child in geographical proximity to the family or other relatives of the child who have an interest in, and a responsibility for, the</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>welfare of the child; and</p> <p>(c) take into consideration undertakings, if any, by the persons who will have the care and custody of the child to encourage and facilitate the maintenance of contact between the child and its own kin and with its own culture.</p>
			12	<p>Subject to the Act, the Court may, on application, make an order for the adoption of a child who:</p> <p>(a) had not attained the age of 18 years before the date on which the application was filed in the Court; or</p> <p>(b) has been brought up, maintained and educated by the applicant or applicants, or by the applicant and a deceased or estranged spouse of the applicant, as his, her or their child.</p> <p>The Court shall not make an order for the adoption of a child who is or has been married, is living or has lived in a de facto relationship within the meaning of the De Facto Relationship Act or has entered into a traditional Aboriginal marriage.</p> <p>An order may be made under this Act for the adoption of a child notwithstanding that the child has, whether before or after the commencement of this Act, and whether in the Territory or elsewhere, previously been adopted.</p>
			27	<p>Subject to section 28, in the case of a child who has not previously been adopted, consent to the adoption of the child by each person who is a birth parent or a guardian of the child is required, except that the consent of a birth parent of a child born outside the marriage or the traditional Aboriginal</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>marriage of his or her birth parents is not required unless that birth parent's parenthood of the child is recognised under a law in force in the Territory before:</p> <p>(a) the expiration of one month after the day on which an instrument of consent to the adoption of the child was signed by the first-mentioned birth parent or a guardian; or</p> <p>(b) the day on which an order for the dispensation of the giving of a consent to the adoption of the child is made by the Court under section 35,</p> <p>whichever is the earlier.</p> <p>In the case of a child who has been previously adopted, the consent of every person who is an adoptive parent or a guardian of the child is required.</p> <p>Where a person whose consent is otherwise required under this section is the applicant or one of the applicants for an order for adoption, that person's consent to the adoption is not required.</p> <p>This section does not apply in the case of a child who has attained the age of 18 years before the order for adoption is made.</p>
			28	<p>In the case of the adoption of a child who has not been adopted before and who was born outside the marriage or the traditional Aboriginal marriage of his or her birth parents and only one birth parent consents to the adoption of the child, where the Minister knows or, after making reasonable</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>inquiry, ascertains the name and last-known address of a person who the Minister reasonably believes to be the other birth parent of the child, the Minister shall, by certified mail within 14 days after the first-mentioned birth parent gives his or her consent to the adoption, send to the other birth parent written advice of the first-mentioned birth parent's consent to the adoption of the child.</p> <p>A birth parent to whom the Minister sends written advice pursuant to the provision above may, within 7 days after receiving the advice, give notice to the Minister that he or she intends to take steps to establish his or her parenthood of the child in accordance with the Status of Children Act.</p> <p>The birth parent referred to in the preceding paragraph shall, within one month after the giving of notice to the Minister under that subsection:</p> <p>(a) establish his or her parenthood of the child; or</p> <p>(b) commence proceedings to establish his or her parenthood of the child under the Status of Children Act,</p> <p>as the case requires, and, if he or she does not do so, his or her consent to the adoption is not required.</p> <p>(4) Where the birth parent establishes his or her parenthood of the child, his or her consent to the adoption of the child is required in accordance with Division 4 of the Act.</p> <p>(5) On application by the Minister within 7 days after receiving the consent of the first-mentioned birth parent, the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				Court may, where it is satisfied that sufficient grounds exist, order that the Minister is not required to comply with the consent requirements.
			29	<p>Where an application is made for the adoption of a non-citizen child:</p> <p>(a) the requirements of Division 4 of the Act do not apply in relation to the giving of consent to the adoption of the non-citizen child by a parent or a guardian of the non-citizen child; and</p> <p>(b) the Court must satisfy itself that the Minister consents to the application for the adoption of the non-citizen child before making the order for the adoption.</p> <p>(2) The Minister's consent shall be accompanied by a written declaration, signed by the Minister, that the Minister believes on reasonable grounds:</p> <p>(a) that each parent or guardian of the non-citizen child:</p> <p>(i) has, before the child commenced the journey to Australia, given consent in accordance with the law of the place of residence of the parent or guardian of the child to the adoption of the child and has not revoked the consent; or</p> <p>(ii) is dead or cannot, after reasonable inquiry, be found; or</p> <p>(b) that circumstances exist by reason of which the consent of a parent or guardian, if required under the Act, may be</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				dispensed with.
			35	<p>Court may dispense with certain consents</p> <p>The Court may, by order, dispense with the consent of a person, other than the Minister or the child, to the adoption of a child where the Court is satisfied that:</p> <ul style="list-style-type: none"> <li>(a) after reasonable inquiry, the person cannot be found; and</li> <li>(b) the person is in such a physical or mental condition as not to be capable of properly considering the question whether he or she should give his or her consent; and</li> <li>(c) the person has abandoned, deserted or persistently neglected or ill-treated the child; and</li> <li>(d) the person has, for a period of not less than one year, failed, without reasonable cause, to discharge the obligations of a parent or guardian, as the case may be, of the child; and</li> <li>(e) there are any other special circumstances by reason of which the consent may properly be dispensed with.</li> </ul>
			61	<p>(1) In accordance with this Part 6 of the Act:</p> <ul style="list-style-type: none"> <li>(a) an adopted person; or</li> <li>(b) a relinquishing parent; or</li> <li>(c) an adoptive parent,</li> </ul>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>may apply to the Minister requesting information relating to the adoption of the adopted person.</p> <p>(2) Where a person referred to in subsection (1)(a), (b), or (c) has died, a relative, being a mother, father, brother, sister or a child of the person, may apply under subsection (1) in the place of that person.</p>
			62	<p>(1) Where a person makes an application under section 61, the Minister shall, subject to and in accordance with this Part, provide the person with the following information relating to the adoption:</p> <p>(a) the names (including a name given at birth) and last known address of a person he or she specifies in the application; and</p> <p>(b) where the last known address is not known or is incorrect, any information that may assist in ascertaining the whereabouts of a person he or she specifies in the application; and</p> <p>(c) details of a notice of prohibition against the provision of information (if any) that has been lodged with the Minister pursuant to section 65.</p>
			65	<p>Where an order for adoption was made before the commencement of the Act:</p> <p>(a) the adopted person may only apply to the Minister under section 61 for the information specified in section 62(1) in respect of one or both of his or her relinquishing parents,</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>except that, where the adopted person has not attained the age of 16 years, he or she may only apply for the information if his or her adoptive parent or (if more than one) adoptive parents has or have consented in writing to the making of his or her application for information; and</p> <p>(b) an adoptive parent may only apply to the Minister under section 61 for the information specified in section 62(1) in respect of one or both of the relinquishing parents, except that the information provided to the adoptive parent shall not be of such a nature that it identifies the relinquishing parent or the relinquishing parents or his, her or their whereabouts; and</p> <p>(c) a relinquishing parent may only apply to the Minister under section 61 for the information specified in section 62(1) in respect of the person who he or she relinquished for adoption and one or both of the adoptive parents, except that, where the adopted person has not yet attained the age of 18 years, that information shall not be of such a nature that it identifies the adopted person or one or both of the adoptive parents or his, her or their whereabouts,</p> <p>and the Minister shall, subject to the qualifications below, provide the information requested in the application.</p> <p>A relinquishing parent or an adopted person referred above may lodge with the Minister a notice of prohibition in the prescribed form that will disallow the provision of information that would identify him or her.</p> <p>Where a person has lodged a notice of prohibition with the Minister, the Minister shall not provide information as</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				specified in the notice of prohibition.
	<b>Care and Protection of Children Act 2007</b>	NT	8	<b>Role of family</b>  (1) The family of a child has the primary responsibility for the care, upbringing and development of the child.  (2) In fulfilling that responsibility, the family should be able to bring up the child in any language or tradition and foster in the child any cultural, ethnic or religious values.  (3) A child may be removed from the child's family only if there is no other reasonable way to safeguard the wellbeing of the child.  (4) As far as practicable, and consistent with section 10, if a child is removed from the child's family:  (a) contact between the child and the family should be encouraged and supported; and  (b) the child should eventually be returned to the family.
			9	<b>Treating child with respect</b>  (1) Each child is a valued member of society and is entitled to be treated in a way that respects the child's dignity and privacy.  (2) Decisions involving a child should be made:



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) promptly having regard to the child's circumstances; and</p> <p>(b) in a way that is consistent with the cultural, ethnic and religious values and traditions relevant to the child; and</p> <p>(c) with the informed participation of the child, the child's family and other people who are significant in the child's life.</p>
			10	<p><b>Best interests of child</b></p> <p>(1) When a decision involving a child is made, the best interests of the child are the paramount concern.</p> <p>(2) Without limiting subsection (1), consideration should be given to the following matters in determining the best interests of a child:</p> <p>(a) the need to protect the child from harm and exploitation; and</p> <p>(b) the capacity and willingness of the child's parents or other family members to care for the child; and</p> <p>(c) the nature of the child's relationship with the child's family and other persons who are significant in the child's life; and</p> <p>(d) the wishes and views of the child, having regard to the maturity and understanding of the child; and</p> <p>(e) the child's need for permanency in the child's living</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>arrangements; and</p> <p>(f) the child's need for stable and nurturing relationships; and</p> <p>(g) the child's physical, emotional, intellectual, spiritual, developmental and educational needs; and</p> <p>(h) the child's age, maturity, gender, sexuality and cultural, ethnic and religious backgrounds; and</p> <p>(i) other special characteristics of the child; and</p> <p>(j) the likely effect on the child of any changes in the child's circumstances.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			11	<p><b>Child participation</b></p> <p>When a decision involving a child is made:</p> <p>(a) the child:</p> <p>(i) should be given adequate information and explanation in a way that the child can understand; and</p> <p>(ii) should be given the opportunity to respond to the proposed decision; and</p> <p>(iii) should be given the opportunity to express the child's wishes and views freely; and</p> <p>(iv) should be given assistance in expressing those wishes and views; and</p> <p>(b) those wishes and views should be taken into account, having regard to the child's maturity and understanding.</p>
			12	<p><b>Aboriginal children</b></p> <p>(1) Kinship groups, representative organisations and communities of Aboriginal people have a major role, through self-determination, in promoting the wellbeing of Aboriginal children.</p> <p>(2) In particular, a kinship group, representative organisation or community of Aboriginal people nominated by an Aboriginal child's family should be able to participate in the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>making of a decision involving the child.</p> <p>(3) An Aboriginal child should, as far as practicable, be placed with a person in the following order of priority:</p> <p>(a) a member of the child's family; or</p> <p>(b) an Aboriginal person in the child's community in accordance with local community practice; or</p> <p>(c) any other Aboriginal person; or</p> <p>(d) a person who:</p> <p>(i) is not an Aboriginal person; but</p> <p>(ii) in the CEO's opinion, is sensitive to the child's needs and capable of promoting the child's ongoing affiliation with the culture of the child's community (and, if possible, ongoing contact with the child's family).</p> <p>(4) In addition, an Aboriginal child should, as far as practicable, be placed in close proximity to the child's family and community.</p>
			13	<p>Definitions</p> <p><b>'Aboriginal'</b> means:</p> <p>(a) a descendant of the Aboriginal people of Australia; or</p> <p>(b) a descendant of the indigenous inhabitants of the Torres</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Straits Islands.</p> <p><b>'Aboriginal customary law'</b> means:</p> <p>(a) customary law of the Aboriginal people of Australia; or</p> <p>(b) customary law of the indigenous inhabitants of the Torres Strait Islands.</p> <p><b>'Aboriginal tradition'</b> means:</p> <p>(a) tradition of the Aboriginal people of Australia; or</p> <p>(b) tradition of the indigenous inhabitants of the Torres Strait Islands.</p> <p><b>'CEO'</b> means the Chief Executive Officer of the Department.</p> <p><b>'child'</b> means:</p> <p>(a) a person less than 18 years of age; or</p> <p>(b) a person apparently less than 18 years of age if the person's age cannot be proved.</p>
			14	<p><b>Wellbeing of child</b></p> <p>The wellbeing of a child includes the child's physical, psychological and emotional wellbeing.</p>
			17	<p><b>Parent of child</b></p> <p>(1) A parent of a child is the child's father, mother or any</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>other person who has parental responsibility for the child.</p> <p>(2) A parent of an Aboriginal child includes a person who is regarded as a parent of the child under Aboriginal customary law or Aboriginal tradition.</p> <p>(3) However, any of the following must not be regarded as a parent of a child:</p> <p>(a) the CEO; and</p> <p>(b) a person who has responsibility for the care of the child only on a temporary basis; and</p> <p>(c) a person, such as a teacher or childcare worker, who has responsibility in relation to the child because of a professional relationship.</p> <p>(4) To avoid doubt, a reference in this Act to the parents of a child includes a reference to the parent of a child who has only one parent.</p>
			18	<p><b>Relatives of child</b></p> <p>(1) A relative of a child is any of the following:</p> <p>(a) a parent, grandparent or any other ancestor of the child;</p> <p>(b) a step-parent of the child;</p> <p>(c) a sibling of the child;</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(d) an uncle or aunt of the child;</p> <p>(e) a cousin of the child; or</p> <p>(f) a person who is related to the child in accordance with:</p> <p>(i) any customary law or tradition applicable to the child; or</p> <p>(ii) any contemporary custom or practice.</p> <p>(2) To avoid doubt, a relationship covered by subsection (1) may include a relationship that arises through common ancestry, adoption, marriage, de facto relationship or any customary law or tradition.</p>
			19	<p><b>Family of child</b></p> <p>The family of a child includes:</p> <p>(a) the relatives of the child; and</p> <p>(b) the members of the extended family of the child in accordance with:</p> <p>(i) any customary law or tradition applicable to the child; or</p> <p>(ii) any contemporary custom or practice; and</p> <p>(c) anyone who is closely associated with the child or another family member of the child.</p>
			20	When child is in need of care and protection

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>A child is in need of care and protection ('<b>child is in need of protection</b>') if:</p> <p>(a) the child has suffered or is likely to suffer harm or exploitation because of an act or omission of a parent of the child; or</p> <p>(b) the child is abandoned and no family member of the child is willing and able to care for the child; or</p> <p>(c) the parents of the child are dead or unable or unwilling to care for the child and no other family member of the child is able and willing to do so; or</p> <p>(d) the child is not under the control of any person and is engaged in conduct that causes or is likely to cause harm to the child or other persons.</p>
			46	<p>Temporary placement arrangement</p> <p>(1) The CEO may arrange for the temporary placement of a child who is residing with the parents of the child.</p> <p>(2) The arrangement is for the child:</p> <p>(a) to be taken into the CEO's care for a period not exceeding 2 months specified by the CEO; and</p> <p>(b) to be placed under a placement arrangement subject to the conditions specified by the CEO.</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(3) The CEO may enter into the arrangement only if:</p> <p>(a) having regard to the wishes of the child, the CEO reasonably believes the arrangement will safeguard the wellbeing of the child; and</p> <p>(b) the parents agree to enter into the arrangement; and</p> <p>(c) if the child is at least 15 years of age – the child has consented to the arrangement.</p> <p>(4) The CEO has daily care and control of the child while the arrangement is in force.</p> <p>(5) The arrangement may be extended for further periods.</p> <p>(6) However:</p> <p>(a) each extended period must not exceed 2 months; and</p> <p>(b) in any case – the arrangement must cease to be in force 6 months after it was made.</p> <p>(7) The CEO may require the parents to make contributions towards the maintenance of the child while the arrangement is in force.</p> <p>(8) One or both of the parents may, at any time:</p> <p>(a) terminate the arrangement; and</p> <p>(b) request the CEO to return the child to them.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(9) Subject to the operation of any other provisions in this Act and any other law of the Territory, the CEO must comply with the request within 48 hours after receiving the request.
			49	<p><b>Mediation conference</b></p> <p>(1) The CEO may arrange for a mediation conference to be convened for a child if:</p> <p>(a) concerns have been raised about the wellbeing of the child; and</p> <p>(b) the CEO reasonably believes the conference may address those concerns; and</p> <p>(c) the parents of the child are willing to participate in the conference.</p> <p>(2) The CEO may do so whether or not the CEO has already taken any other action for the child under this Part, Part 2.2 or Part 2.3.</p> <p>(3) The conference may be convened for any purposes relating to those concerns as specified by the CEO.</p> <p>(4) Without limiting subsection (3), the conference may be convened for one or more of the following purposes:</p> <p>(a) establishing the circumstances giving rise to those concerns; and</p> <p>(b) reviewing an arrangement that has been made for the care</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>of the child; and</p> <p>(c) making recommendations about the care of the child; and</p> <p>(d) arriving at an agreement on the best means of safeguarding the wellbeing of the child.</p> <p>(5) The CEO must appoint a person (the '<b>convenor</b>') who is approved by the parents of the child and has the qualifications or experience prescribed by regulation to convene the conference.</p> <p>(6) The convenor may invite the parents and other persons to attend the conference as the convenor considers appropriate.</p> <p>(7) The regulations may make any provision for the conference, including the following:</p> <p>(a) any procedural and reporting requirements for the conference; and</p> <p>(b) the appointment of a person to represent the interests of the child in the conference; and</p> <p>(c) the making of any agreement arising from the conference; and</p> <p>(d) the powers and functions of the convenor.</p>
			51	When CEO may take child into provisional protection

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) The CEO may take a child into provisional protection if:</p> <p>(a) the CEO reasonably believes:</p> <p>(i) the child is in need of protection; and</p> <p>(ii) the provisional protection is urgently needed to safeguard the wellbeing of the child; and</p> <p>(b) no protection order or temporary protection order is in force for the child.</p> <p>Examples of urgency for subsection (1)(a)(ii)</p> <p>1 The child is likely to suffer from harm or exploitation if the child is left at the place where the child is found.</p> <p>2 A parent of the child is likely to remove the child from the child's usual place of residence to prevent access to the child by authorised officers after becoming aware of a proposed application for a protection order for the child.</p> <p>(2) The CEO may take the child into provisional protection whether or not an assessment order for the child is in force.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			52	<p>Effect of provisional protection</p> <p>(1) For the purposes of taking the child into provisional protection, an authorised officer may:</p> <p>(a) at any time, enter a place where the officer reasonably believes the child may be found; and</p> <p>(b) search the place in order to find the child; and</p> <p>(c) stay at the place for as long as the officer considers reasonably necessary to find the child; and</p> <p>(d) remove the child from the place; and</p> <p>(e) arrange for a medical examination of the child; and</p> <p>(f) arrange for the provision of other medical services for the child; and</p> <p>(g) make other arrangements for the care and protection of the child; and</p> <p>(h) if the officer is a staff member of a hospital in which the child is found – keep the child in the hospital for any of the purposes mentioned in paragraphs (e) to (g).</p> <p>(2) However, the child may refuse to submit to any of the examination mentioned in subsection (1)(e) if the child is of sufficient maturity and understanding to make the decision.</p> <p>(3) The officer may use any reasonable force or assistance in</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>acting under subsection (1).</p> <p>(4) The officer must give a report to the CEO about any action taken by the officer under subsection (1) as soon as practicable after taking the action.</p> <p>(5) The CEO has daily care and control of the child while the child is in provisional protection.</p>
			53	<p><b>Duration of protection</b></p> <p>(1) The child must be in the CEO's care for a period determined by the CEO that does not exceed 72 hours from the time the CEO takes the child into provisional protection.</p> <p>(2) Subject to the operation of any other provisions in this Act and any other law of the Territory, the CEO must return the child to a parent of the child by the end of the period.</p>
			56	<p><b>Application</b></p> <p>This Subdivision applies to a child if:</p> <p>(a) the child is found at a place other than the child's usual place of residence; and</p> <p>(b) the child is not under the direct supervision of:</p> <p>(i) a parent of the child; or</p> <p>(ii) a family member of the child; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(iii) an adult capable of adequately supervising the child; and</p> <p>(c) an authorised officer:</p> <p>(i) does not believe the child is in need of protection; but</p> <p>(ii) having regard to the circumstances in which the child is found—reasonably believes there is a risk to the wellbeing of the child if the child is not removed from the place.</p>
			57	<p><b>Authorised officer may move child</b></p> <p>(1) The officer may:</p> <p>(a) enter the place to apprehend the child; and</p> <p>(b) either return the child to the child's usual place of residence or, if it is not practicable or appropriate to do so:</p> <p>(i) move the child to a safe place; and</p> <p>(ii) keep the child at the safe place; and</p> <p>(iii) make any arrangement for the care and protection of the child at the safe place.</p> <p>(2) The officer may use any reasonable force or assistance in acting under subsection (1).</p> <p>(3) The child may be cared for at the safe place until the resumption of the care of the child by a person (a <b>'responsible person'</b>) who has daily care and control of the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>child.</p> <p>(4) The officer must, as soon as practicable after moving the child:</p> <p>(a) take all necessary steps to inform a responsible person about moving the child; and</p> <p>(b) if the officer is a police officer—inform the CEO about moving the child.</p> <p>(5) The exercise of the officer's powers under subsection (1) does not:</p> <p>(a) affect any power, right or responsibility of a responsible person in relation to the child; or</p> <p>(b) prevent the officer or any other person from holding, at a later time, the belief that the child is in need of protection.</p> <p>(6) In this section:</p> <p><b>'safe place':</b></p> <p>(a) includes:</p> <p>(i) a place where the child may be temporarily kept for the child's safety (including a Part of a police station not normally used to detain a person); and</p> <p>(ii) a place specified by regulation; but</p> <p>(b) does not include a prison, lockup or any other place that a</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				person may be remanded in custody.
			60	<p><b>Search</b></p> <p>(1) An authorised officer may search the child (including anything found on or with the child) if the officer reasonably believes it is necessary to do so to prevent the child from:</p> <p>(a) being harmed; or</p> <p>(b) harming others.</p> <p>(2) Without limiting subsection (1), the officer may search for any of the following:</p> <p>(a) a firearm as defined in section 3 of the <i>Firearms Act</i>; or</p> <p>(b) a controlled weapon, offensive weapon or prohibited weapon as defined in section 3 of the <i>Weapons Control Act</i>; or</p> <p>(c) a dangerous drug as defined in section 3 of the <i>Misuse of Drugs Act</i>; or</p> <p>(d) alcohol; or</p> <p>(e) any other drug or substance capable of intoxicating a person.</p> <p>(3) If the officer reasonably believes it is necessary to do so in the circumstances, the officer may designate another</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>person:</p> <p>(a) to conduct the search; or</p> <p>(b) to assist the officer in conducting the search.</p> <p>(4) The designated person must conduct the search or provide the assistance in accordance with any reasonable directions of the officer.</p> <p>(5) The officer or designated person conducting the search:</p> <p>(a) must be someone who is of the same gender as the child; and</p> <p>(b) must conduct the search in the presence of an adult who:</p> <p>(i) is of the same gender as the child; and</p> <p>(ii) is nominated by the child or, if the child fails to do so, by the officer.</p> <p>(6) The adult nominated by the officer:</p> <p>(a) must hold a clearance notice that is in force; and</p> <p>(b) must not be an authorised officer or police officer.</p> <p>(7) The officer or designated person may use any reasonable force or assistance in acting under this section.</p> <p>(8) However, this section does not authorise a search that involves the removal of the child's clothing or an examination</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				of the child's body cavities.
			61	<p><b>Seizure</b></p> <p>(1) An authorised officer may seize anything found on or with the child if the officer reasonably believes it is necessary to do so to prevent the child from:</p> <p>(a) being harmed; or</p> <p>(b) harming others.</p> <p>(2) The officer may do so by using any reasonable force or assistance.</p> <p>(3) An authorised officer (other than a police officer) who seizes a thing mentioned in section 60(2)(a), (b) or (c) must, as soon as practicable after seizing the thing, deliver it to a police officer.</p> <p>(4) An authorised officer may, in accordance with the regulations, destroy or otherwise dispose of anything seized under this section to prevent the child from:</p> <p>(a) being harmed; or</p> <p>(b) harming others.</p>
			63	<p><b>Warrant for access to child</b></p> <p>(1) A magistrate may, on the application of an authorised officer, grant a warrant under this section if the magistrate is</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>satisfied it is reasonably necessary:</p> <p>(a) for exercising a power under section 35 or 36 in relation to a child; or</p> <p>(b) for monitoring the wellbeing of a child for whom a placement arrangement is in force.</p> <p>(2) The warrant authorises an authorised officer:</p> <p>(a) to enter, at any time, a place where the officer reasonably believes the child may be found; and</p> <p>(b) to search the place in order to find the child; and</p> <p>(c) to stay at the place for as long as the officer considers reasonably necessary to find the child; and</p> <p>(d) if the child is found – to stay at the place and have contact with the child for as long as the officer considers reasonably necessary for specified purposes (whether or not in the presence of someone else).</p>
			67	<p><b>When child is in CEO's care</b></p> <p>(1) A child is in the CEO's care if:</p> <p>(a) the child is under a temporary placement arrangement or in provisional protection; or</p> <p>(b) the CEO otherwise has daily care and control of the child under an order of the Court (for example, a protection order)</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				or a law of the Territory.  (2) The child leaves the CEO's care when the child ceases to be in the CEO's care.
			68	<b>Young person who has left CEO's care</b>  A young person who has left the CEO's care is someone who:  (a) has left the CEO's care; and  (b) is between 15 and 25 years of age; and  (c) was last in the CEO's care for a continuous period of at least 6 months; and  (d) in the CEO's opinion, is unlikely to be in the CEO's care again in the future.
			69	<b>Division 2 Care plans</b>  ApplicationThis Division applies to a child who is in the CEO's care if:  (a) a protection order for the child is in force; or  (b) the CEO has daily care and control of the child under a court order prescribed by regulation.
			70	<b>CEO must prepare care plan</b>  (1) As soon as practicable after the child is taken into the CEO's care, the CEO must prepare and implement a care plan

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>for the child.</p> <p>(2) The care plan is a written plan that:</p> <p>(a) identifies the needs of the child; and</p> <p>(b) outlines measures that must be taken to address those needs; and</p> <p>(c) sets out decisions about daily care and control of the child, including, for example:</p> <p>(i) decisions about the placement arrangement for the child; and</p> <p>(ii) decisions about contact between the child and other persons.</p>
			71	<p><b>Modification of care plan</b></p> <p>(1) The CEO may modify the care plan at any time if the CEO considers it appropriate to do so.</p> <p>(2) Without limiting subsection (1), the CEO must modify the plan if the child is about to leave the CEO's care.</p> <p>(3) The modified plan must:</p> <p>(a) identify the needs of the child in:</p> <p>(i) preparing to leave the CEO's care; and</p> <p>(ii) the child's transition to other living arrangements after</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				leaving the CEO's care; and  (b) outline measures that must be taken to assist the child in meeting those needs.
			72	<b>Child's wishes to be taken into account</b>  In preparing or modifying the plan, the CEO must have regard to the wishes of the child as the CEO considers reasonable and appropriate in the circumstances.
			73	<b>Provision of care plan to interested parties</b>  (1) As soon as practicable after the CEO has prepared or modified the plan, the CEO must ensure a copy of it is given to the following persons:  (a) the child; and  (b) each parent of the child; and  (c) the carer of the child; and  (d) any other person considered by the CEO to have a direct and significant interest in the wellbeing of the child.  (2) However, the CEO is not required to do so for a person if the CEO considers it inappropriate or impracticable in the circumstances, having regard to:  (a) the wishes of the child; and

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(b) any risk of harm to the child; and (c) any other matters the CEO considers relevant.
			74	<b>Review of care plan</b> (1) The CEO must conduct regular reviews of the plan as follows: (a) the first review must be conducted within 2 months after the child is first taken into the CEO's care; and (b) a review must be conducted again every 6 months afterwards. (2) In addition, the CEO must conduct a review of the plan immediately after any of the following: (a) the death of a parent of the child; or (b) the death of the carer of the child; or (c) a change of the placement arrangement for the child; or (d) an extension or variation of a court order mentioned in section 69(b) that relates to the child. (3) This section does not prevent a review of the plan at other times. (4) In conducting a review, the CEO must have regard to the views expressed by any of the following persons:



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) the child; or</p> <p>(b) a parent of the child; or</p> <p>(c) the carer of the child; or</p> <p>(d) any other person considered by the CEO to have a direct and significant interest in the wellbeing of the child.</p> <p>(5) The CEO must:</p> <p>(a) prepare a report of the review, and if the CEO considers it appropriate to do so – give a copy of the report to any of those persons; and</p> <p>(b) keep a record of the review and a copy of the report.</p> <p>(6) For this section, a review of a care plan includes a review of the operation and effectiveness of the plan.</p>
			75	<p><b>Division 3 Interim care plans</b></p> <p>Application</p> <p>This Division applies to a child if:</p> <p>(a) the child is in the CEO's care; but</p> <p>(b) Division 2 does not apply to the child.</p>
			76	<p><b>CEO must prepare interim care plan</b></p> <p>(1) As soon as practicable after the child is taken into the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>CEO's care, the CEO must prepare and implement an interim care plan for the child.</p> <p>(2) The interim care plan is a written plan that:</p> <p>(a) identifies the immediate needs of the child; and</p> <p>(b) outlines measures that must be taken to address those needs; and</p> <p>(c) sets out decisions about daily care and control of the child, including, for example:</p> <p>(i) decisions about the placement arrangement for the child; and</p> <p>(ii) decisions about contact between the child and other persons.</p>
			77	<p><b>Division 4 Placement arrangement</b></p> <p>CEO must enter into placement arrangement</p> <p>(1) The CEO must enter into a placement arrangement with other persons or bodies for a child who is in the CEO's care.</p> <p><i>Note: Section 12 sets out the principles that should be upheld in the placement of Aboriginal children.</i></p> <p>(2) The CEO may cancel the arrangement and replace it by another placement arrangement at any time.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			78	<p><b>Placement arrangement</b></p> <p>(1) A placement arrangement is:</p> <p>(a) an arrangement for placing a child who is in the CEO's care with any of the following persons (the '<b>carer</b>')</p> <p>(i) a parent of the child; or</p> <p>(ii) a family member of the child; or</p> <p>(iii) an individual approved by the CEO; or</p> <p>(b) any other arrangement for placing the child that the CEO considers appropriate in the circumstances.</p> <p>(2) Without limiting subsection (1)(b), the arrangement can be one under which the child is not directly supervised by an adult.</p> <p>(3) The regulations may:</p> <p>(a) provide for the nomination and approval of an individual as a carer; and</p> <p>(b) provide for the responsibilities of a carer; and</p> <p>(c) specify the conditions for a placement arrangement, including, for example, the standards required of a facility for the arrangement.</p>
			79	<b>Child to be informed</b>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				Before placing a child under a placement arrangement, the CEO must give the child any information and explanation about the arrangement as the CEO considers appropriate in the circumstances.
			80	<p><b>Carer to be informed</b></p> <p>(1) The CEO must give the carer of the child any information about the child as the CEO considers appropriate for:</p> <p>(a) the care of the child; and</p> <p>(b) the safety of the child and other persons.</p> <p>(2) However, the CEO must have regard to the child's wishes before giving the information.</p> <p>(3) The carer must not disclose the information otherwise than:</p> <p>(a) to a health practitioner for the care of the child; or</p> <p>(b) in other circumstances approved by the CEO.</p> <p>Maximum penalty: 200 penalty units or imprisonment for 2 years.</p>
			81	<p><b>Parents to be informed</b></p> <p>(1) The CEO must give the parents of the child any information about the arrangement as the CEO considers</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>appropriate in the circumstances.</p> <p>(2) The CEO must have regard to the following in giving the information:</p> <p>(a) the wishes of the child; and</p> <p>(b) the safety of the child and other persons.</p> <p>(3) This section has effect subject to section 135 (which is about the CEO's obligation to give information to the parents under a protection order).</p>
			82	<p><b>Payment to carer</b></p> <p>The CEO may make payments to the carer in accordance with the arrangement.</p>
			83	<p><b>Property of child</b></p> <p>(1) The Court may, on the CEO's application:</p> <p>(a) order the Public Trustee to take control of the property of the child; and</p> <p>(b) make any other orders to give effect to the order.</p> <p>(2) The CEO must:</p> <p>(a) give the child, the parents of the child and other persons specified by the Court:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(i) a copy of each of the orders; and</p> <p>(ii) a written notice explaining the terms and effect of the orders; and</p> <p>(b) give the child any additional explanation of the effect of the orders if the CEO considers it appropriate to do so having regard to the child's maturity and understanding.</p>
			84	<p><b>Inspection of place where child resides</b></p> <p>(1) An authorised officer may, at any reasonable time, enter the place where the child ordinarily resides under the arrangement to monitor the wellbeing of the child.</p> <p>(2) The officer may make any reasonable request to a person having the control of the place for the purposes of:</p> <p>(a) inspecting the place; or</p> <p>(b) having contact with the child.</p> <p>(3) The person must comply with the request.</p> <p>Maximum penalty: 200 penalty units or imprisonment for 2 years.</p> <p>(4) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.</p> <p><i>Note: A warrant may be granted for monitoring the</i></p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<i>wellbeing of the child, see section 63.</i>
			85	<p><b>Authorised officer's power to apprehend child</b></p> <p>(1) If the child is absent from the place, an authorised officer may apprehend the child in order to return the child to the place.</p> <p>(2) The officer may, without a warrant:</p> <p>(a) at any time, enter a place where the officer reasonably believes the child may be found; and</p> <p>(b) search the place in order to find the child; and</p> <p>(c) stay at the place for as long as the officer considers reasonably necessary to find and apprehend the child; and</p> <p>(d) apprehend the child; and</p> <p>(e) arrange for the return of the child.</p> <p>(3) The officer may use any reasonable force or assistance in acting under this section.</p>
			88	<p><b>Establishment</b></p> <p>(1) The Local Court is invested with a jurisdiction (the '<b>family matters jurisdiction</b>') to hear and determine an application for any of the following:</p> <p>(a) a temporary protection order; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) an assessment order; or</p> <p>(c) a protection order; or</p> <p>(d) an order or decision under Part 2.4; or</p> <p>(e) any other order or decision the Court may make for a child under this Act (other than sections 194 and 206); or</p> <p>(f) any order or decision relating to an order or decision mentioned in paragraph (a), (b), (c), (d) or (e).</p> <p>(2) In this Act:</p> <p>(a) the Court is the Local Court exercising its family matters jurisdiction; and</p> <p>(b) Court proceedings are proceedings in the Court; and</p> <p>(c) a Court order is an order of the Court; and</p> <p>(d) the child to whom Court proceedings relate is the child for whom the proceedings are instituted; and</p> <p>(e) the child to whom a Court order relates is the child for whom the order is made.</p>
			89	<p><b>Exercise of jurisdiction</b></p> <p>(1) The family matters jurisdiction may be exercised only by magistrates directed by the Chief Magistrate to do so.</p> <p>(2) In making the direction, the Chief Magistrate must take</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				into account the expertise of particular magistrates relating to matters arising under this Act.  (3) The jurisdiction must be exercised by a magistrate sitting alone.
			90	<b>Paramount consideration</b>  (1) The Court must regard the best interests of a child as paramount in exercising the family matters jurisdiction for the child.  (2) Without limiting subsection (1), the Court must give priority to the child if the rights of the child conflict with the rights of an adult.
			91	<b>Jurisdiction not affected by other proceedings</b>  (1) The exercise of the family matters jurisdiction in any Court proceedings is not affected by any criminal proceedings against:  (a) the child to whom the Court proceedings relate; or  (b) any other party to the Court proceedings.  (2) Subsection (1) has effect whether or not the criminal proceedings arose out of the same facts as the Court proceedings.
			93	<b>Nature of proceedings</b>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) Court proceedings must be conducted with as little formality and legal technicality as the circumstances permit.</p> <p>(2) Subject to any directions of the Court, the Court is not bound by the rules of evidence.</p>
			94	<p><b>Parties to proceedings</b></p> <p>(1) The following are parties to the proceedings:</p> <p>(a) the child to whom the proceedings relate; and</p> <p>(b) each parent of the child; and</p> <p>(c) the CEO; and</p> <p>(d) each person proposed to be given daily care and control of, or parental responsibility for, the child under a Court order; and</p> <p>(e) any other person considered by the Court to have a direct and significant interest in the wellbeing of the child.</p> <p>(2) This section has effect subject to section 125 (which is about the parties to proceedings for a protection order).</p>
			95	<p><b>Standard of proof</b></p> <p>If the Court is required to be satisfied of a matter in the proceedings, the matter must be established on the balance of probabilities.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			96	<p><b>Expedition</b></p> <p>(1) The proceedings must be conducted as expeditiously as possible to minimise their effect on the child.</p> <p>(2) For subsection (1), the Court:</p> <p>(a) may set a timetable for each matter to which the proceedings relate, having regard to the age and developmental needs of the child; and</p> <p>(b) may give such directions the Court considers appropriate to ensure the timetable is kept.</p>
			97	<p><b>Restrictions on publication</b></p> <p>A person is guilty of an offence if the person:</p> <p>(a) publishes a report of:</p> <p>(i) any of the proceedings; or</p> <p>(ii) the results of any of the proceedings; and</p> <p>(b) is not authorised to do so by the Court or a law in force in the Territory.</p> <p>Maximum penalty: 400 penalty units or imprisonment for 2 years.</p>
			98	<p><b>Understanding proceedings</b></p> <p>(1) The Court must, as far as practicable, ensure each party</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>to the proceedings understands the nature and purposes of the proceedings.</p> <p>(2) For subsection (1), the Court may direct that the services of a person (such as an interpreter) be provided to a party to the proceedings.</p>
			99	<p><b>Restrictions on attendance</b></p> <p>Except as otherwise directed by the Court, a person must not attend any of the proceedings if:</p> <p>(a) the person is not a party to the proceedings; or</p> <p>(b) the Court has ordered the person not to attend the proceedings.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 6 months.</p>
			100	<p><b>Appearance of parents</b></p> <p>(1) Except as otherwise directed by the Court, the parents of the child must attend the proceedings.</p> <p>(2) The Court may order the parents to attend the proceedings.</p> <p>(3) This section has effect subject to sections 105 and 126 (which relate to the making of a temporary protection order or protection order in the absence of the parents).</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			101	<b>Right of representation</b>  (1) A party to the proceedings may be represented by a legal practitioner or any other person.  (2) The Court may adjourn the proceedings until a party has a reasonable opportunity to obtain the representation.
			103	<b>Applying for temporary protection order</b>  (1) The CEO may apply to the Court for a temporary protection order for a child if:  (a) the CEO reasonably believes:  (i) the child is in need of protection; and  (ii) the proposed order is urgently needed to safeguard the wellbeing of the child; and  (b) no protection order is in force for the child.  (2) The CEO may make the application:  (a) whether or not an assessment order is in force for the child; and  (b) whether or not the child is in provisional protection.
			105	<b>Making of order</b>  (1) The Court must, immediately after the application is

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>made:</p> <p>(a) make the temporary protection order if the Court is satisfied there are reasonable grounds for believing:</p> <p>(i) the child is in need of protection; and</p> <p>(ii) the proposed order is urgently needed to safeguard the wellbeing of the child; or</p> <p>(b) dismiss the application if the Court is not so satisfied.</p> <p>(2) As soon as practicable after making the decision, the Court must give the CEO a copy of:</p> <p>(a) the order if the Court decides to make the order; or</p> <p>(b) otherwise—a statement of the reasons for not making the order.</p> <p>(3) Without limiting subsection (2), the Court may give the copy by sending it to the CEO by fax or other electronic means.</p> <p>(4) The Court must keep a record of:</p> <p>(a) the application (whether or not a written application is given to the Court); and</p> <p>(b) any information given to the Court for the application; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(c) the decision on the application; and (d) the reasons for the decision. (5) To avoid doubt, the Court may decide the application in the absence of the parents of the child.
			106	<b>Notice of order</b> (1) As soon as practicable after the order is made, the CEO must: (a) give a copy of the order to each parent of the child; and (b) inform the child about the order; and (c) explain the effect of the order to the child. (2) The CEO may give the copy to a parent of the child: (a) by personally serving the copy on the parent; or (b) if the CEO considers it impracticable to do so, by: (i) leaving it at the parent's last known address; or (ii) sending it by post to that address. (3) In addition, the CEO may give a copy of the order to the child if the CEO considers it appropriate to do so having regard to the child's maturity and understanding.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			107	<p><b>Effect of order</b></p> <p>The order:</p> <p>(a) gives daily care and control of the child to the CEO while the order is in force; and</p> <p>(b) except as provided by section 109(2) and (3)—is in force for 14 days from the time it is made.</p>
			109	<p><b>What happens when order ceases to be in force</b></p> <p>(1) Subject to the operation of any other provisions in this Act, the CEO must return the child to a parent of the child when the order ceases to be in force.</p> <p>(2) The CEO may return the child to a parent of the child before the order ceases to be in force:</p> <p>(a) under an agreement arising from a mediation conference under section 49; or</p> <p>(b) if the CEO considers it appropriate to do so in the circumstances.</p> <p>(3) If the CEO returns the child under subsection (2):</p> <p>(a) the CEO must notify the Court about returning the child; and</p> <p>(b) the order ceases to be in force when the Court is so</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				notified.
			110	<p><b>Other action for child while order in force</b></p> <p>(1) This Subdivision does not prevent any of the following from happening while the temporary protection order is in force:</p> <p>(a) an inquiry or investigation under Part 2.1 in relation to the child; and</p> <p>(b) an application for an assessment order for the child; and</p> <p>(c) an assessment order being in force for the child; and</p> <p>(d) an application for another temporary protection order for the child; and</p> <p>(e) an application for a protection order for the child.</p> <p>(2) However, the CEO must not apply for another temporary protection order for the child while an existing temporary protection order (the '<b>existing order</b>') for the child is in force if:</p> <p>(a) the existing order was made when a previous temporary protection order (the '<b>previous order</b>') was in force; and</p> <p>(b) the existing order took effect immediately after the previous order ceased to be in force; and</p> <p>(c) the CEO did not return the child to a parent of the child</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>before or when the existing order took effect.</p> <p>(3) Subsection (2) does not prevent an application for a temporary protection order for the child after:</p> <p>(a) a temporary protection order for the child has ceased to be in force; and</p> <p>(b) the CEO has returned the child to a parent of the child.</p>
			121	<p><b>Applying for protection order</b></p> <p>(1) The CEO may apply to the Court for a protection order for a child if the CEO reasonably believes:</p> <p>(a) the child:</p> <p>(i) is in need of protection; or</p> <p>(ii) would be in need of protection but for the fact that the child is currently in the CEO's care; and</p> <p>(b) the proposed order is the best means to safeguard the wellbeing of the child.</p> <p>(2) The CEO may make the application:</p> <p>(a) whether or not the child is in the CEO's care; and</p> <p>(b) whether or not an application for a temporary protection order or assessment order for the child has been made; and</p> <p>(c) whether or not a temporary protection order or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				assessment order for the child is in force.  <i>Note:</i> The provisions about a protection order in this Part are Part of a system for the transfer of such orders and related proceedings between jurisdictions, see Part 2.4.
			122	<b>How application is made</b>  The CEO must specify in the application:  (a) the proposed order; and  (b) when the order is proposed to have effect; and  (c) why the CEO considers the order is necessary; and  (d) the proposed arrangement for the care and protection of the child under the order.
			123	<b>Directions in protection order</b>  (1) The proposed order must specify one or more of the following directions:  (a) a direction (a ' <b>supervision direction</b> ') requiring one or more of the following:  (i) that a person must do, or refrain from doing, a specified thing directly related to the protection of the child; and  (ii) that the CEO must supervise the protection of the child in relation to specified matters; and

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) a direction (a '<b>daily care and control direction</b>') giving daily care and control of the child to a specified person; and</p> <p>(c) a direction (a '<b>short-term parental responsibility direction</b>') giving parental responsibility for the child to a specified person for a specified period not exceeding 2 years; and</p> <p>(d) a direction (a '<b>long-term parental responsibility direction</b>') giving parental responsibility for the child to a specified person for a specified period that:</p> <p>(i) exceeds 2 years; and</p> <p>(ii) ends before the child turns 18 years of age.</p> <p>(2) Without limiting subsection (1)(a)(i), a supervision direction may:</p> <p>(a) require a person not to have any direct or indirect contact with the child; or</p> <p>(b) require a person not to have any direct or indirect contact with the child except when a specified person or a person belonging to a specified group is present.</p>
			124	<p><b>Notice of application</b></p> <p>(1) As soon as practicable after applying for the order, the CEO must:</p> <p>(a) give a copy of the application to each parent of the child;</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>and</p> <p>(b) a written notice stating:</p> <p>(i) when and where the application is to be heard; and</p> <p>(ii) that the application may be heard and decided in the absence of the parent.</p> <p>(2) The CEO may give the copy and notice:</p> <p>(a) by personally serving them on the parent; or</p> <p>(b) if the CEO considers it impracticable to do so:</p> <p>(i) by leaving them at the parent's last known address; or</p> <p>(ii) by sending them by post to that address.</p> <p>(3) The CEO:</p> <p>(a) must explain the effect of the application and notice to the child; and</p> <p>(b) may give a copy of the application and notice to the child if the CEO considers it appropriate to do so having regard to the child's maturity and understanding.</p>
			125	<p><b>Parties to proceedings</b></p> <p>(1) The parents of the child are the respondents in the proceedings for the application.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(2) The other parties to the proceedings are:</p> <p>(a) the child; and</p> <p>(b) the CEO; and</p> <p>(c) a person proposed to be given daily care and control of, or parental responsibility for, the child under the order; and</p> <p>(d) any other person who:</p> <p>(i) has applied to the Court to be a party to the proceedings; and</p> <p>(ii) is considered by the Court to have a direct and significant interest in the wellbeing of the child.</p>
			126	<p><b>Hearing in absence of parents</b></p> <p>(1) The Court may hear the application in the absence of a parent of the child if:</p> <p>(a) the Court is satisfied the CEO has given the parent a notice that complies with section 124(1); or</p> <p>(b) the CEO has not given the parent a notice that complies with section 124(1) but the Court is satisfied the application should be heard in the absence of the parent despite the non-compliance.</p> <p>(2) However, this section does not limit the Court's power to</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				exclude the parent or anyone else from Court proceedings.
			127	<p><b>Court-ordered mediation conference</b></p> <p>(1) Before deciding the application, the Court may order a mediation conference to be convened for the purposes specified by the Court.</p> <p>(2) Without limiting subsection (1), the conference may be convened for one or more of the following purposes:</p> <p>(a) establishing the circumstances giving rise to the application; and</p> <p>(b) reviewing an arrangement that has been made for the care of the child; and</p> <p>(c) making recommendations about the arrangement for the care of the child; and</p> <p>(d) arriving at an agreement on the best means of safeguarding the wellbeing of the child.</p> <p>(3) The Court:</p> <p>(a) must appoint someone (the '<b>convenor</b>') who has the qualifications or experience prescribed by regulation to convene the conference; and</p> <p>(b) may direct that:</p> <p>(i) the conference be convened at a specified time and place;</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>and</p> <p>(ii) specified persons (including parties to the proceedings and any other persons) are to attend the conference.</p> <p>(4) A person required to attend the conference may be represented by someone appointed by the person.</p> <p>(5) The regulations may make any provision for the conference, including the following:</p> <p>(a) any procedural and reporting requirements for the conference; and</p> <p>(b) the appointment of a person to represent the interests of the child in the conference; and</p> <p>(c) the making of any agreement arising from the conference; and</p> <p>(d) the powers and functions of the convenor.</p>
			128	<p><b>Order of Court</b></p> <p>(1) The Court may:</p> <p>(a) make a protection order for the child:</p> <p>(i) as proposed by the CEO; or</p> <p>(ii) specifying other directions mentioned in section 123 as the Court considers appropriate; or</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) dismiss the application.</p> <p>(2) The Court may make any order for an agreement arising from a mediation conference for the child.</p>
			129	<p><b>When Court must make order</b></p> <p>The Court must make the protection order if the Court is satisfied:</p> <p>(a) the child:</p> <p>(i) is in need of protection; or</p> <p>(ii) would be in need of protection but for the fact that the child is currently in the CEO's care; and</p> <p>(b) the order is the best means of safeguarding the wellbeing of the child.</p>
			130	<p><b>Court to consider certain matters</b></p> <p>(1) In making the decision, the Court must consider:</p> <p>(a) any matters arising from a mediation conference for the child; and</p> <p>(b) the wishes of the following:</p> <p>(i) the child; and</p> <p>(ii) a parent of the child; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(iii) a person proposed to be given daily care and control of, or parental responsibility for, the child under the order; and</p> <p>(iv) any other person considered by the Court to have a direct and significant interest in the wellbeing of the child; and</p> <p>(c) if the CEO proposes that daily care and control of, or parental responsibility for, the child be given to a person (including, for example, the CEO):</p> <p>(i) any report or recommendation given to the Court by the CEO about the proposal; and</p> <p>(ii) whether there is another person who is better suited to be given daily care and control of, or parental responsibility for, the child; and</p> <p>(iii) the needs of the child for long-term stability and security; and</p> <p>(d) any other matters the Court considers relevant.</p> <p>(2) Without limiting subsection (1)(c), the Court must not give a person who is not a parent of the child parental responsibility for the child under a long-term parental responsibility direction unless the Court is satisfied:</p> <p>(a) giving the responsibility to the person is the best means of safeguarding the child's wellbeing; and</p> <p>(b) there is no one else who is better suited to be given the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				responsibility.
			135	<b>Obligations of CEO for order</b>  (1) If the protection order gives daily care and control of, or parental responsibility for, the child to a person who was not a parent of the child, the CEO:  (a) must give the parents of the child information about:  (i) where the child is residing; and  (ii) any arrangement that has been made for the care of the child; and  (b) must provide opportunity for the child to have contact with the parents and other family members of the child as often as is reasonable and appropriate in the circumstances.  (2) Subsection (1) has effect subject to any contrary direction of the Court.
			194	<b>Local Court may review decision of Authority</b>  This section details which decisions made by the Authority may be reviewed by a Local Court, when and how to make the application, the effect of an application and the process of court review.
			201	<b>CEO's power to restrict employment of children</b>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) This section applies if:</p> <p>(a) a child is employed; and</p> <p>(b) the CEO is of the opinion that:</p> <p>(i) the child suffers, or is likely to suffer, exploitation because of the employment; or</p> <p>(ii) the wellbeing of the child is, or is likely to be, jeopardised because of the employment.</p> <p>(2) The CEO may, by written notice given to a parent of the child:</p> <p>(a) prohibit the child from being so employed; or</p> <p>(b) prohibit the child from employment generally; or</p> <p>(c) prohibit the child from specified types of employment; or</p> <p>(d) impose specified conditions on the employment of the child (whether generally or in relation to specified types of employment).</p> <p>(3) A parent of the child must not permit or require the child to be employed in contravention of the notice.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(4) It is a defence to a prosecution for an offence against</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>subsection (3) if the defendant has a reasonable excuse.</p> <p>(5) The CEO:</p> <p>(a) must give a copy of the notice to the child; and</p> <p>(b) may give a copy of the notice to an employer of the child.</p> <p>(6) An employer of the child who is given a copy of the notice must comply with the notice.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(7) It is a defence to a prosecution for an offence against subsection (6) if the defendant has a reasonable excuse.</p> <p>(8) The notice must:</p> <p>(a) be accompanied by the reasons of the CEO's decision; and</p> <p>(b) state that a parent of the child is entitled to apply for a review of the decision under section 206 and the time within which the application may be made.</p>
			206	<p><b>Local Court may review decision</b></p> <p>This section details how a parent of a child may apply to a Local Court for a review of a s.201(2) notice relating to employment, when and how to make the application, the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				effect of an application and the process of court review.
	<b>Mental Health and Related Services Act 1998</b>	NT	4	<b>Definitions</b>  <b>'Agency'</b> means the Agency responsible under the Minister for the administration of this Act.  <b>'approved treatment facility'</b> means a place or premises or a part of a place or premises declared under section 20(1)(a).
			20	<b>Approved treatment facilities and approved treatment agencies</b>  (1) The Minister may, by notice in the <i>Gazette</i> , declare:  (a) a place or premises, or a part of a place or premises, to be an approved treatment facility; or  (b) a place or premises, or a part of a place or premises, to be an approved temporary treatment facility where persons may be detained as involuntary patients for not longer than 72 hours; or  (c) a body or organisation to be an approved treatment agency.  (2) The Minister must not make a declaration under subsection (1)(a) or (b) unless he or she has received a report from the Chief Health Officer that the place or premises, or the part of the place or premises, has conditions and levels of staff sufficient to provide an appropriate standard of treatment and care of persons admitted as involuntary

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>patients under this Act.</p> <p>(3) The Minister must not make a declaration under subsection (1)(c) unless he or she has received a report from the Chief Health Officer that the body or organisation has conditions and levels of staff sufficient to provide an appropriate standard of treatment and care under this Act.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			100	<p>Internal complaints procedures</p> <p>(1) A person being treated at an approved treatment facility or by an approved treatment agency or his or her representative, or a person with a genuine interest in that person, may make a complaint to the person-in-charge:</p> <p>(a) relating to the failure of the approved treatment facility or approved treatment agency to recognise any right of the person under this Act; or</p> <p>(b) relating to the administration of this Act that relates directly to the health interests and needs of the person.</p> <p>8(A) If, in the opinion of the person-in-charge of an approved treatment facility or approved treatment agency, a complaint made under this section is about a matter that could be the subject of a complaint under the <i>Care and Protection of Children Act</i>, the person-in-charge:</p> <p>(a) may refer the complaint to the Children's Commissioner; or</p> <p>the complaint is to be dealt with under this Act – must, as soon as practicable, give written notice about the complaint to the Children's Commissioner.</p>
	<b>Youth Justice Act 2005</b>	NT	4	<p><b>Principles</b></p> <p>The following are general principles that must be taken into account in the administration of this Act:</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) if a youth commits an offence, he or she must be held accountable and encouraged to accept responsibility for the behaviour; and</p> <p>(b) the youth should be dealt with in a way that acknowledges his or her needs and will provide him or her with the opportunity to develop in socially responsible ways; and</p> <p>(c) a youth should only be kept in custody for an offence (whether on arrest, in remand or under sentence) as a last resort and for the shortest appropriate period of time; and</p> <p>(d) a youth must be dealt with in the criminal law system in a manner consistent with his or her age and maturity and have the same rights and protection before the law as would an adult in similar circumstances; and</p> <p>(e) a youth should be made aware of his or her obligations under the law and of the consequences of contravening the law; and</p> <p>(f) a youth who commits an offence should be dealt with in a way that allows him or her to be re-integrated into the community; and</p> <p>(g) a balanced approach must be taken between the needs of the youth, the rights of any victim of the youth's offence and the interests of the community; and</p> <p>(h) family relationships between a youth and members of his or her family should, where appropriate, be preserved and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>strengthened; and</p> <p>(i) a youth should not be withdrawn unnecessarily from his or her family environment and there should be no unnecessary interruption of a youth's education or employment; and</p> <p>(j) a youth's sense of racial, ethnic or cultural identity should be acknowledged and he or she should have the opportunity to maintain it; and</p> <p>(k) a victim of an offence committed by a youth should be given the opportunity to participate in the process of dealing with the youth for the offence; and</p> <p>(l) a responsible adult in respect of a youth should be encouraged to fulfil his or her responsibility for the care and supervision of the youth; and</p> <p>(m) a decision affecting a youth should, as far as practicable, be made and implemented within a time frame appropriate to the youth's sense of time; and</p> <p>(n) punishment of a youth must be designed to give him or her an opportunity to develop a sense of social responsibility and otherwise to develop in beneficial and socially acceptable ways; and</p> <p>(o) if practicable, an Aboriginal youth should be dealt with in a way that involves the youth's community; and</p> <p>(p) programs and services established under this Act for</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>youth should:</p> <ul style="list-style-type: none"> <li>(i) be culturally appropriate; and</li> <li>(ii) promote their health and self-respect; and</li> <li>(iii) foster their sense of responsibility; and</li> <li>(iv) encourage attitudes and the development of skills that will help them to develop their potential as members of society; and</li> <li>(q) unless the public interest requires otherwise, criminal proceedings should not be instituted or continued against a youth if there are alternative means of dealing with the matter; and</li> <li>(r) as far as practicable, proceedings in relation to youth offenders must be conducted separately from proceedings in relation to adult offenders.</li> </ul>
			5	<p><b>Interpretation</b></p> <p><b>'Aboriginal'</b> means:</p> <ul style="list-style-type: none"> <li>(a) a descendant of the Aboriginal people of Australia; or</li> <li>(b) a descendant of the indigenous inhabitants of the Torres Strait Islands.</li> </ul> <p><b>'Aboriginal customary law'</b> means:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) customary law of the Aboriginal people of Australia; or</p> <p>(b) customary law of the indigenous inhabitants of the Torres Strait Islands.</p> <p><b>'Aboriginal tradition'</b> means:</p> <p>(a) tradition of the Aboriginal people of Australia; or</p> <p>(b) tradition of the indigenous inhabitants of the Torres Strait Islands.</p> <p><b>'responsible adult'</b>, in respect of a youth, means a person who exercises parental responsibility for the youth, whether the responsibility is exercised in accordance with contemporary social practice, Aboriginal customary law and Aboriginal tradition or in any other way.</p>
			6	<p><b>Meaning of youth</b></p> <p>(1) In this Act, a youth is:</p> <p>(a) a person under 18 years of age; or</p> <p>(b) in the absence of proof as to age, a person apparently under 18 years of age.</p> <p>(2) If the context requires, a youth includes a person who committed an offence as a youth but has since turned 18 years of age.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			23	<p><b>Responsible adults to be informed</b></p> <p>(1) As soon as practicable after a youth is:</p> <p>(a) arrested in relation to an offence; or</p> <p>(b) charged with an offence,</p> <p>the police officer who arrested or charged the youth must take all reasonable steps to ensure that a responsible adult in respect of the youth is notified of the arrest or charge.</p> <p>(2) The notification must include the time and place when the youth will be brought before the Court or, if summoned, when the youth must appear in court.</p> <p>(3) This section applies whether the responsible adult resides in the Territory or not.</p>
			35	<p><b>Division 4 Support persons and authorised officers</b></p> <p>Support person</p> <p>(1) For this Part, a support person, in relation to a youth, is one of the following:</p> <p>(a) a responsible adult in respect of the youth; or</p> <p>(b) a person nominated by the youth; or</p> <p>(c) a legal practitioner acting for the youth; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(d) a person called upon under subsection (5).</p> <p>(2) A person cannot be a support person if he or she is, in the opinion of a police officer dealing with a youth, an accomplice of the youth in the alleged offence or likely to lose, destroy or fabricate evidence relating to the offence.</p> <p>(3) A youth cannot be a support person, but nothing prevents a youth who is being dealt with under this Act requesting another particular youth be present as well as a support person.</p> <p>(4) Unless in his or her capacity as a responsible adult in respect of the youth, a police officer, a probation officer or a person employed at a detention centre cannot be a support person.</p> <p>(5) If a police officer has made reasonable attempts to have a person mentioned in subsection (1)(a), (b) or (c) present but it was not practicable for any such person to be present within 2 hours, the officer may call upon a person from the register maintained under section 14 to be the support person.</p> <p>(6) If a youth requests that another particular youth be present as well as a support person, a police officer dealing with the youth must accommodate the request, if practicable, unless:</p> <p>(a) the officer considers that the other youth is an accomplice in the alleged offence or likely to lose, destroy or fabricate evidence relating to the offence; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(b) it would lead to undue delay after the time in which a support person is able to be present.
			63	<p><b>Responsible adults to attend court</b></p> <p>(1) A responsible adult in respect of a youth must attend the Court and remain in attendance during proceedings against the youth for an offence.</p> <p>(2) Subsection (1) does not apply if the Court is satisfied that it would be unreasonable to require that attendance.</p> <p>(3) If a responsible adult fails without reasonable excuse to attend the Court, or remain in attendance during the proceedings, the Court may direct that a warrant or summons be issued to bring the responsible adult before the Court at that or a further hearing.</p> <p>(4) The Court may:</p> <p>(a) adjourn the proceedings to allow for the responsible adult to be present; and</p> <p>(b) continue the hearing after the adjournment despite that the responsible adult is not present.</p>
			69	<p><b>Court must require pre—sentence report</b></p> <p>(1) If a youth has been found guilty of an offence and the Court is considering imposing a sentence of detention or imprisonment, the Court must ensure that it is informed as to</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the circumstances of the youth.</p> <p>(2) In order to be informed, the Court must require a pre-sentence report to be provided to it.</p> <p>(3) However, if the Court is satisfied that it has the information necessary to determine an appropriate sentence, the Court may dispense with the need for a report.</p> <p>(4) The Court may require the report to address specific matters in relation to the youth that the Court wishes to be informed about.</p>
			70	<p><b>Content of pre—sentence report</b></p> <p>(1) A pre-sentence report under section 69 may set out all or any of the following matters that are reasonably ascertainable by the author of the report and that appear to him or her to be relevant to the sentencing of the youth:</p> <p>(a) the age of the youth; and</p> <p>(b) the social history and background of the youth; and</p> <p>(c) the medical and psychiatric history of the youth; and</p> <p>(d) the youth's educational background; and</p> <p>(e) the youth's employment history; and</p> <p>(f) the circumstances of the offence of which the youth has</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>been found guilty; and</p> <p>(g) the circumstances of other offences of which the youth has been found guilty; and</p> <p>(h) any relevant diversion history of the youth; and</p> <p>(i) the extent to which the youth is complying with any sentence currently imposed on him or her; and</p> <p>(j) the financial circumstances of the youth and his or her family; and</p> <p>(k) any special needs of the youth; and</p> <p>(l) any courses, programs, treatment, therapy or other assistance that could be available to the youth and from which he or she may benefit; and</p> <p>(m) family and community views of the youth's offending behaviour; and</p> <p>(n) risk issues in relation to the youth and further offending.</p> <p>(2) The author must include in the report any other matter relevant to the sentencing of the youth that the court has directed to be set out in the report.</p>
			140B	<p><b>Guiding principles</b></p> <p>(1) For the purposes of this Part, the best interests of the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>youth are to be treated as the paramount consideration.</p> <p>(2) Agencies with responsibilities related to the welfare of a youth must work together cooperatively and effectively to help parents:</p> <p>(a) safeguard and promote the wellbeing of the youth; and</p> <p>(b) exercise appropriate control over the behaviour of the youth; and</p> <p>(c) comply with any relevant family responsibility agreement or order.</p>
			140D	<p><b>Division 2 Family responsibility agreements</b></p> <p>Power to enter into family responsibility agreement</p> <p>An appropriate Agency may enter into a family responsibility agreement with a parent, or the parents, of a youth if:</p> <p>(a) the youth has demonstrated behavioural problems; and</p> <p><i>Examples</i></p> <p>1 <i>Criminal behaviour.</i></p> <p>2 <i>Persistent truancy.</i></p> <p>3 <i>Anti-social behaviour.</i></p> <p>(b) the youth's family circumstances may have caused, or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>contributed to, the behavioural problems; and</p> <p>(c) the Agency is of the opinion that the agreement may assist to resolve the problems.</p>
			140E	<p><b>Family responsibility agreement</b></p> <p>(1) A family responsibility agreement may provide as follows:</p> <p>(a) it may require a parent to undertake counselling or therapy directed at helping the parent to overcome addictive, destructive or damaging behaviour; and</p> <p>(b) it may require a parent to:</p> <p>(i) undertake counselling to provide guidance in the effective discharge of the parent's parental responsibilities; or</p> <p>(ii) join and participate in the activities of an appropriate support group; or</p> <p>(iii) undertake any other relevant course or program of personal development (including, if appropriate, a residential course or program); and</p> <p>(c) it may require a parent to exercise proper care and supervision of the youth and, in particular, to take all reasonable steps to ensure that:</p> <p>(i) the youth attends school; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(ii) the youth keeps away from, and avoids contact with, persons named or described in the agreement; and</p> <p>(iii) the youth keeps away from places described in the agreement; and</p> <p>(d) it may contain any other provisions, relevant to the effective care and supervision of the youth, that are agreed between the parties.</p> <p>(2) A family responsibility agreement remains in force for a term stated in the agreement but the term cannot:</p> <p>(a) exceed 12 months; or</p> <p>(b) extend beyond the date on which the youth turns 18.</p> <p>(3) Before entering into a family responsibility agreement, the appropriate Agency must ensure that facilities and services reasonably required by the parent or parents to comply with the agreement are reasonably available to the parent or parents in the relevant region.</p>
			140F	<b>A family responsibility agreement does not give rise to enforceable obligations.</b>
			140G	<p><b>Division 3 Family responsibility orders</b></p> <p>Inquiries into family circumstances</p> <p>(1) The Court may, on application, conduct an inquiry into</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the family circumstances of a youth:</p> <p>(a) where a parent, or the parents, of the youth have entered into a family responsibility agreement but the youth has continued to exhibit behavioural problems; or</p> <p>(b) where a parent or the parents of the youth have been invited to enter into a family responsibility agreement but have not done so; or</p> <p>(c) where a parent or the parents of the youth have entered into a family responsibility agreement but have not complied with its terms; or</p> <p>(d) where the youth has been charged with an offence or has breached a condition of bail.</p> <p>(2) The application:</p> <p>(a) if based on subsection (1)(a), (b) or (c)—must be made by an appropriate Agency; and</p> <p>(b) if based on subsection (1)(d)—must be made by a member of the police force.</p> <p>(3) For the purposes of the inquiry:</p> <p>(a) the Court may issue a summons requiring the youth, a parent or parents of the youth, or any other person who may be able to assist the Court in conducting the inquiry, to appear before the court at a specified time and place; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) if a person fails to appear as required by the summons, the Court may issue a warrant to have the person arrested and brought before the Court.</p> <p>(4) The Chief Magistrate may make rules of Court, or issue practice directions, regulating the practice and procedure of the Court on an inquiry under this Division.</p>
			140H	<p><b>General provisions about inquiry</b></p> <p>(1) The purpose of an inquiry under this Part is to ascertain:</p> <p>(a) whether unstable or otherwise unsatisfactory family circumstances might have caused or contributed to the youth's behavioural problems; and</p> <p>(b) if so, whether the situation is likely to be improved by a family responsibility order.</p> <p>(2) The Court is not bound by the rules of evidence in conducting an inquiry under this Part and may inform itself in any way it considers appropriate.</p>
			140J	<p><b>Family responsibility orders</b></p> <p>(1) If, on an inquiry under this Part, the Court forms the opinion that an order under this Part (a '<b>family responsibility order</b>') is likely to improve the youth's family situation, the Court may make such an order.</p> <p>(2) Before the Court makes a family responsibility order, it must consider such of the following matters as may be</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>relevant in the circumstances of the particular case:</p> <p>(a) the circumstances of the youth's family and the likely effect of the order on the family; and</p> <p>(b) whether the youth, or a parent of the youth, suffers from a physical or mental disability or condition that causes or contributes to the youth's behavioural problems; and</p> <p>(c) the extent the youth's parents have attempted to manage or control the youth's behaviour; and</p> <p>(d) whether a parent has unreasonably refused to enter into a family responsibility agreement or, in the case of a parent who has entered into such an agreement, the extent the parent has attempted to comply with the agreement; and</p> <p>(e) whether the appropriate Agency has made reasonable attempts to help and encourage the parents to manage the youth's behaviour appropriately and to improve their parenting skills; and</p> <p>(f) the extent the appropriate Agency has complied with obligations under a responsible parenting agreement to provide assistance to the youth's parents; and</p> <p>(g) whether the facilities and services reasonably necessary for the parents to comply with the order will be available to them; and</p> <p>(h) the assistance the appropriate Agency and other Agencies are prepared to provide to assist the parents to comply with</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the order.</p> <p>(3) A family responsibility order may provide as follows:</p> <p>(a) it may require a parent to undertake counselling or therapy directed at helping the parent to overcome addictive, destructive or damaging behaviour; and</p> <p>(b) it may require a parent to:</p> <p>(i) undertake counselling to provide guidance in the effective discharge of the parent's family responsibilities; or</p> <p>(ii) join and participate in the activities of an appropriate support group; or</p> <p>(iii) undertake any other relevant course or program of personal development (including, if appropriate, a residential course or program); and</p> <p>(c) it may require a parent to exercise proper care and supervision of the youth and, in particular, to take all reasonable steps to ensure that:</p> <p>(i) the youth attends school; and</p> <p>(ii) the youth keeps away from, and avoids contact with, persons named or described in the order; and</p> <p>(iii) the youth keeps away from places described in the order; and</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(d) it may impose any other requirements, relevant to the effective care and supervision of the youth, that the Court considers justified in the circumstances.</p> <p>(4) A family responsibility order:</p> <p>(a) cannot be made for a youth under the age of 10 years; and</p> <p>(b) remains in force for a term stated in the order but the term cannot:</p> <p>(i) exceed 12 months; or</p> <p>(ii) extend beyond the date on which the youth turns 18.</p>

## 8. Tasmania

### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9:</b>  1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best	Adoption Act 1988	Tas	8	<b>Welfare and interests of child to be paramount</b>  In the administration of the Act, the welfare and interests of the child or adopted person concerned shall be regarded as the paramount consideration at all times.
			19	<b>Who may be adopted</b>  (1) On application by the Secretary or the principal officer of an approved agency but subject to the Act, the court may make an order for the adoption of a child who:  (a) had not attained the age of 18 years before the date on which the application was filed in the court; or  (b) has been brought up, maintained, and educated by:  (i) the prospective adoptive parent or either of the prospective adoptive parents; or  (ii) the prospective adoptive parent and his or her deceased spouse, as the child of that parent or, as the case may be, of that parent and his or her spouse, but the court shall not make an order for the adoption of a child who is, or has been, married.  (3) In this section:  <b>'spouse'</b> includes the person with whom a prospective adoptive

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>interests.</p> <p>4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.</p>				parent had a significant relationship which was the subject of a deed of relationship registered under Part 2 of the <u>Relationships Act 2003</u> , which deed was revoked by the death of the person.
			23	<p><b>Wishes of child</b></p> <p>Subject to Division2 of the Act, an order for the adoption of a child shall not be made unless the court is satisfied that, so far as practicable, the wishes and feelings of the child have been ascertained and due consideration given to them, having regard to the age and understanding of the child.</p>
			24	<p><b>Court to be satisfied as to certain matters</b></p> <p>(1) The court shall not make an order for the adoption of a child unless the court has received a report in writing on behalf of the Secretary or the principal officer of an approved agency concerning the proposed adoption and, after considering the report and any other evidence before it, the court is satisfied that:</p> <p>(a) the prospective adoptive parents:</p> <p>(i) satisfy the prescribed requirements relating to approval of adoptive parents; or</p> <p>(ii) satisfy those prescribed requirements as varied by the Secretary under subsection (6); and</p> <p>(b) the Secretary or principal officer has given consideration so far as practicable to any wishes expressed by a parent of the child, particularly in relation to the religion, marital status, sexual</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>orientation, race, or ethnic background of the prospective adoptive parents of the child; and</p> <p>(c) the Secretary or principal officer has given consideration to:</p> <p>(i) any wishes expressed by a parent of the child at the time when consent to the adoption was given or dispensed with about access to, or information about, the child, including notification in the event of the death of the child; and</p> <p>(ii) any arrangements agreed between a parent of the child and the prospective adoptive parents of the child for access to the child or for the giving of information about the child; and</p> <p>(d) the welfare and interests of the child will be promoted by the adoption.</p> <p>(2) Subsection (1) does not apply in relation to an order under section 19 for the adoption of a child who has attained the age of 18 years before the making of the order but the court shall not make an adoption order in such a case unless it is satisfied that special circumstances exist in relation to the welfare and interests of the child which make it desirable that the child should be adopted.</p> <p>(3) The report on behalf of the Secretary or the principal officer of an approved agency may be made by the Secretary or the principal officer of an approved agency or by a person authorized by the Secretary or principal officer in writing, either generally or in any particular case.</p> <p>(4) Except in the case of an adoption referred to in subsection (5), the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>court shall not make an order for the adoption of a child unless the court has received a report in the prescribed form as to the physical and mental condition of the child, signed by a medical practitioner who examined the child not more than 60 days before the date on which the application for the order was filed in the court.</p> <p>(5) Subsection (4) does not apply in relation to the proposed adoption of a child :</p> <p>(a) who has attained the age of 18 years; or</p> <p>(b) by a spouse of a natural parent of the child, by a person who is, or whose spouse is, a relative of the child, or by 2 persons who are relatives of the child.</p> <p>(6) At his/her own discretion or on written application by a principal officer, the Secretary in writing may vary the prescribed requirements relating to approval of particular prospective adoptive parents, by altering or omitting any one or more of those prescribed requirements, if the Secretary is satisfied that there are special circumstances relevant to the needs of a particular child.</p> <p><b>'Secretary'</b> means the Secretary of the Department.</p>
			25	<p><b>Notice of application for adoption orders</b></p> <p>(1) The court shall not make an order for the adoption of a child unless not less than 28 days' notice of the application has been given by the Secretary or the principal officer of an approved agency:</p> <p>(a) to any person whose consent to the adoption of the child is</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>required under section 29 but whose consent has not been given, whether or not that consent has been dispensed with under section 37; or</p> <p>(b) to any person who is not a parent of a child but is a guardian of the child; or</p> <p>(c) to any person, other than one of the prospective adoptive parents, with whom the child resides or who has the care, custody, or control of the child unless the consent of that person to the adoption of the child is required under section 29.</p> <p>(3) The court may, on application in writing, by the Secretary or the principal officer of an approved agency, dispense with the giving of a notice under subsection (1).</p> <p>(4) Where it appears to the court to be necessary in the interests of justice so to do, the court may direct that notice of an application for an adoption order be given to any person.</p>
			26	<p><b>Parties to proceedings for adoption order</b></p> <p>Where an application is made to the court for an order for the adoption of a child, the court may permit such persons as the court thinks fit to be joined as parties to the proceedings for the purpose of opposing the application or of opposing an application to dispense with the consent of a person.</p>
			29	<p><b>Consents required to adoption</b></p> <p>(1) The court shall not make an order for the adoption of a child</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>unless it is satisfied that:</p> <p>(a) consent to the adoption has been given in accordance with Division 3 by the appropriate person or persons ascertained in accordance with this section, that the consent has not been revoked, and that the requirements of section 31 have been complied with; or</p> <p>(b) there is not an appropriate person within the meaning of this section to give consent to the adoption,</p> <p>or unless the court dispenses with any such consent.</p> <p>(2) In the case of a child whose parents were married to each other at the time of its birth or at or after the time of its conception but before its birth and who has not previously been adopted, the appropriate persons are the mother and the father of the child.</p> <p>(3) In the case of a child whose parents were not so married to each other and who has not previously been adopted, the appropriate persons are the mother of the child and a man:</p> <p>(a) whose name is entered in the entry relating to the child in a register of births, whether in Tasmania or in a place outside Tasmania, as the father of the child, so long as that entry was made before the expiration of a period of 30 days commencing on the day when consent to the adoption was given by the mother of the child (the last day of which period is in this subsection referred to as '<b>the relevant day</b>'); or</p> <p>(b) who is declared to be the father of the child under a declaration of parentage in force under section 10 of the <i>Status of Children Act</i></p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>1974, if before the relevant day a copy of the declaration is filed in the office of the Registrar under section 9 (3) of that Act; or</p> <p>...</p> <p>(d) who is named in an instrument filed before the relevant day in the office of the Registrar under section 9 (1) of the <i>Status of Children Act 1974</i> that acknowledges that he is the father of the child; or</p> <p>(da) with whom the mother was in a significant relationship, within the meaning of the <i>Relationships Act 2003</i>, at the time of its birth or at or after the time of its conception but before its birth; or</p> <p>(e) who has before the relevant day lodged with the Secretary or with the approved agency by which the arrangements for the adoption are being made evidence that he:</p> <p>(i) is conclusively presumed to be a parent of the child under section 8B(1) of the <i>Status of Children Act 1974</i>; or</p> <p>(ii) is, or has at any time been, liable, under an order of the Family Court of Australia for the maintenance of the child; or</p> <p>(iii) is, or has at any time been, liable for child support for the child under the <i>Child Support (Assessment) Act 1989</i> of the Commonwealth; or</p> <p>(iv) has at any time, under an order of the Family Court of Australia, been granted access to, or custody or guardianship of, the child.</p> <p>(4) Where there is evidence that a particular man is not the father of</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>a child, that man is not, by reason only of paragraph (e) of subsection (3), an appropriate person for the purposes of that subsection in the case of that child.</p> <p>(4A) In the case of a child whose mother was in a significant relationship, within the meaning of the <i>Relationships Act 2003</i>, with a woman at the time of the child's birth or at or after the time of its conception but before its birth and the child has not previously been adopted, the appropriate persons are the parties to that relationship if:</p> <p>(a) the child was born as a result of a fertilization procedure to which the female partner in the significant relationship with the mother had given consent; or</p> <p>(b) there is no man required to give consent under subsection (3).</p> <p>(5) In the case of a child who has previously been adopted, the appropriate persons are the adoptive parents of the child.</p> <p>(6) In the case of a child who is a non-citizen child, the appropriate person is:</p> <p>(a) the person who, under the <i>Immigration (Guardianship of Children) Act 1946</i> of the Commonwealth, is the guardian of the child; or</p> <p>(b) where that guardian has, under that Act, delegated his powers and functions as guardian to another person, that other person.</p> <p>(7) This section does not apply in relation to a person who has</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				attained the age of 18 years before the making of the adoption order.
			31	<p><b>Requirements to be complied with</b></p> <p>(1) Before a consent is given by a person who is not a guardian as mentioned in section 29(6):</p> <p>(a) the person shall receive counselling from a person approved for the purpose by the Secretary or the principal officer of an approved agency; and</p> <p>(b) not less than 24 hours before the consent is given, the person by whom that counselling was given shall give the person information in writing in the prescribed form about the effect of an adoption order, the alternatives to adoption, and the provisions of the Act relating to revocation of consent; and</p> <p>(c) notice in writing shall be given to the person that the person may, at any time before an adoption order is made, apply subject to, and in accordance with, the <i>Births, Deaths and Marriages Registration Act 1999</i> for a certified copy of, or extract from, an entry in the register relating to the child.</p> <p>(2) The Secretary or the principal officer of an approved agency shall, as soon as practicable after receiving a consent, give a copy of that consent to the person who signed it.</p> <p>(3) A certificate signed by the Secretary or the principal officer of an approved agency to the effect that the requirements referred to in subsection (1) have been complied with is evidence of that fact.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(4) Where a consent is given in a place outside Tasmania, the requirements referred to in subsections (1) and (2) do not apply.
			36	<p><b>Defective consents</b></p> <p>(1) The court shall not make an adoption order in reliance on a consent given or purporting to have been given by a person if it appears to the court that:</p> <ul style="list-style-type: none"> <li>(a) the consent was not given in accordance with the Act; or</li> <li>(b) the consent was obtained by fraud, duress, or other improper means; or</li> <li>(c) the consent was revoked at a time when it was lawful to do so; or</li> <li>(d) the instrument of consent has been altered in a material particular without authority; or</li> <li>(e) the person giving or purporting to give the consent was not, when the instrument of consent was signed, in a fit condition to give the consent or did not understand the nature of the consent; or</li> <li>(f) the instrument of consent was signed before the birth of the child to whom it relates.</li> </ul> <p>(2) A court shall not make an adoption order in reliance on an instrument of consent signed by the mother of the child to whom it relates on, or within 7 days after, the day on which the child was born unless it is proved that, at the time the instrument was signed, the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>mother was in a fit condition to give the consent.</p> <p>(3) For the purposes of subsection (2), a certificate of a legally-qualified medical practitioner stating that, at the time when an instrument of consent was signed by the mother of the child to whom it relates, the mother was in a fit condition to give the consent is evidence of that fact.</p>
			37	<p><b>Court may dispense with consents</b></p> <p>(1) Where, on application by the Secretary or the principal officer of an approved agency, the court is satisfied:</p> <p>(a) that a person whose consent to the adoption of a child is required under this Division cannot, after reasonable inquiry, be found; or</p> <p>(b) by a certificate signed by not less than 2 legally-qualified medical practitioners, that any such person is, and is unlikely to cease to be, incapable on psychiatric or other medical grounds of properly considering the question whether the person should give consent; or</p> <p>(c) that any such person has abandoned, deserted, persistently neglected, or ill-treated the child; or</p> <p>(d) that any such person has seriously ill-treated the child to the extent that it is unlikely that the child would accept, or be accepted by the person within, the family of that person; or</p> <p>(e) that any such person has, for a period of not less than one year, failed, without reasonable cause, to discharge the obligations of a</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>parent of the child; or</p> <p>(f) that any such person has such a physical or mental disability or is otherwise so impaired that the person is unable to meet the needs of the child; or</p> <p>(g) that for any reason the child is unlikely to be accepted into, or to accept, a family relationship with any such person; or</p> <p>(h) that there are any other special circumstances by reason of which, in the interests of the welfare of the child, the consent of any such person may properly be dispensed with,</p> <p>the court may dispense with the consent of that person to the adoption of the child unless that person is a guardian of the child as mentioned in section 29(6).</p> <p>(3) The court shall not make an order under subsection (1) dispensing with the consent of a person to the adoption of a child unless the court has received and taken into consideration a report from the Secretary or the principal officer of an approved agency as to:</p> <p>(a) the circumstances in which the application for dispensation is made and the grounds for the application; and</p> <p>(b) whether the dispensation of consent and the proposed adoption would serve the welfare and interests of the child concerned.</p> <p>(4) An order under subsection (1) dispensing with consent may, on application by, or on behalf of, the Secretary, the principal officer of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				an approved agency, or the person whose consent was dispensed with, be revoked by the court at any time before the making of the adoption order concerned.
			45	<b>Natural parent's right of access after consent</b>  (1) A parent of the child who has given consent to the adoption of the child may, notwithstanding that the Secretary is the guardian of the child under Division 4 but subject to subsection (2), visit the child during the period during which the consent may be revoked.  (2) The Secretary or the principal officer of an approved agency may, by notice in writing given to a parent who has given consent to the adoption of a child, restrict the occasions on which or times at which that parent may, under section 45, visit the child.
			75	<b>Counselling services</b>  (1) A relevant authority shall not provide a document or information to an applicant under Part VI of the Act unless the applicant has received counselling from an approved counsellor.  (2) Where a relevant authority receives an application under Part 6, the relevant authority shall inform the applicant in writing of the place or places at which counselling services are available and that information cannot be supplied unless the applicant has attended an interview with an approved counsellor.  (3) This section does not apply if the relevant authority is satisfied that the :

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) adopted person and all other persons referred to in the original birth certificate relating to the adopted person have previously exchanged information which may identify a natural parent or natural relative of the adopted person; or</p> <p>(b) applicant is not resident in Tasmania.</p>
			81	<p><b>Adopted person's right to information under age 18</b></p> <p>(1) An adopted person who has not attained the age of 18 years may apply to a relevant authority for information about himself.</p> <p>(2) An application for information referred to in subsection (1) shall be accompanied by the agreement in writing, or evidence of the death, of each adoptive parent of the adopted person.</p> <p>(3) There shall not be given to an applicant under this section any information from which the identity of a natural parent of the applicant may be ascertained unless the relevant authority has obtained the agreement in writing, or evidence of the death, of that natural parent.</p>
			83	<p><b>Information about adopted person under age 18</b></p> <p>(1) A natural parent or natural relative of an adopted person who has not attained the age of 18 years may, subject to this section, apply to a relevant authority for information about the adopted person.</p> <p>(2) A natural parent or natural relative is not entitled to information about the adopted person from which his adoptive parents may be identified or his whereabouts ascertained unless the relevant authority</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>has:</p> <p>(a) considered any wishes expressed by the adopted person; and</p> <p>(b) obtained the agreement in writing, which may be given subject to conditions, or evidence of the death, of each adoptive parent of the adopted person.</p> <p>(3) A natural parent or natural relative is not entitled to information about the adopted person if the relevant authority is of opinion that, in order to give effect to any wishes of the adopted person or conditions imposed by an adoptive parent under subsection (2), that information ought not to be disclosed.</p> <p>(4) If an adopted person dies before attaining the age of 18 years, a natural parent or natural relative of the adopted person, on application under subsection (1), is entitled to be given the:</p> <p>(a) identity of the adopted person; and</p> <p>(b) date of death of the adopted person; and</p> <p>(c) place of burial or other disposal of the body of the adopted person; and</p> <p>(d) identity of the adoptive parents.</p> <p>(5) Before a natural parent or natural relative of an adopted person referred to in subsection (4) is given any information under that subsection that identifies, or identifies the whereabouts of, an adoptive parent of the adopted person, the natural parent or natural</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>relative is to undertake not to contact that adoptive parent if that adoptive parent has:</p> <p>(a) entered a contact veto in an Adoption Information Register in respect of the natural parent or natural relative; and</p> <p>(b) not withdrawn the contact veto from the Register.</p> <p>(6) An undertaking is to be in writing in a form determined by the Secretary.</p>
			87	<p><b>Power of judge to order release of information to adopted persons, natural parents, etc</b></p> <p>(1) Where a person:</p> <p>(a) is unable to obtain information about an adopted person because a person whose agreement in writing is required under Division 2 of the Act has failed to give that agreement or has not been found; or</p> <p>(b) being entitled to apply under a preceding section of Division 2, desires to obtain information which he is not entitled to obtain under any other provision of Part VI:</p> <p>the first-mentioned person may apply to a judge in chambers for an order permitting him to obtain that information.</p> <p>(2) An application under subsection (1) shall be accompanied by a report from an approved counsellor.</p> <p>(3) Where, on an application made under subsection (1), the judge is</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>satisfied:</p> <p>(a) where the application is made because a person has failed to agree in writing to the giving of the information or has not been found, that it is in the best interests of the applicant that the information be given; and</p> <p>(b) where the application relates to information which the applicant is not entitled to obtain under any other provision of Part VI, that it is in the best interests of the applicant that the information be given, notwithstanding that the information relates to the personal affairs of another person or that another person may be identified from the information; and</p> <p>(c) after consideration of the report of an approved counsellor made under subsection (2), that special circumstances exist which make it desirable so to do,</p> <p>the judge may, subject to subsection (4), make an order directing:</p> <p>(a) a relevant authority to give such information as is specified in the order to the applicant; or</p> <p>(b) a body or person to give such information as is specified in the order to the Secretary for transmission to the applicant or, where the order so states and the agency, body, or person agrees, to the applicant.</p> <p>(4) Where a person has failed to agree in writing to the giving of information as mentioned in Part VI, the judge shall not make an order under subsection (3) relating to that information unless the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				judge has given that person, if he can be found, an opportunity to be heard in circumstances in which his identity is not disclosed to the applicant.
			89	<p><b>Adoption Information Service</b></p> <p>An Adoption Information Service established within the Department and within each approved agency shall:</p> <p>(a) advise persons with respect to the provisions of Part VI of the Act; and</p> <p>(b) make arrangements for the provision of counselling in relation to applications under Part; VI of the Act; and</p> <p>(c) receive applications for information under Part VI of the Act; and</p> <p>(d) subject to and in accordance with this Part, facilitate the provision of information to a person whose name is entered in an Adoption Information Register maintained under section 90.</p>
			90	<p><b>Adoption Information Registers</b></p> <p>(1) The Secretary and the principal officer of an approved agency shall each establish and maintain an Adoption Information Register.</p> <p>(2) As soon as practicable after making an entry in an Adoption Information Register, the principal officer of an approved agency shall forward to the Secretary a copy of the particulars relating to each person in respect of whom the entry is made and the Secretary shall enter those particulars in the Adoption Information Register</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>maintained by him.</p> <p>(3) There shall be entered in each Adoption Information Register:</p> <p>(a) the names and addresses of persons, including:</p> <p>(i) adopted persons; and</p> <p>(ii) natural relatives of adopted persons; and</p> <p>(iii) natural parents of adopted persons; and</p> <p>(iv) adoptive parents of adopted persons, who have, in writing, applied to the Secretary or the principal officer of the appropriate approved agency to enter their names and addresses in that Register; and</p> <p>(b) in relation to each person so registered, the wishes of the person in relation to:</p> <p>(i) obtaining information about, or meeting or providing information to; and</p> <p>(ii) whether or not to release the name and address of, or any information about, the person to; and</p> <p>(iii) being contacted by:</p> <p>another person whose name is, or may at any time be, entered in that Register; and</p> <p>(c) on behalf of any person whose name is entered in the Register, a</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>contact veto specifying any person or class of persons by whom the registered person does not wish to be contacted.</p> <p>(3A) Any wish not to be contacted or met by any person or class of persons made under subsection (3)(b), before or after the commencement of section 10 of the <i>Adoption Amendment Act 1998</i>, by a person whose name is entered in an Adoption Information Register is taken to be a contact veto.</p> <p>(4) The name and address of a person whose name is entered in an Adoption Information Register shall not be disclosed to any person except in accordance with this Act, unless the person has given consent in writing to the disclosure of his name and address.</p> <p>(5) The Secretary shall from time to time:</p> <p>(a) give public notification of the establishment of each Adoption Information Register; and</p> <p>(b) invite adopted persons, natural parents, natural relatives and adoptive parents to record their wishes in relation to obtaining information about, being contacted by or meeting or providing information to, another person whose name is, or may at any time be, entered in an Adoption Information Register.</p> <p>(6) A person who is required to maintain an Adoption Information Register under this section shall, on application by a person whose name is entered in that Register, amend or cancel the entry relating to that person.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
	<b>Child, Young Persons and Their Families Act 1997</b>	Tas	3	<p><b>'Aboriginal child'</b> means a child who is an Aboriginal person within the meaning of the <i>Aboriginal Lands Act 1995</i>.</p> <p><b>'abuse or neglect'</b> means:</p> <p>(a) sexual abuse; or</p> <p>(b) physical or emotional injury or other abuse, or neglect, to the extent that the :</p> <p>(i) injured, abused or neglected person has suffered, or is likely to suffer, physical or psychological harm detrimental to the person's wellbeing; or</p> <p>(ii) the injured, abused or neglected person's physical or psychological development is in jeopardy,</p> <p>and <b>'abused or neglected'</b> has a corresponding meaning.</p> <p><b>'child'</b> means a person under 18 years of age.</p>
			4	<p><b>Meaning of 'at risk'</b></p> <p>(1) A child is at risk if:</p> <p>(a) the child has been, is being, or is likely to be, abused or neglected; or</p> <p>(b) any person with whom the child resides or who has frequent contact with the child (whether the person is or is not a guardian of the child) has:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(i) threatened to kill or abuse or neglect the child and there is a reasonable likelihood of the threat being carried out; or</p> <p>(ii) killed or abused or neglected some other child or an adult and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person; or</p> <p>(ba) the child is an affected child within the meaning of the <i>Family Violence Act 2004</i>; or</p> <p>(c) the guardians of the child are:</p> <p>(i) unable to maintain the child; or</p> <p>(ii) unable to exercise adequate supervision and control over the child; or</p> <p>(iii) unwilling to maintain the child; or</p> <p>(iv) unwilling to exercise adequate supervision and control over the child; or</p> <p>(v) dead, have abandoned the child or cannot be found after reasonable inquiry; or</p> <p>(vi) are unwilling or unable to prevent the child from suffering abuse or neglect; or</p> <p>(d) the child is under 16 years of age and does not, without lawful excuse, attend a school, or other educational or training institution,</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>regularly.</p> <p>(2) For the purposes of subsection (1), it does not matter whether the conduct that puts a child at risk occurred or, as the case requires, is likely to occur wholly or partly outside Tasmania.</p>
			7	<p><b>Object</b></p> <p>(1) The object of the Act is to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach his or her full potential.</p> <p>(2) The Minister must seek to further the object of the Act and, to that end, should endeavour:</p> <p>(a) to promote, and assist in the development of, a partnership approach between the Government, local government, non-Government agencies and families in taking responsibility for and dealing with the problem of child abuse and neglect; and</p> <p>(b) to promote and assist in the development of coordinated strategies for dealing with the problem of child abuse and neglect; and</p> <p>(c) to provide, or assist in the provision of, services for dealing with the problem of child abuse and neglect and for the care and protection of children; and</p> <p>(d) to provide, or assist in the provision of, preventative and support services directed towards strengthening and supporting families and</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>reducing the incidence of child abuse and neglect; and</p> <p>(e) to assist recognised Aboriginal organisations to establish and provide preventative and support services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect within the Aboriginal community; and</p> <p>(f) to provide, or assist in the provision of, information or education services for guardians, prospective guardians and other members of the community in relation to the developmental, social and safety requirements of children; and</p> <p>(g) to provide, or assist in the provision of, education to persons who are required to notify the Secretary if they know or reasonably believe or suspect that a child is being, or is likely to be, abused or neglected; and</p> <p>(h) to provide, or assist in the provision of, services to help persons who have been under the guardianship or in the custody of the Secretary during childhood to make a successful transition to adulthood; and</p> <p>(i) to collect and publish relevant data or statistics or to assist in their collection or publication; and</p> <p>(j) to promote, encourage and undertake research into child abuse and neglect; and</p> <p>(k) to encourage the provision, by educational institutions, of courses offering instruction about child abuse and neglect and its prevention</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				and treatment; and  (l) generally to do such other things which the Minister believes will further the object of this Act.
			8	<b>Principles to be observed in dealing with children</b>  (1) The Act is based on the following principles:  (a) the primary responsibility for a child's care and protection lies with the child's family;  (b) a high priority is to be given to supporting and assisting the family to carry out that primary responsibility in preference to commencing proceedings under Division 2 of Part 5;  (c) if a family is not able to meet its responsibilities to the child and the child is at risk, the Secretary may accept those responsibilities.  (2) In any exercise of powers under the Act in relation to a child:  (a) the best interests of the child must be the paramount consideration; and  (b) serious consideration must be given to the desirability of:  (i) keeping the child within his or her family; and  (ii) preserving and strengthening family relationships between the child and the child's guardians and other family members, whether or not the child is to reside within his or her family; and

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(iii) not withdrawing the child unnecessarily from the child's familiar environment, culture or neighbourhood; and</p> <p>(iv) not interrupting unnecessarily the child's education or employment; and</p> <p>(v) preserving and enhancing the child's sense of ethnic, religious or cultural identity, and making decisions and orders that are consistent with ethnic traditions or religious or cultural values; and</p> <p>(vi) preserving the child's name; and</p> <p>(vii) not subjecting the child to unnecessary, intrusive or repeated assessments; and</p> <p>(c) the powers, wherever practicable and reasonable, must be exercised in a manner that takes into account the views of all persons concerned with the welfare of the child.</p> <p>(3) In any exercise of powers under the Act in relation to a child, if a child is able to form and express views as to his or her ongoing care and protection, those views must be sought and given serious consideration, taking into account the child's age and maturity.</p> <p>(4) In any proceeding under the Act that may lead to any separation of a child from his or her family, other than a proceeding under Part 4, the child's family and other persons interested in the child's wellbeing must be given the opportunity to present their views in respect of the child's wellbeing.</p> <p>(5) In any proceeding under the Act in relation to a child, the child's</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>family and other persons interested in the child's wellbeing should be provided with information sufficient to enable them to participate fully in the proceeding.</p> <p>(6) All proceedings under the Act must be dealt with expeditiously, with due regard to the degree of urgency of each particular case.</p>
			9	<p><b>Principles relating to dealing with Aboriginal children</b></p> <p>(1) A decision or order as to where or with whom an Aboriginal child will reside may not be made under the Act except where a recognised Aboriginal organisation has first been consulted.</p> <p>(2) In making any decision or order under the Act in relation to an Aboriginal child, a person or the Court must, in addition to complying with the principles set out in section 8:</p> <p>(a) have regard to any submissions made by or on behalf of a recognised Aboriginal organisation consulted in relation to the child; and</p> <p>(b) if a recognised Aboriginal organisation has not made any submissions, have regard to Aboriginal traditions and cultural values (including kinship rules) as generally held by the Aboriginal community; and</p> <p>(c) have regard to the general principle that an Aboriginal child should remain within the Aboriginal community</p>
			11	<b>Voluntary care agreement</b>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) The guardians of a child, acting together, and the Secretary:</p> <p>(a) may enter into an agreement under which the Secretary will have the care and custody of the child for the period not exceeding 3 months specified in the agreement; and</p> <p>(b) before termination of a care agreement, may extend the agreement.</p> <p>(2) Despite subsection (1):</p> <p>(a) if the whereabouts of a guardian of a child cannot be ascertained after reasonable enquiries; or</p> <p>(b) if a guardian of a child has failed to respond within a reasonable period of time to a request that he or she enter into a care agreement; or</p> <p>(c) if a guardian of a child does not have ongoing contact with the child; or</p> <p>(d) if it is not, in all the circumstances of the case, reasonably practicable to request a particular guardian of a child to enter into a care agreement,</p> <p>the remaining guardians may enter into a care agreement in respect of the child.</p> <p>(3) Despite subsection (1)(a), the Secretary may not enter into a care agreement if he or she has reasonable grounds of suspecting or believing, or knows, that the child is at risk for any reason other than</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>that the guardian is or will be temporarily unable to maintain the child or exercise adequate supervision and control over the child.</p> <p>(4) Despite subsection (1)(b), a care agreement may not be extended so that it will operate for a total period of more than 3 months.</p> <p>(5) A care agreement relating to a child who is a young person must not be entered into or extended unless the young person consents to the agreement or the extension of the agreement.</p> <p>(6) Subsection (5) does not apply if the Secretary is of the opinion that the young person is unable to understand, or give informed consent to, the care agreement.</p> <p>(7) If a child under the age of 16 years appears to have a sufficient understanding of the consequences of a care agreement, the child must be consulted by the Secretary before a care agreement relating to the child can be entered into or extended.</p> <p>(8) A care agreement and any extension of a care agreement must be:</p> <p>(a) in writing; and</p> <p>(b) signed by:</p> <p>(i) the Secretary; and</p> <p>(ii) the guardians of the child; and</p> <p>(iii) if the child is a young person, the young person.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			12	<p><b>Termination of care agreement</b></p> <p>(1) A care agreement may be terminated at any time by the agreement of:</p> <ul style="list-style-type: none"> <li>(a) the Secretary; and</li> <li>(b) the guardians who signed the agreement; and</li> <li>(c) if the child is a young person, the young person.</li> </ul> <p>(2) The Secretary must not agree to terminate a care agreement unless the Secretary is satisfied that proper arrangements exist for the care of the child.</p> <p>(3) A care agreement will be taken to have terminated on any order being made under this Act or any other enactment for the guardianship or custody of the child.</p> <p>(4) The Secretary must terminate a care agreement that relates to a young person if:</p> <ul style="list-style-type: none"> <li>(a) the young person requests it in writing; and</li> <li>(b) the Secretary is satisfied that proper arrangements exist for the care of the young person.</li> </ul> <p>(5) Unless the agreement is earlier terminated under this section, a care agreement has effect for a period, not exceeding 3 months, specified in the agreement or an extension of the agreement.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			13	<p><b>Responsibility to prevent abuse or neglect or certain behaviour</b></p> <p>(1) An adult who knows, or believes or suspects on reasonable grounds, that a child is suffering, has suffered or is likely to suffer abuse or neglect has a responsibility to take steps to prevent the occurrence or further occurrence of the abuse or neglect.</p> <p>(1A) If, while a woman is pregnant, an adult knows, or believes or suspects on reasonable grounds, that the child of that pregnancy once born:</p> <p>(a) is reasonably likely to suffer abuse or neglect; or</p> <p>(b) is reasonably likely to require medical treatment or other intervention as a result of the behaviour of the woman, or another person with whom the woman resides or is likely to reside, before the birth of the child:</p> <p>that adult has a responsibility to take steps to prevent the occurrence of that abuse or neglect or that behaviour.</p> <p>(2) One step the adult may take to prevent the occurrence of abuse or neglect of a child, or behaviour referred to in subsection (1A)(b), is to inform the Secretary or a Community-Based Intake Services of:</p> <p>(a) his or her knowledge, belief or suspicion; and</p> <p>(b) the basis of that knowledge, belief or suspicion.</p>
			42	<b>Care and protection order</b>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) In this section, '<b>specified</b>' means specified in a care and protection order.</p> <p>(2) The Secretary may apply to the Court for a care and protection order.</p> <p>(3) On the application of the Secretary, the Court may make a care and protection order if:</p> <p>(a) the Court is satisfied:</p> <p>(i) that a child is at risk; and</p> <p>(ii) that a care and protection order should be made to secure the care and protection of the child; or</p> <p>(b) the Court is satisfied that :</p> <p>(i) proper arrangements exist for the care and protection of a child (whether pursuant to the Secretary approving the arrangements recommended in a decision of a family group conference or otherwise); and</p> <p>(ii) the child would be likely to suffer significant psychological harm if the arrangements were to be disturbed; and</p> <p>(iii) it would be in the best interests of the child for the arrangements to be incorporated in a care and protection order.</p> <p>(4) A care and protection order may contain one or more of the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>following orders:</p> <p>(a) an order requiring the child or a guardian of the child, for a specified period not exceeding 12 months, to do any specified thing or to refrain from doing any specified thing; and</p> <p>(b) an order granting custody of the child, for a specified period not exceeding 12 months, to one of the following persons:</p> <p>(i) a guardian of the child; or</p> <p>(ii) a member of the child's family; or</p> <p>(iii) the chief executive officer of a non-Government organisation that provides facilities for the residential care of children, or a person who holds a position similar in nature to that of chief executive officer in such an organisation; or</p> <p>(iv) the Secretary; or</p> <p>(v) any other person that the Court considers appropriate in the circumstances.</p> <p>(c) an order placing the child, for a specified period not exceeding 12 months, under the guardianship of:</p> <p>(i) the Secretary; or</p> <p>(ii) one or 2 other persons;</p> <p>(d) an order placing the child, until the child attains 18 years of age,</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>under the guardianship of:</p> <ul style="list-style-type: none"> <li>(i) the Secretary; or</li> <li>(ii) one or 2 other persons;</li> <li>(e) an order providing the access to the child; and</li> <li>(f) an order providing for the way in which a person who has custody or guardianship of the child under an order of the Court is to deal with matters relating to the care, protection, health, welfare and education of the child; and</li> <li>(g) any other order the Court considers appropriate.</li> </ul> <p>(5) A care and protection order may include conditions to be observed by one or more of the following persons:</p> <ul style="list-style-type: none"> <li>(a) the child; and</li> <li>(b) a guardian of the child; and</li> <li>(c) a person with whom the child is living; and</li> <li>(d) the Secretary; and</li> <li>(e) a person who is to supervise the child; and</li> <li>(f) a person who is granted custody of the child; and</li> <li>(g) any other person who is involved with the care and protection of</li> </ul>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the child.</p> <p>(6) The Court may not make an order under subsection (4)(d) unless satisfied that:</p> <p>(a) all reasonable steps have been taken to provide the services required to enable the child's protection and care needs to be met within the home of a parent or other existing guardian of the child; and</p> <p>(b) the person proposed as guardian:</p> <p>(i) is suitable to have guardianship of the child, having regard to any prescribed matters; and</p> <p>(ii) is willing and able to assume guardianship of the child; and</p> <p>(c) the wishes and feelings of the child have been duly considered, having regard to the age, understanding and maturity of the child; and</p> <p>(d) the wishes of the parents in respect of any prescribed matters referred to in paragraph (b)(i) have been duly considered; and</p> <p>(e) no other order, apart from the order considered, would be in the best interests of the child.</p>
			48(1)	<p><b>Variation, revocation, suspension and end of care and protection order in interim care and protection order</b></p> <p>(1) A care and protection order or an interim care and protection</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>order:</p> <p>(a) may be varied or revoked by the Court at any time on the application of the child, the Secretary or a person granted guardianship or custody by the order; and</p> <p>(ab) may be varied or revoked by the Court on the application of a former guardian of the child or a person who was party to the application for the order, other than a person referred to in paragraph (a) if:</p> <p>(i) circumstances have changed since the order was made; and</p> <p>(ii) the application is made with the leave of the Court; and</p> <p>(b) ceases to have effect when the child attains 18 years of age.</p>
			54	<p><b>Matters Court must consider</b></p> <p>In any proceedings under this Act, the Court must:</p> <p>(a) consider the best interests of the child to be the paramount consideration; and</p> <p>(b) observe the principles set out in sections 8 and 9.</p>
			55	<p><b>Determining what is a child's best interests</b></p> <p>(1) In determining what is in the child's best interests, the Court must consider the following matters:</p> <p>(a) any wishes expressed by the child and any factors (such as the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>child's maturity or level of understanding) that the Court considers relevant to the weight it should give to the child's wishes; and</p> <p>(b) the nature of the relationship of the child with each of the child's guardians and with other persons; and</p> <p>(c) the likely effect of any changes in the child's circumstances, including the likely effect on the child of any separation from:</p> <p>(i) either of his or her guardians; or</p> <p>(ii) any other child, or other person, with whom he or she has been living; or</p> <p>(d) the practical difficulty and expense of a child having contact with a guardian and whether that difficulty or expense will substantially affect the child's right to maintain personal relations and direct contact with each guardian on a regular basis; and</p> <p>(e) the capacity of each guardian, or of any other person, to provide for the needs of the child, including emotional and intellectual needs; and</p> <p>(f) the child's maturity, sex, background and culture (including any need to maintain a connection with the lifestyle, culture and traditions of the Aboriginal community) and any other characteristics of the child that the Court considers relevant; and</p> <p>(g) the need to protect the child from physical or psychological harm; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(h) the attitude to the child, and to the responsibilities of parenthood, demonstrated by each of the child's guardians; and</p> <p>(i) any other fact or circumstance that the Court considers relevant.</p> <p>(2) If the Court is considering whether to make an order with the consent of all the parties to the proceedings, the Court may, but is not required to, have regard to all or any of the matters set out in subsection (1).</p>
			56	<p><b>Allowing opportunity for child to express wishes</b></p> <p>Whether or not the child is represented by an Australian legal practitioner in any proceedings under this Act, the Court must allow the child a reasonable opportunity to give his or her own views personally to the Court as to his or her ongoing care and protection unless the Court is satisfied that the child is not capable of doing so.</p>
			57	<p><b>How wishes of child are expressed</b></p> <p>The Court may inform itself of wishes expressed by a child:</p> <p>(a) by having regard to anything said by the child personally to the Court on being allowed an opportunity under section 56; and</p> <p>(b) by having regard to anything contained in a report given by the Court; and</p> <p>(c) by any other means the Court considers appropriate.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			58	<p><b>Children not required to express wishes</b></p> <p>Nothing in this Act permits the Court or any person to require the child to express his or her wishes in relation to any matter.</p>
			64	<p><b>Parties to application</b></p> <p>(1) The following persons are parties to an application for an assessment order or a care and protection order:</p> <p>(a) the Secretary; or</p> <p>(b) the child the subject of the application; or</p> <p>(c) each guardian of the child.</p> <p>(2) If an application to vary, extend or revoke an assessment order, a care and protection order or an interim care and protection order is made, all persons who were parties to that order and all persons who are bound by that order are parties to the application.</p>
			65	<p><b>Services of applications on parties</b></p> <p>(1) After filing with the Court an application for an assessment order, a care and protection order or the variation, extension or revocation of an assessment order, a care and protection order or an interim care and protection order, a copy of that application and notice of the time and place of the hearing of the application must be served:</p> <p>(a) on the child the subject of the application or order, if the child is</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>10 or more years old; and</p> <p>(b) on the child's advocate or representative, if one has been appointed; and</p> <p>(c) on each other party to the application; and</p> <p>(d) if the Secretary is the applicant, on any person whom the Secretary considers has an interest in the welfare of the child; and</p> <p>(e) if the Secretary is the applicant, on any person whom the Secretary considers may be affected by the order or the variation, extension or revocation of the order.</p> <p>(2) If a copy of the application and a notice of the time and place of the hearing is to be served on the child who is the subject of the application or the order to which the application relates, they must be served personally.</p> <p>(3) The copy of the application and a notice of the time and place of the hearing to be served on a party, other than the child who is the subject of the application or the order to which the application relates, must be served:</p> <p>(a) personally; or</p> <p>(b) by post addressed to the party at his or her last known place of residence or employment; or</p> <p>(c) in any other manner authorised by the Court if:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(i) it is not practicable to serve the copy and notice personally; or  (ii) the whereabouts of the party cannot, after reasonable enquiries, be ascertained.
			69(1)(a)	<b>Powers and duties of Secretary in relation to children under guardianship or in custody of Secretary generally</b>  (1) Subject to this Act, the Secretary may provide for the care of a child who is under the guardianship, or in the custody, of the Secretary under this Act or any other enactment in any one or more of the following ways:  (a) by placing the child, or permitting the child to remain, in the care of a guardian of the child or a member of the child's family;
			69(2)	(2) In making provisions for the care of a child, the Secretary must:  (a) consider the best interests of the child to be the paramount consideration; and  (b) have regard to the principles set out in sections 8 and 9; and  (c) make provision for the physical, intellectual, psychological and emotional development of the child; and  (d) have regard to the desirability of securing settled and permanent living arrangements for the child.
			77B	<b>Persons whose consent is required to transfer order</b>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) For the purposes of section 77A(1)(d):</p> <p>(a) if the home order gives custody of the child to the Secretary, consent to a transfer under this Subdivision is required from the child's parents and any other person who is granted access to the child under the order; and</p> <p>(b) if the home order provides for supervision of the child or for supervised custody of the child, consent to a transfer under this Subdivision is required from the child's parents; and</p> <p>(c) if the child is 15 or more years old, consent to a transfer under this Subdivision is required from the child.</p> <p>(2) Despite subsection (1)(b), if a parent of the child is residing in, or is intending to reside in, the relevant participating State, consent to the transfer is not required from that parent or from any other parent who consents to the child residing in that State.</p>
			77D	<p><b>Notification to child and his or her parents</b></p> <p>(1) If the Secretary has decided to transfer a home order to a participating State under this Subdivision, the Secretary must serve:</p> <p>(a) the parents of the child who is the subject of the order; and</p> <p>(b) if the child is of or above the age of 12 years, the child:</p> <p>with a notice of the decision as soon as practicable but in any event no later than 3 working days after making it.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(2) A notice under subsection (1) must also include the information that the child or a parent of the child may apply for a review of the decision on its merits by the Court by lodging the application with the Court and serving a copy of it on the Secretary within 13 working days after the date of the decision.</p> <p>(3) Service of a notice on a person is not required under subsection (1) if it cannot be effected after making all reasonable efforts.</p>
			77P(1)(c)	<p><b>Court to have regard to certain matters</b></p> <p>(1) In determining whether to make an order transferring a proceeding under this Division, the Court must have regard to:</p> <p>...</p> <p>(c) the place of residence, or likely place of residence, of the child, his or her parents and any other people who are significant to the child;</p>
	<b>Magistrates Court (Children's Division) Act 1998</b>	Tas	4,5 and 6	<p><b>4 Establishment of Children's Division of Magistrates Court</b></p> <p>There is established a division of the Magistrates Court to be known as the Magistrates Court (Children's Division).</p> <p><b>5 Composition of Court</b></p> <p>The Magistrates Court (Children's Division) is constituted by a magistrate.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<b>6 Jurisdiction of Court</b>  The Magistrates Court (Children's Division) has: <ul style="list-style-type: none"> <li>(a) jurisdiction to hear and determine all matters arising from and under the Children, Young Persons and Their Families Act 1997; and</li> <li>(b) the jurisdiction conferred on it by the Adoption Act 1988; and</li> <li>(c) has any other jurisdiction conferred on it by any other Act.</li> </ul>
			7	<b>Duty of Court</b>  The Court has a duty, as far as practicable to: <ul style="list-style-type: none"> <li>(a) ensure that parties to proceedings before the Court understand the nature and purpose of the proceedings; and</li> <li>(b) respect the cultural identity of a child to whom proceedings before the Court relate; and</li> <li>(c) consider the opinion of a child to whom proceedings before the Court relate if the Court considers the child able to: <ul style="list-style-type: none"> <li>(i) understand the proceedings and their consequences; and</li> <li>(ii) form a rational opinion.</li> </ul> </li> </ul>
			11	<b>Persons who may be present in Court</b>  (1) Only the following persons may be present at a sitting of the

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Court:</p> <ul style="list-style-type: none"> <li>(a) the child to whom the proceeding relates; and</li> <li>(b) the parents, other adult members of the child's family and guardians of the child; and</li> <li>(c) parties to the proceedings and their advocates; and</li> <li>(d) a person approved under section 4 or section 8(2)(b)(i) of the Evidence (Children and Special Witnesses) Act 2001 while the child or special witness whom the person is supporting remains in the Court; and</li> <li>(e) a witness while giving evidence or permitted by the Court to remain in the Court; and</li> <li>(f) an employee of the Department, within the meaning of the Children, Young Persons and Their Families Act 1997; and</li> <li>(g) if the child is an Aboriginal child, a representative of an Aboriginal organisation; and</li> <li>(h) officers of the Court; and</li> <li>(i) a person engaged in professional study relevant to the operation of the Court or research, if the Court permits him or her to be present; and</li> <li>(j) a person who, in the Court's opinion, will assist the Court; and</li> </ul>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(k) if the proceedings relate to the making, variation or revocation of a restraint order, parties to those proceedings and any person for whose benefit, or against whom, the restraint order is sought or made; and</p> <p>(l) any other person if the Court considers that the interests of justice require that person's presence; and</p> <p>(m) an infant or young child who is in the care of an adult present at the sitting.</p> <p>(n) (2) Subject to sections 4 and section 8 of the Evidence (Children and Special Witnesses) Act 2001, the Court may exclude a person referred to in subsection (1) from the Court if it considers it necessary to do so in the interests of justice.</p> <p>(3) This section does not apply to proceedings in the Court on an application made under the Adoption Act 1988.</p>
	<b>Family Violence Act 2004</b>	Tas	3	<p><b>Objects of Act</b></p> <p>In the administration of the Act, the safety, psychological wellbeing and interests of people affected by family violence are the paramount considerations.</p>
			6	<p><b>Act to prevail</b></p> <p>Where there is an inconsistency between this Act and another Act, this Act prevails to the extent of that inconsistency.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			15	<p><b>Application for FVO (Family Violence Order)</b></p> <p>(1) An application for an FVO is to be made to a court.</p> <p>(2) An application may be made by:</p> <p>(a) a police officer; or</p> <p>(b) an affected person; or</p> <p>(c) an affected child, if the court is satisfied that the child is capable of understanding the nature of the proceedings; or</p> <p>(d) any other person to whom leave to apply is granted by a court.</p> <p>(3) If an application is made by or on behalf of a child, a copy of the application is to be sent to the Secretary of the responsible Department in relation to the Children, Young Persons and Their Families Act 1997.</p> <p>(4) An application for an FVO is to include information of any relevant Family Court order, or of any pending application for a relevant Family Court order, of which the applicant or affected person is aware.</p>
			16	<p><b>Family violence orders</b></p> <p>(1) A court may make an FVO if satisfied, on the balance of probabilities, that:</p> <p>(a) a person has committed family violence; and</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) that person may again commit family violence.</p> <p>(2) An FVO may include such conditions as the court considers are necessary or desirable to prevent the commission of family violence against an affected person or to protect any other person named in the order.</p> <p>(3) Without limiting the nature of the conditions which may be included in an FVO, the court may require the person against whom the FVO is to be made to do one or more of the following:</p> <p>(a) vacate premises, not enter premises, or only enter premises on certain conditions, whether or not that person has a legal or equitable interest in the premises...</p>
			18	<p><b>Matters to be considered in making FVO</b></p> <p>(1) In making an FVO, a court:</p> <p>(a) must consider the safety and interests of the person for whose benefit the order is sought and any affected child to be of paramount importance; and</p> <p>(b) must consider whether contact between the person for whose benefit the order is sought, or the person against whom the FVO is to be made, and any child who is a member of the family of either of those persons is relevant to the making of the FVO; and</p> <p>(c) must consider any relevant Family Court order of which the court has been informed.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(2) An FVO is not invalid merely because:</p> <p>(a) the applicant fails to inform the court of any relevant Family Court order, or of any pending application for a relevant Family Court order; or</p> <p>(b) the court fails to consider access or any relevant Family Court order as required by subsection (1).</p>
	<b>Youth Justice Act</b>	Tas	5	<p><b>General principles of youth justice</b></p> <p>S5(2) provides that in the administration of youth justice the following principles must be applied as far as the circumstances of the individual case allow:</p> <p>...</p> <p>(b) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened; and</p> <p>(c) a youth should not be withdrawn unnecessarily from his or her family environment;</p>
	<b>Corrections Act 1997</b>	Tas	25	<p><b>Children</b></p> <p>(1) At the request of a prisoner who is a child's parent or guardian, the Director may permit the prisoner's child to live with the prisoner in the prison if the Director is satisfied that:</p> <p>(a) it is in the best interests of the child to live with his or her parent</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>or guardian in the prison; and</p> <p>(b) the management, good order or security of the prison will not be threatened by the child living in the prison.</p> <p>(2) The prisoner is responsible for the safety and care of the prisoner's child while the child lives in the prison.</p> <p>(3) If the Director considers that the child's behaviour is threatening the security or good order of the prison or the child's safety is threatened, the Director may cause the child to be removed from the prison.</p>
	<b>Guardianship and Custody of Infants Act 1934</b>	Tas	16	<p><b>Saving of power to consult child</b></p> <p>Nothing in the Act shall interfere with or affect the power of the Court to consult the wishes of the child in considering what order ought to be made, or diminish the right which any child now possesses to the exercise of its own free choice.</p> <p><b>'the Court'</b> means the Supreme Court.</p>

## 9. Australian Capital Territory

### CONVENTION ON THE RIGHTS OF THE CHILD (CRC): TABLE OF RELEVANT AUSTRALIAN LEGISLATION

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<b>ARTICLE 9:</b>  1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.  2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.  3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular	<b>Adoption Act 1993</b>	ACT	4	<b>Objects of Act</b>  The main objects of this Act include:  (a) ensuring that the best interests of the child or young person are the paramount consideration in the adoption of a child or young person; and  (b) providing an adoption process that promotes the wellbeing and care of children and young people in a way that recognises the child's or young person's right:  (i) to grow in a safe and stable environment; and  (ii) to be cared for by a suitable family and to establish enduring relationships; and  (iii) to know about family background and culture and have the opportunity to maintain or develop cultural identity; and  (c) ensuring that the Aboriginal and Torres Strait Islander people are included and participate in any adoption of an Aboriginal or Torres Strait Islander child or young person; and  (d) ensuring that adoption is centred on the needs of the child or young person rather than an adult wanting to care for a child or

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p>basis, except if it is contrary to the child's best interests.</p> <p>4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.</p>				<p>young person; and</p> <p>(e) consulting with the child or young person throughout the adoption process and, wherever possible, taking the child's or young person's views into account; and</p> <p>(f) recognising a birth parent's involvement in making decisions about their child's future; and</p> <p>(g) providing for adoption plans to recognise the intentions of parties in an adoption; and</p> <p>(h) ensuring that equivalent standards apply for a child or young person adopted from the ACT and a child or young person adopted from overseas; and</p> <p>(i) ensuring that the adoption process in the ACT complies with Australia's international obligations, in particular the obligations arising under the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.</p>
			5	<p><b>Best interests of child or young person paramount consideration</b></p> <p>(1) A person making a decision under this Act in relation to a child or young person, must regard the best interests of the child or young person as the paramount consideration.</p> <p>(2) In forming a view about the best interests of a child or young person, a person making a decision under this Act must take into account the following:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) the likely effect of the decision on the life course of the child or young person; and</p> <p>(b) the child's or young person's age, level of understanding, level of maturity, gender, and personal characteristics; and</p> <p>(c) the child's or young person's physical, emotional and educational needs; and</p> <p>(d) the views expressed by the child or young person; and</p> <p>(e) the relationship the child or young person has with the parents, any siblings and any other relatives; and</p> <p>(f) the relationship the child or young person has with the adoptive parents; and</p> <p>(g) the suitability and capacity of the adoptive parents to meet the child's or young person's needs; and</p> <p>(h) the alternatives to adoption for the child or young person to secure permanent family arrangements.</p>
			6	<p><b>Aboriginal and Torres Strait Islander child or young person—additional requirements</b></p> <p>In addition to section 5, a person making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person must:</p> <p>(a) take into account the need for the child or young person to</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or Torres Strait Islander community; and</p> <p>(b) seek and consider submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the child or young person or the child's or young person's family; and</p> <p>(c) take into account Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child's or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.</p>
			9	<p><b>Adoption of child or young person</b></p> <p>An adoption order may be made for a person who:</p> <p>(a) was under 18 years old on the day the application was filed in the court; and</p> <p>(b) is present in the ACT.</p>
			26	<p><b>Consents of parents and guardians</b></p> <p>(1) Subject to this division, an adoption order must not be made for a child or young person unless consent to the adoption has been given by:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) if the child or young person has not previously been adopted:</p> <p>(i) each parent of the child or young person; and</p> <p>(ii) each guardian of the child or young person; or</p> <p>(b) if the child or young person has previously been adopted:</p> <p>(i) each adoptive parent of the child or young person; and</p> <p>(ii) each guardian of the child or young person.</p> <p>(2) A reference in subsection (1) (a) (i) to a parent of a child or young person does not include a reference to the father of the child or young person unless he is presumed to be the father under the <i>Parentage Act 2004</i>.</p> <p>(3) Consent of a person is not required if the court is satisfied that the person is dead.</p>
			27	<p><b>Information for certain parents considering consent</b></p> <p>(1) This section applies if the director-general knows that:</p> <p>(a) a parent is considering consenting to the adoption of a child in the 28 days following the birth of the child; or</p> <p>(b) a parent under 18 years old is considering consenting to the adoption of a child.</p> <p>(2) The director-general must offer the parent:</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) information about:</p> <ul style="list-style-type: none"> <li>(i) the time period for providing the consent; and</li> <li>(ii) the process for revocation of consent; and</li> <li>(iii) alternatives to adoption; and</li> <li>(iv) future contact with the child; and</li> </ul> <p>(b) the opportunity for counselling, if requested.</p> <p>(3) The director-general must ensure a parent mentioned in subsection (1) (b) has access to independent legal advice.</p>
			39B	<p><b>Notice of application for adoption order</b></p> <p>(1) An adoption order must not be made unless the applicant has, not later than 28 days before the return date for the application, served written notice of the application and its return date on:</p> <ul style="list-style-type: none"> <li>(a) anyone whose consent to the adoption is required but whose consent has not been given; and</li> <li>(b) anyone whose consent is not required but with whom the child or young person lives or who has guardianship or custody of the child or young person.</li> </ul> <p>(2) On application, the court may dispense with the requirement to serve notice under subsection (1).</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(3) If it appears to the court to be necessary in the interests of justice, the court may, on application or its own initiative, direct that notice of an application for an adoption order and its return date be served on anyone.
			39C	<p><b>Parties to proceeding</b></p> <p>The court may permit anyone the court thinks fit to be joined as a party to a proceeding on an application for an adoption order for the purpose of:</p> <p>(a) opposing the application; or</p> <p>(b) opposing an application to dispense with a requirement for a consent.</p>
			39D	<p><b>Report on proposed adoption</b></p> <p>(1) The director-general, or the principal officer of a private adoption agency that made the arrangements that resulted in an application for an adoption order for a child or young person, must give a written report to the court. (2) The written report must include:</p> <p>(a) information about the circumstances of the child or young person; and</p> <p>(b) information about the proposed adoption, including the applicant's reputation, ability to fulfil the responsibility of a parent and suitability to adopt the particular child or young person; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(c) an adoption plan.</p> <p>(3) The adoption plan may include anything that is appropriate taking into account the best interests of the child or young person, including:</p> <p>(a) the preferences of a parent of the child or young person and of any person whose consent is required for the adoption in relation to the social, religious and financial characteristics of the adoptive family; and</p> <p>(b) arrangements for exchanging information about the child's or young person's medical background or condition; and</p> <p>(c) arrangements for ongoing contact between the child or young person and 1 or more of the following:</p> <p>(i) a parent of the child or young person; or</p> <p>(ii) a person whose consent is required for the adoption; or</p> <p>(iii) a person who otherwise has a significant relationship with the child or young person; and</p> <p>(d) the way the child or young person is to develop an understanding about his or her family background and culture and have the opportunity to maintain or develop cultural identity.</p> <p><i>Note:</i> See s 5 for the matters that must be taken into account by a decision-maker in forming a view about the best interests of a child</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>or young person.</p> <p>(4) If the child or young person is under the guardianship of an authority in a State or another Territory having functions under the law of that State or Territory corresponding to those of the director-general, the court may be given a report from that authority about the circumstances of the child or young person and the proposed adoption in addition to or instead of a report mentioned in subsection (1).</p> <p>(5) A written report is not required under this section if the application is for an adoption order mentioned in section 57 (Adoption in ACT of ACT child or young person by parents from Convention country).</p> <p><i>Note:</i> For these applications, a report by the director-general is required under s 57A.</p>
			39E	<p><b>Consultation with child or young person before adoption order made</b></p> <p>(1) Before making an adoption order for a child or young person, the court must be satisfied that, if reasonably practicable, the director-general has given the child or young person:</p> <p>(a) information about the proposed adoption, in language and in a way that the child or young person can understand; and</p> <p>(b) the opportunity to freely express his or her views about the proposed adoption; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(c) assistance in understanding the information provided and in expressing his or her views, if required; and</p> <p>(d) the opportunity for counselling, if required.</p> <p>(2) The consultation under subsection (1) must be appropriate taking into account the best interests of the child or young person.</p> <p><i>Note:</i> See s 5 for the matters that must be taken into account by a decision-maker in forming a view about the best interests of a child or young person.</p>
			39F	<p><b>Deciding application for adoption order for child or young person</b></p> <p>(1) The court must not make an adoption order for a child or young person unless:</p> <p>(a) each consent required under division 3.3 has been given; and</p> <p>(b) the period within which each required consent may be revoked has expired without the consent having been revoked; and</p> <p>(c) after considering the report or reports given to it under section 39D (Report on proposed adoption) or section 57A (Report on child for intercountry adoption) and any other evidence, the court considers that:</p> <p>(i) each applicant is of good reputation and able to fulfil the responsibility of the parent of a child or young person (including protecting a child's or young person's physical and emotional</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>wellbeing); and</p> <p>(ii) each applicant is suitable to adopt the particular child or young person having regard to:</p> <p>(A) the applicant's age, education and attitude to adoption; and</p> <p>(B) the applicant's physical, mental and emotional health, particularly as it impacts on capacity to nurture the child or young person; and</p> <p>(C) any other relevant consideration; and</p> <p>(iii) the adoption is in the best interests of the child or young person.</p> <p>(2) In deciding whether or not to make an adoption order, the court must have regard to:</p> <p>(a) the views expressed by the child or young person in the consultation required under section 39E (Consultation with child or young person before adoption order made); and</p> <p>(b) any preferences expressed in an adoption plan given to the court as part of a report required under section 39D (Report on proposed adoption).</p>
			39G	<p><b>Aboriginal or Torres Strait Islander child or young person</b></p> <p>(1) This section is in addition to, and does not limit, section 39F.</p> <p>(2) An adoption order must not be made for an Aboriginal or Torres</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Strait Islander child or young person unless the court is satisfied that:</p> <ul style="list-style-type: none"> <li>(a) the additional requirements mentioned in section 6 (Aboriginal and Torres Strait Islander child or young person—additional requirements) have been complied with; and</li> <li>(b) it is not practicable for the child or young person to remain in the care of the birth parents or a responsible person; and</li> <li>(c) the choice of the adoptive parents has been made having regard to the desirability of the child or young person: <ul style="list-style-type: none"> <li>(i) being in the care of a person who is a member of an Aboriginal or Torres Strait Islander community; and</li> <li>(ii) being able to establish and maintain contact with his or her birth parents, any responsible person and the Aboriginal or Torres Strait Islander community of which the child or young person is or was a member.</li> </ul> </li> </ul>
			43	<p><b>General effect</b></p> <p>(1) Subject to this Act and the provisions of any other Territory law that expressly distinguishes between adopted people and other people, on the making of an adoption order, for all purposes:</p> <ul style="list-style-type: none"> <li>(a) the adopted person becomes in law a child of the adoptive parents, and the adoptive parents become in law the parents of the adopted person as if the adopted person had been born to the adoptive parents; and</li> </ul>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) the adopted person ceases to be a child of the birth parents or of any person (a <b>'pre-adoption parent'</b>) who was an adoptive parent before the making of the adoption order, and any such pre-adoption parent ceases to be a parent of the adopted person; and</p> <p>(c) if the order is made in favour of a step-parent—the relationship of the adopted person with the parent living in a domestic partnership with the step-parent is not affected; and</p> <p>(d) the relationship to one another of all people (including the adopted person and the adoptive parents, birth parents or any former adoptive parent) must be decided on the basis of paragraphs (a), (b) and (c) so far as they are relevant; and</p> <p>(e) any existing appointment of a person as guardian of the adopted person ceases to have effect; and</p> <p>(f) any previous adoption of the adopted person (whether under a Territory law or otherwise) ceases to have effect.</p> <p>(2) However, an adoption order does not exclude any right of inheritance that the adopted person might otherwise have from or through a deceased person if:</p> <p>(a) 1 of the birth or former adoptive parents of an adopted person has died; and</p> <p>(b) an adoption order is made in favour of a step-parent after that death.</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			45	<p><b>Names of adopted child or young person</b></p> <p>(1) On the making of an adoption order for a child or young person, the court may change the name of the child or young person, on the application of either of the adoptive parents.</p> <p>(2) In deciding the name of a child or young person, the court must consider:</p> <ul style="list-style-type: none"> <li>(a) the best interests of the child or young person; and</li> <li>(b) the child's or young person's right to retain his or her name and identity.</li> </ul> <p>(3) The court may approve any of the following as a family name for an adopted child or young person:</p> <ul style="list-style-type: none"> <li>(a) if both adoptive parents are known by the same family name—that name; or</li> <li>(b) the maiden name or other family name of the child's or young person's mother; or</li> <li>(c) the family name of the child's or young person's father; or</li> <li>(d) the family name or former family name of any previous parent of the child or young person; or</li> <li>(e) a family name formed by combining the parent's family names or any previous parent's family names.</li> </ul>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(4) If an adoptive parent is applying for an order to change a child's or young person's given name, the director-general must provide the court with a written report about:</p> <ul style="list-style-type: none"> <li>(a) the proposed name change; and</li> <li>(b) any exceptional circumstances; and</li> <li>(c) the best interests of the child or young person.</li> </ul> <p><i>Note:</i> See s 6 for the matters that must be taken into account by a decision-maker in forming a view about the best interests of a child or young person.</p> <p>(5) In considering an application to change the given name of the adopted child or young person, the court:</p> <ul style="list-style-type: none"> <li>(a) must consider the report provided under subsection (4); and</li> <li>(b) must retain the child's or young person's given name unless there are exceptional circumstances for changing the name; and</li> <li>(c) may give the child or young person additional given names.</li> </ul>
			54	<p><b>Adoptions outside Australia—general</b></p> <p>(1) The adoption of a person in a country outside Australia (whether before or after the commencement of this section) does not have effect as an adoption for the law of the Territory, except as provided for in this part.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			57	<p><b>Adoption in ACT of ACT child or young person by parents from Convention country</b></p> <p>(1) The court may make an adoption order for the adoption of a child or young person who is habitually resident in the ACT by a prospective adoptive parent or parents who are habitually resident in a Convention country.</p> <p><i>Note:</i> Convention country does not include Australia—see the <i>Family Law (Hague Convention on Intercountry Adoption) Regulations 1998 (Cwlth)</i>, reg 4.</p> <p>(2) Division 3.2 (Who can adopt?) does not apply to an adoption order under this section.</p> <p>(3) In addition to the matters set out in section 39F (Deciding application for adoption order for child or young person), the court must not make the order unless satisfied that:</p> <p>(a) the report mentioned in section 57A has been given to the central authority of the Convention country; and</p> <p>(b) the central authority of the Convention country has agreed to the adoption of the child or young person; and</p> <p>(c) the central authority of the Convention country has agreed to recognise the ACT adoption order as a full and permanent adoption order in the Convention country; and</p> <p>(d) the prospective adoptive parent or parents are present in the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>ACT when the adoption order is made.</p> <p>(4) The court must not make the order if the child or young person is not allowed to leave Australia:</p> <p>(a) under a law of the Commonwealth, a State or another Territory; or</p> <p>(b) because of an order of a court of the Commonwealth, a State or another Territory.</p>
			57A	<p><b>Report on child for intercountry adoption</b></p> <p>(1) For an adoption order mentioned in section 57, the director-general must prepare a written report that includes:</p> <p>(a) information about the identity, background, social environment, family and medical history of the child or young person; and</p> <p>(b) evidence that each consent required under division 3.3 has been given, or that the requirement for consent has been dispensed with; and</p> <p>(c) details of the consideration given to placing the child or young person for adoption in Australia and any other action that could be taken to care for the child or young person in Australia; and</p> <p>(d) an assessment of whether the director-general is satisfied that the child should be adopted outside Australia; and</p> <p>(e) information about the circumstances and suitability of the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>prospective adoptive parent or parents.</p> <p>(2) A copy of the report must be given to:</p> <p>(a) the court; and</p> <p>(b) the central authority of the Convention country where the prospective adoptive parent or parents are habitually resident.</p>
			57H	<p><b>Order terminating legal relationship between child or young person and parents</b></p> <p>(1) This section applies if:</p> <p>(a) an adoption, by an adoptive parent who is habitually resident in the ACT, of a child or young person who is habitually resident in a Convention country is granted in that country; and</p> <p>(b) the law of the Convention country does not provide that the adoption of the child or young person terminates the legal relationship between the child or young person and the individuals who were, immediately before the adoption, the child's or young person's parents (the '<b>pre-adoption parents</b>').</p> <p><i>Note:</i> The text of the Convention is set out in sch 1.</p> <p>(2) The director-general may, on behalf of an adoptive parent, apply to the court for an order that the adoption of the child or young person terminates the legal relationship between the child or young person and the pre-adoption parents.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(3) The director-general must give written notice of the application to the central authority of the Convention country that granted the adoption.</p> <p>(4) The court may make the order only if satisfied that:</p> <p>(a) an adoption compliance certificate issued in the Convention country is in force for the adoption; and</p> <p>(b) the law of the Convention country does not provide that the adoption of the child or young person terminates the legal relationship between the child or young person and the pre-adoption parents; and</p> <p>(c) the child or young person is allowed:</p> <p>(i) to enter Australia; and</p> <p>(ii) to reside permanently in Australia; and</p> <p>(d) notice has been given as required by subsection (3).</p> <p>(5) For subsection (4) (c), a child or young person is not allowed to enter or reside permanently in Australia if the child or young person is affected by a law of the Commonwealth, a State or Territory, or by an order of a Commonwealth, State or Territory court, the effect of which is to prevent the child or young person from entering or residing permanently in Australia.</p>
			60	<b>Confidentiality of records</b>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) Except as provided in this part:</p> <p>(a) records in the possession or under the control of the director-general or a private adoption agency relating to an adoption; or</p> <p>(b) the records of the court (other than an order or decision of the court) relating to proceedings on an application for an adoption order; or</p> <p>(c) an entry in the register of births relating to the birth of an adopted person, or a copy of, or extract from, such an entry; must not be made available to, or be open to inspection by, any person.</p> <p>(2) Subsection (1) does not operate to prevent a person whose duties require it, from obtaining access to information if it is necessary to do so for the administration of this Act.</p>
			62	<p><b>Provision of information</b></p> <p>(1) If:</p> <p>(a) the director-general receives an application for information under this part; and</p> <p>(b) the director-general is satisfied that the applicant is a person who, in accordance with this part, is entitled to access to, and to apply for, that information; the director-general must:</p> <p>(c) if that information is contained in records in the possession or under the control of the director-general—give that information to</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the applicant; and</p> <p>(d) if the information is, to the director-general's knowledge, contained in records in the possession or under the control of a relevant authority:</p> <p>(i) request the authority to:</p> <p>(A) give the information to the director-general; or</p> <p>(B) if the application so requests—give the information to the applicant; and</p> <p>(ii) if the information is received by the director-general from the authority—give that information to the applicant; or</p> <p>(e) if the information is not contained in any records mentioned in paragraph (c) or (d):</p> <p>(i) make any enquiries that are reasonable in the circumstances of the case in an endeavour to obtain the information; and</p> <p>(ii) on obtaining the information, give it to the applicant.</p> <p>(2) Subsection (1) must not be taken to require the director-general to give information, to make enquiries or requests or to do any other act unless any fee or charge payable under a law of the Territory, a State or another Territory for searching for or giving information of that kind has been paid.</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(3) If:</p> <p>(a) the registrar-general receives an application for information under this part; and</p> <p>(b) the registrar-general is satisfied that the applicant is a person who, in accordance with this part, is entitled to access to, and to apply for, that information; the registrar-general must, on payment of the fee determined for the Births, Deaths and Marriages Registration Act 1997, section 43 cause a search to be made in the register of births and issue to the applicant:</p> <p>(c) a copy of, or an extract from, the relevant entry; or</p> <p>(d) a notification of the result of the search.</p>
			67	<p><b>Recipient of application</b></p> <p>(1) An application under section 66 must be made to:</p> <p>(a) if the information sought consists of a copy of, or an extract from, an entry in the register of births—the registrar-general; and</p> <p>(b) in any other case—the director-general.</p>
			70	This section concerns objections to contact in relation an adoption order made before the commencement of the <i>Adoption Amendment Act 2009 (No 2)</i> .
			71	This section concerns a contact veto being lodged on behalf of a person under 18 years old in relation an adoption order made before

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				the commencement of the <i>Adoption Amendment Act 2009 (No 2)</i> .
			72	<p>(1) The director-general must not give a document or information to an applicant stated in, or included in a class of persons stated in, a contact veto under this part unless the applicant has attended an interview with an approved counsellor.</p> <p>(2) If the director-general receives an application under this part from an applicant mentioned in subsection (1), the director-general must tell the applicant in writing of the place or places where counselling services are available and that information cannot be given under this part unless the applicant has attended an interview with an approved counsellor.</p> <p>(3) This section does not apply if the director-general is satisfied that the adopted person and another person mentioned in the original birth certificate relating to the adopted person have already exchanged information that may identify that birth parent or a birth relative of the adopted person.</p> <p>(4) The director-general may approve a person as a counsellor for this Act.</p> <p>(5) An approval is a notifiable instrument.</p> <p>Note: A notifiable instrument must be notified under the Legislation Act.</p> <p>(6) The director-general must not approve a person as a counsellor under subsection (4) unless the person has, in the opinion of the director-general, the qualifications and experience appropriate for a</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				counsellor for this Act.
			73	<p><b>Declaration that contact not be attempted</b></p> <p>(1) This section applies if:</p> <p>(a) a person stated in, or included in a class of people stated in, an objection to contact or contact veto requests information under section 67 (1); and</p> <p>(b) an objection to contact or contact veto has been made under section 70 or section 71; and</p> <p>(c) the objection to contact or contact veto has not been revoked.</p> <p><i>Note:</i> An objection to contact under s 70 and a contact veto under s 71 may only be made in relation to an adoption order made before the commencement of the <i>Adoption Amendment Act 2009 (No 2)</i>.</p> <p>(2) The director-general must not divulge the information unless the person requesting the information:</p> <p>(a) has attended a counselling service under section 72; and</p> <p>(b) signs a declaration that he or she will not:</p> <p>(i) contact or attempt to contact the person who lodged the objection; or</p> <p>(ii) arrange or attempt to arrange contact with that person; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(iii) procure another person to contact, attempt to contact, or attempt to arrange contact with, that person.
			74	<b>Birth details of adopted person born overseas</b>  When an adopted person who was: <ul style="list-style-type: none"> <li>(a) born outside Australia; and</li> <li>(b) brought to Australia for adoption in Australia,</li> </ul> attains the age of 18 years, the director-general must, at the request of the adopted person, give the person a copy of his or her birth certificate or any other information that is available from the records of the appropriate authority in the person's country of origin.
			75	<b>Application to court in absence of consent</b>  (1) If: <ul style="list-style-type: none"> <li>(a) a person would, under this division, be entitled to identifying information with the approval in writing of another person; and</li> <li>(b) that other person has refused to give that approval,</li> </ul> the first person may apply to the court for an order under subsection (3).  (2) On an application under subsection (1), the court may request the director-general to investigate the matter and to provide a written

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>report to the court.</p> <p>(3) The court may, if of the opinion that there are circumstances that justify the order, make an order declaring that the applicant is entitled to access to, and to apply for, the identifying information specified in the order.</p> <p>(4) If the court makes an order under subsection (3), the applicant for the order is, for section 62, taken to be entitled to access to, and to apply for, identifying information of the kind stated in the order.</p>
			76	<p><b>Other person's right to information</b></p> <p>(1) A person who is not entitled under any other provision of this part to access to, and to apply for, information may apply to the court for an order under subsection (3).</p> <p>(2) An application under subsection (1) must be accompanied by a report from the director-general.</p> <p>(3) On an application under subsection (1), the court may, after considering the report mentioned in subsection (2) and if of the opinion that there are circumstances that justify the order, make an order declaring that the applicant is entitled to access to, and to apply for, the information stated in the order.</p> <p>(4) If the court makes an order under subsection (3), the applicant for the order is, for the purposes of section 60 (1), taken to be entitled to access to, and to apply for, information of the kind stated in the order.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			77	<p><b>Family information service</b></p> <p>(1) The Minister must establish and maintain within the relevant administrative unit a service to be known as the family information service.</p> <p>(2) The director-general is responsible for the administration of the service.</p> <p>(3) The function of the service is to:</p> <p>(a) advise people about the provisions of this part; and</p> <p>(b) make arrangements for the provision of counselling in relation to applications under this part; and</p> <p>(c) supervise the taking of and keep declarations made under section 73; and</p> <p>(d) receive applications for information under this part; and</p> <p>(e) subject to and in accordance with this part, facilitate the provision of information to a person whose name is entered in the adoption information register maintained under section 78.</p>
			78	<p><b>Adoption information register</b></p> <p>(1) The director-general must establish and maintain an adoption information register.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(2) The register must contain:</p> <p>(a) the names and addresses of:</p> <p>(i) adopted persons; and</p> <p>(ii) birth parents of adopted persons; and</p> <p>(iii) birth relatives of adopted persons; and</p> <p>(iv) adoptive parents,</p> <p>who have, in writing, requested the director-general to enter their names and addresses in the register; and</p> <p>(b) in relation to each person so registered, notations recording the wishes of any such person about to:</p> <p>(i) obtaining identifying information about, or contacting or providing information to; or</p> <p>(ii) whether or not to release the name, address or any information about the person to,</p> <p>another person whose name is, or may in the future be, entered in the adoption information register.</p> <p>(3) The director-general must, on the written request of a person whose name is entered in the adoption information register, amend or cancel the entry relating to that person.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			79	<p><b>Contact veto register</b></p> <p>(1) The director-general must establish and maintain a contact veto register .</p> <p>(2) The register must contain:</p> <p>(a) the name of each person who has duly lodged a contact veto; and</p> <p>(b) the address nominated by the person as the address at which any personal or postal contact by the director-general with the person should be made; and</p> <p>(c) the date and place of birth of the person; and</p> <p>(d) the persons or class of persons in relation to whom an objection under section 70 or 71 has been lodged; and</p> <p>(e) the name and address of each person who has duly requested under this Act that he or she be notified of the cancellation or variation of a contact veto.</p>
			80	<p><b>Reunion information register</b></p> <p>(1) The director-general must establish a reunion information register.</p> <p>(2) The director-general must enter in the register the name of every person who has duly applied for entry of his or her name in the register with a view to a reunion with a person from whom he or she</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				has been separated as a consequence of an adoption.  <i>Note:</i> If a form is approved under s 120A (Approved forms) for an application, the form must be used.
			120A	This section contains approved forms.
	<b>Bail Act 1992</b>	ACT	22	<b>Criteria for granting bail to adults</b>  (1) In making a decision about the grant of bail to an adult in relation to an offence, a court or authorised officer must consider:  (a) the likelihood of the person appearing in court in relation to the offence; and  (b) the likelihood of the person, while released on bail:  (i) committing an offence; or  (ii) harassing or endangering the safety or welfare of anyone; or  (iii) interfering with evidence, intimidating a witness, or otherwise obstructing the course of justice, in relation to the person or anyone else; and  (c) the interests of the person...  (2) Also, if the person is convicted of an indictable offence, or the elements of an indictable offence are proven in relation to the person, but the person has not been sentenced, a court must consider

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the likelihood of the person being given a sentence of imprisonment.</p> <p>(3) In considering the matters mentioned in subsection (1) or (2), the court or authorised officer may have regard to any relevant matter, including:</p> <p>(a) the nature and seriousness of the offence; or</p> <p>(b) the person's character, background and community ties; or</p> <p>(c) the likely effect of a refusal of bail on the person's family or dependants; or</p> <p>(d) any previous grants of bail to the person; or</p> <p>(e) the strength of the evidence against the person....</p>
			23	<p><b>Criteria for granting bail to children</b></p> <p>(1) In making a decision about the grant of bail to a child in relation to an offence, a court or authorised officer must consider:</p> <p>(a) the matters mentioned in section 22 (1) (a) and (b), (2) and (3); and</p> <p>(b) the principles in the <i>Children and Young People Act 2008</i>, section 94 (Youth justice principles); and</p> <p>(c) if the decision is being made by a court and a report has been given to the court under the <i>Court Procedures Act 2004</i>, section 74D (Court may order report about young person) in relation to the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>child—the report.</p> <p>(2) In addition, the court or authorised officer must consider, as a primary consideration, the best interests of the child.</p>
	<b>Children and Young People Act 2008</b>		7	<p><b>Main objects of Act</b></p> <p>The objects of this Act include:</p> <p>(a) providing for, and promoting, the wellbeing, care and protection of children and young people in a way that:</p> <p>(i) recognises their right to grow in a safe and stable environment; and</p> <p>(ii) takes into account the responsibilities of parents, families, the community and the whole of government for them; and</p> <p>(b) ensuring that children and young people are provided with a safe and nurturing environment by organisations and people who, directly or indirectly, provide for their wellbeing, care and protection; and</p> <p>(c) preventing abuse and neglect of children and young people by providing whole of government assistance to children and young people, their parents and families, the community, and others who have responsibility for them; and</p> <p>(d) ensuring that Aboriginal and Torres Strait Islander people are included and participate in:</p> <p>(i) providing for, and promoting, the wellbeing, care and protection</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>of Aboriginal and Torres Strait Islander children and young people; and</p> <p>(ii) preventing the abuse and neglect of Aboriginal and Torres Strait Islander children and young people; and</p> <p>(iii) rehabilitating and reintegrating Aboriginal and Torres Strait Islander young offenders; and</p> <p>(e) ensuring that services provided by, or for, government for the wellbeing, care and protection of children and young people:</p> <p>(i) are centred on the needs of children and young people; and</p> <p>(ii) are informed by processes which engage children and young people, wherever possible, and take their views and wishes into account; and</p> <p>(iii) foster and promote the health, education, developmental needs, spirituality, self-respect, self-reliance and dignity of children and young people; and</p> <p>(iv) respect the individual race, ethnicity, religion, disability, sexuality and culture of children and young people; and</p> <p>(f) ensuring that young offenders:</p> <p>(i) receive positive support and opportunities to become rehabilitated and reintegrated community members; and</p> <p>(ii) share responsibility for rehabilitation and reintegration with their</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>parents and families, the community and the government in partnership; and</p> <p>(g) imposing standards that must be complied with for the delivery of services to children and young people; and</p> <p>(h) ensuring the protection of children and young people in employment.</p>
			8	<p><b>Best interests of children and young people paramount consideration</b></p> <p>(1) In making a decision under this Act in relation to a particular child or young person, the decision-maker must regard the best interests of the child or young person as the paramount consideration.</p> <p>(2) In making a decision under this Act otherwise than in relation to a particular child or young person, the decision-maker must consider the best interests of children and young people.</p> <p><i>Note 1:</i> For the criminal matters chapters (see s 91), there are further provisions about how a decision-maker decides what is in the best interests of a child or young person, see s 94 (Youth justice principles).</p> <p><i>Note 2:</i> For the care and protection chapters (see s 336), there are further provisions about how a decision-maker decides what is in the best interests of a child or young person (see s 349).</p> <p>(3) To remove any doubt, a reference in any section of this Act to</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				the best interests of a child or young person does not limit this section.
			9	<p><b>Principles applying to Act</b></p> <p>(1) In making a decision under this Act in relation to a child or young person, a decision-maker must have regard to the following principles where relevant, except when it is, or would be, contrary to the best interests of a child or young person:</p> <p>(a) the child's or young person's sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced;</p> <p>(b) the child's or young person's education, training or lawful employment should be encouraged and continued without unnecessary interruption;</p> <p>(c) the child's or young person's age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered;</p> <p>(d) delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child's or young person's wellbeing.</p> <p><i>Note:</i> In addition to these general principles, the following principles also apply:</p> <p>(a) for the care and protection chapters—care and protection principles (see s 350);</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) for ch 20—childcare services principles (see s 730).</p> <p>(2) A decision-maker exercising a function under this Act must, where practicable and appropriate, have qualifications, experience or skills suitable to apply the principles in subsection (1) in making decisions under the Act in relation to children and young people.</p>
			10	<p><b>Aboriginal and Torres Strait Islander children and young people principle</b></p> <p>In making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person, in addition to the matters in section 8 and section 9, the decision-maker must take into account the following:</p> <p>(a) the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or Torres Strait Islander community;</p> <p>(b) submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the child or young person or the child's or young person's family;</p> <p>(c) Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child's or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<i>Note:</i> For decisions about placement of an Aboriginal or Torres Strait Islander child or young person with an out-of-home carer, see s 513 (Priorities for placement with out-of-home carer—Aboriginal or Torres Strait Islander child or young person).
			11	<b>Who is a 'child'?</b>  In this Act:  <b>'child'</b> means a person who is under 12 years old.
			12	<b>Who is a 'young person'?</b>  In this Act:  <b>'young person'</b> means a person who is 12 years old or older, but not yet an adult.  <i>Note:</i> <b>'Adult'</b> is defined in the Legislation Act, dict, pt 1.
			13	<b>Who is a 'family member' of a child or young person?</b>  In this Act:  <b>'family member'</b> , of a child or young person:  (a) means the child's or young person's:  (i) parent, grandparent or step-parent; or  (ii) son, daughter, stepson or stepdaughter; or



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(iii) sibling; or</p> <p>(iv) uncle or aunt; or</p> <p>(v) nephew, niece or cousin; and</p> <p>(b) for an Aboriginal or Torres Strait Islander child or young person—includes a person who has responsibility for the child or young person in accordance with the traditions and customs of the child's or young person's Aboriginal or Torres Strait Islander community.</p>
			14	<p><b>Who is a 'significant person' for a child or young person?</b></p> <p>In this Act:</p> <p><b>'significant person'</b>, for a child or young person, means a person, (other than a family member) who the child or young person, a family member of the child or young person or the director-general considers is significant in the child's or young person's life.</p> <p>Examples—people who may be significant people</p> <p>1 a father-in-law, mother-in-law, brother-in-law or sister-in-law of a young person; or</p> <p>2 a long-term friend of a child or young person; or</p> <p>3 a person who normally lives with the child or young person; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>4 a domestic partner of a young person; or</p> <p>5 a domestic partner of a parent of a child or young person; or</p> <p>6 a boyfriend or girlfriend of a young person; or</p> <p>7 a person who has responsibility for the child or young person in accordance with the cultural traditions and customs of the child's or young person's community.</p>
			15	<p><b>Division 1.3.2 Parental responsibility</b></p> <p>What is '<b>parental responsibility</b>'?</p> <p>In this Act:</p> <p><b>'parental responsibility'</b>, for a child or young person, means all the duties, powers, responsibilities and authority parents have by law in relation to their children, including the following aspects of parental responsibility:</p> <p>(a) daily care responsibility for the child or young person; and</p> <p>(b) long-term care responsibility for the child or young person.</p>
			16	<p><b>Parents have parental responsibility</b></p> <p>(1) Each parent of a child or young person has parental responsibility for the child or young person.</p> <p>(2) To remove any doubt, '<b>parent</b>' includes a parent who is not an</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				adult.  (3) This section is subject to the following sections:  (a) section 17 (Aspects of parental responsibility may be transferred); and  (b) section 18 (Aspects of parental responsibility may be shared).
			17	<b>Aspects of parental responsibility may be transferred</b>  (1) Parental responsibility may be transferred from a person to someone else under:  (a) a family group conference agreement; or  (b) an appraisal order including a temporary parental responsibility provision; or  (c) emergency action; or  (d) a care and protection order including a parental responsibility provision; or  (e) a safe custody warrant; or  (f) a court order (under this Act or another law in force in the Territory); or  Example—court order under another law a parenting order under the <i>Family Law Act 1975</i> (Cth)

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(g) a provision of another law in force in the Territory.</p> <p>(2) If parental responsibility is transferred from a person to someone else:</p> <p>(a) only the aspect of parental responsibility expressly stated to be transferred is transferred; and</p> <p>(b) no-one else's parental responsibility, or aspect of parental responsibility, for the child or young person is diminished except to the extent expressly stated or necessary to give effect to the transfer.</p>
			18	<p><b>Aspects of parental responsibility may be shared</b></p> <p>(1) Parental responsibility may be shared between 2 or more people under:</p> <p>(a) a family group conference agreement; or</p> <p>(b) a voluntary care agreement; or</p> <p>(c) a care and protection order including a parental responsibility provision; or</p> <p>(d) a court order (under this Act or another law in force in the Territory).</p> <p>(2) If parental responsibility is shared between 2 or more people, either of them may discharge the responsibility.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(3) This section is subject to the following sections:</p> <p>(a) section 475 (Director-general sharing daily care responsibility);</p> <p><i>Note:</i> If the director-general shares daily care responsibility for a child or young person, no other person with daily care responsibility for the child or young person may discharge the responsibility in a way that would be incompatible with the director-general's discharge of the responsibility (see s 475 (2)).</p> <p>(b) section 504 (Director-general sharing long-term care responsibility);</p> <p><i>Note:</i> If the director-general shares long-term care responsibility for a child or young person and under a parental responsibility provision is required to consult with each other person who shares long-term care responsibility for the child or young person in making a decision about a long-term matter for the child or young person, and another person who has long-term care responsibility for the child or young person disagrees with the director-general's proposed decision, the person or director-general may apply to the Children's Court for an order about the matter and the director-general is required to not make the decision without the person's agreement (see s 504 (2)).</p>
			19	<p><b>Daily care responsibility for children and young people</b></p> <p>(1) A person who has daily care responsibility for a child or young person has responsibility for, and may make decisions about, the child's or young person's daily care.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Examples—daily care responsibilities and decisions</p> <p>1 where and with whom the child or young person lives.</p> <p>2 people with whom the child or young person may, or must not, have contact.</p> <p>3 arrangements for temporary care of the child or young person by someone else.</p> <p>4 everyday decisions, including, for example, about the personal appearance of the child or young person</p> <p>5 daily care decisions about education, training and employment.</p> <p>...</p> <p>(2) A person who has daily care responsibility for a child or young person may do any of the following:</p> <p>(a) consent to a health care assessment of the child or young person's physical or mental wellbeing and have access to the assessment report; or</p> <p>(b) on the advice of a health practitioner or health professional—consent to health care treatment, not including surgery (other than surgery mentioned in paragraph (c)), for the child or young person; or</p> <p>(c) on the advice of a dentist or dental therapist—consent to dental treatment, including minor dental surgery, for the child or young</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>person.</p> <p>(3) If the person makes a decision about the people with whom the child or young person may have contact, the person is also responsible for arrangements to give effect to the decision; and</p> <p>(4) This section does not limit the matters for which the person has responsibility to make decisions for the child or young person, but is subject to:</p> <p>(a) a court order (under this Act or another law); and</p> <p>Examples</p> <p>1 A decision by a person who has daily care responsibility for a child about people with whom the child may or may not have contact is subject to a care and protection order that includes a contact provision about who may, or must not, have contact with the child.</p> <p>2 A decision by a person who has daily care responsibility for a child or young person about where and with whom the child or young person lives is subject to a care and protection order that includes a residence provision.</p> <p>3 The Children's Court makes a care and protection order for a young person that includes a parental responsibility provision that a stated person who has daily care responsibility for the young person must exercise it in a stated way. The person's exercise of daily care responsibility for the young person is subject to the order.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) if there is a care plan in force for the child or young person—the care plan.</p> <p><i>Note:</i> A care plan for a child or young person is a written plan of the director-general's proposals for the care and protection of the child or young person (see s 455).</p> <p>(5) To remove any doubt, this section does not affect any right of a child or young person to consent to their own health care treatment.</p> <p>(6) In this section:</p> <p>dental therapist:</p> <p>(a) means a person registered under the Health Practitioner Regulation National Law (ACT) Act 2010 to practise the health profession of dental therapist (other than as a student); and</p> <p>(b) for an activity, includes a person mentioned in paragraph (a) holding limited or provisional registration, to the extent that the person is allowed to do the activity under the person's registration.</p> <p>health care assessment, of a child or young person, means an assessment of the child's or young person's physical or mental wellbeing (including admission to hospital).</p>
			20	<p><b>Long-term care responsibility for children and young people</b></p> <p>(1) A person who has long-term care responsibility for a child or young person has:</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) responsibility for the long-term care, protection and development of the child or young person; and</p> <p>(b) all the powers, responsibilities and authority a guardian of a child or young person has by law in relation to the child or young person.</p> <p>Examples—long-term care responsibilities</p> <p>1 administration, management and control of the child’s or young person’s property.</p> <p>2 religion and observance of racial, ethnic, religious or cultural traditions.</p> <p>3 obtaining or opposing the issuing of a passport for the child or young person.</p> <p>4 long-term decisions about education, training and employment.</p> <p>(2) A person who has long-term care responsibility for a child or young person may, on the advice of a health practitioner or health professional, consent to health care treatment that involves surgery for the child or young person.</p> <p><i>Note:</i> Consent to minor dental surgery may be given by a person who has daily care responsibility for the child or young person (see s 19 (2) (c)).</p> <p>(3) This section does not limit the matters for which the person has responsibility in relation to the child or young person, but is subject</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>to:</p> <p>(a) a court order (under this Act or another law); and</p> <p>(b) if there is a care plan in force for the child or young person—the care plan.</p> <p><i>Note: 1</i> The Children's Court may make a care and protection order for a child or young person that includes a parental responsibility provision giving long-term care responsibility for the child or young person to someone, or removing the responsibility from someone, or stating how someone may exercise the responsibility (see pt 14.6).</p> <p><i>Note: 2</i> A care plan for a child or young person is a written plan of the director-general's proposals for the care and protection of the child or young person (see s 455).</p> <p>(4) To remove any doubt, this section does not affect any right of a child or young person to consent to their own health care treatment.</p>
			91	<p><b>What are the criminal matters chapters?</b></p> <p>In this Act:</p> <p>criminal matters chapter—each of the following is a criminal matters chapter:</p> <p>(a) this chapter; and</p> <p>(b) chapter 5 (Criminal matters—transfers); and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(c) chapter 6 (Criminal matters—detention places); and (d) chapter 7 (Criminal matters—search and seizure at detention places); and (e) chapter 8 (Criminal matters—discipline at detention places); and (f) chapter 9 (Criminal matters—conduct of disciplinary reviews).
			94	<b>Youth justice principles</b> (1) For the criminal matters chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that is relevant (the ' <b>youth justice principles</b> '): (a) if a child or young person does something that is contrary to law, he or she should be encouraged to accept responsibility for the behaviour and be held accountable; and (b) a child or young person should be dealt with in a way that acknowledges his or her needs and that will provide the opportunity to develop in socially responsible ways; and (c) a child or young person should be consulted about, and be given the opportunity to take part in making, decisions that affect the child or young person, to the maximum extent possible taking into consideration their age, maturity and developmental capacity; and (d) if practicable and appropriate, decisions about an Aboriginal and Torres Strait Islander child or young person should be made in a way

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>that involves their community; and</p> <p>(e) if a child or young person is charged with an offence, he or she should have prompt access to legal assistance, and any legal proceeding relating to the offence should begin as soon as possible; and</p> <p>(f) a child or young person may only be detained in custody for an offence (whether on arrest, on remand or under sentence) as a last resort and for the minimum time necessary; and</p> <p>(g) children, young people and other young offenders should be dealt with in the criminal law system in a way consistent with their age, maturity and developmental capacity and have at least the same rights and protection before the law as would adults in similar circumstances; and</p> <p>(h) on and after conviction, it is a high priority to give a young offender the opportunity to re-enter the community; and</p> <p>(i) it is a high priority that intervention with young offenders must promote their rehabilitation, and must be balanced with the rights of any victim of the young offender's offence and the interests of the community.</p> <p>(2) The decision-maker may also consider any other relevant matter.</p> <p>(3) The youth justice principles are intended to be interpreted consistently with relevant human rights instruments and jurisprudence.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>Example</p> <p><b>Convention on the Rights of the Child</b></p> <p>(4) A reference in subsection (1) to a child or young person includes a reference to a person who is at least 18 years old but is being dealt with in relation to an offence committed, or alleged to have been committed, when her or she was under 18 years old.</p>
			113	<p><b>Transfer—notifying people responsible for or nominated by young detainees</b></p> <p>(1) This section applies if a young detainee is transferred under:</p> <p>(a) division 5.1.3 (Transfers to health facilities); or</p> <p>(b) division 5.1.4 (Transfers of young detainees who become adults).</p> <p>(2) If the young detainee is under 18 years old, the director-general must take reasonable steps to tell someone who has daily care responsibility, or long-term care responsibility, for the young detainee about the transfer.</p> <p>(3) If the director-general and someone else share daily care responsibility, or long-term care responsibility, for the young detainee, the director-general must act under subsection (2) in relation to the other person.</p> <p>(4) If the young detainee is 18 years old or older, the director-general must take reasonable steps to tell the young</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				detainee's nominated person about the transfer.
			141	<p><b>Detention places—minimum living conditions</b></p> <p>(1) To protect the human rights of young detainees in detention at detention places, the director-general must ensure, as far as practicable (including during any emergency declared under section 149), that conditions at detention places meet at least the following minimum standards:</p> <p>(a) young detainees must have access to sufficient nutritional food and drink to avoid hunger and poor nourishment; and</p> <p>(b) young detainees must have access to sufficient suitable clothing that does not degrade or humiliate young detainees; and</p> <p>(c) young detainees must have access to suitable facilities for personal hygiene; and</p> <p>(d) young detainees must have suitable accommodation and bedding for sleeping in reasonable privacy and comfort; and</p> <p>(e) young detainees must have reasonable access to the open air and exercise; and</p> <p>(f) young detainees must have reasonable access to telephone, mail and other facilities for communicating with people in the community; and</p> <p>(g) young detainees must have reasonable opportunities to receive visits from family members, significant people and accredited</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>people; and</p> <p><i>Note: 1</i> Accredited person—see s 137.</p> <p><i>Note: 2</i> One family member or a significant person may visit for at least 1 hour each week (see s 177).</p> <p><i>Note: 3</i> For further provisions about access, see div 6.6.5.</p> <p>(h) young detainees must have reasonable opportunities to communicate with their lawyers; and</p> <p>(i) young detainees must have reasonable access to news and education services and facilities to maintain contact with society; and</p> <p>(j) young detainees must have access to suitable health services and health facilities; and</p> <p>(k) young detainees must have reasonable opportunities for religious, spiritual and cultural observances.</p> <p>Example—par (k) observances and practices relating to religious or spiritual beliefs, including Aboriginal and Torres Strait Islander spiritual beliefs</p> <p>(2) Part 6.5 applies to living conditions at detention places.</p>
			177	<p><b>Visits by family members etc</b></p> <p>(1) The director-general must ensure that each detention place has</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>suitable facilities for young detainees to receive visits from family members and significant people.</p> <p>(2) One family member or significant person may visit a young detainee for at least 1 hour each week.</p> <p><i>Note:</i> A young detainee has a right to reasonable opportunities to receive visits from family members and significant people (see s 141 (1) (g)).</p> <p>(3) For chapter 8, subsection (2) is taken to provide an entitlement for each young detainee in relation to visits by family members.</p> <p>(4) However, the director-general may give directions denying or limiting a visit mentioned in subsection (2) if the director-general suspects on reasonable grounds that:</p> <p>(a) the visit may:</p> <p>(i) undermine security or good order at a detention place; or</p> <p>(ii) re-victimise a victim; or</p> <p>(iii) circumvent any process for investigating complaints or reviewing decisions under this Act; or</p> <p>(iv) have the purpose of causing community distress; or</p> <p>(v) cause harm to the young detainee; or</p> <p>(b) the direction is necessary and reasonable to safeguard the best</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				interests of the young detainee.
			336	<p><b>What are the care and protection chapters?</b></p> <p>In this Act:</p> <p>care and protection chapters means the following chapters:</p> <p>(a) Chapter 10 (Care and protection—general); and</p> <p>(b) Chapter 11 (Care and protection—reporting, investigating and appraising abuse and neglect); and</p> <p>(c) Chapter 12 (Care and protection—voluntary agreements to transfer or share parental responsibility); and</p> <p>(d) Chapter 13 (Care and protection and therapeutic protection—emergency situations); and</p> <p>(e) Chapter 14 (Care and protection—care and protection orders); and</p> <p>(f) Chapter 15 (Care and Protection—director-general has aspect of parental responsibility); and</p> <p>(g) Chapter 16 (Care and protection—therapeutic protection of children and young people); and</p> <p>(h) Chapter 17 (Care and protection—interstate transfer of orders and proceedings); and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(i) Chapter 18 (Care and protection—police assistance); and  (j) Chapter 19 (Care and protection—provisions applying to all proceedings under care and protection chapters).
			337	<b>Age—proof of age to be sought before action taken</b>  If the Children's Court, the director-general or a police officer intends to deal with a person under the care and protection chapters as a child or young person, the Children's Court, director-general or police officer must make reasonable inquiries to find out the age of the person before dealing with the person as a child or young person.
			338	<b>Age—application of care and protection chapters if no proof of age</b>  (1) This section applies if:  (a) the Children's Court, director-general or police officer is unable after reasonable inquiry to find out a person's age; and  (b) the person appears, on reasonable grounds, to the Children's Court, the director-general or a police officer to be a child or young person.  (2) The person may be dealt with under the care and protection chapters as if the person were a child or young person and the care and protection chapters applies to the person as if a reference to a child or young person included a reference to the person.

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			343	<p><b>What is 'neglect'?</b></p> <p>In this Act:</p> <p><b>'neglect'</b>, of a child or a young person, means a failure to provide the child or young person with a necessity of life if the failure has caused or is causing significant harm to the wellbeing or development of the child or young person.</p> <p>Examples—necessities of life</p> <ol style="list-style-type: none"> <li>1 food; and</li> <li>2 shelter; and</li> <li>3 clothing; and</li> <li>4 health care treatment.</li> </ol>
			344	<p><b>When are children and young people 'at risk of abuse or neglect'?</b></p> <p>For the care and protection chapters, a child or young person is <b>'at risk of abuse or neglect'</b> if, on the balance of probabilities, there is a significant risk of the child or young person being abused or neglected.</p> <p>Examples—when a child is at risk of abuse or neglect:</p> <ol style="list-style-type: none"> <li>1 Jane is 3 months old and the director-general has already received 5 reports about her. Jane's parents are long-term drug users and Jane</li> </ol>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>was born with neonatal withdrawal syndrome. Jane's parents have agreed to work with the director-general to address their drug use. However, they have not actually made the changes they agreed to make. Jane's parents do not have contact with extended family and Jane is not regularly seen by any health practitioners or other community support people.</p> <p>2 Michael is 7 years old and in the full-time care of his mother. He has never had any contact with his father. Michael's mother has a mental illness characterised by episodes of psychosis. When Michael's mother has been unwell, she has locked Michael and herself in the home for weeks at a time. Michael's mother attempted suicide by driving off a bridge with Michael in the car.</p> <p>3 Tom is 9 years old and is in the sole care of his father. Since Tom was 6 years old, the director-general has received reports that Tom's father calls him derogatory names and yells at him, often in the presence of other people. Tom's school counsellor reports that Tom appears anxious, is fearful of loud noises in the school environment and regularly cries. Tom is assessed as being at risk of childhood depression by the school counsellor.</p> <p>4 Amy is 13 years old and regularly goes missing from home to avoid the constant fighting between her mother and stepfather. Amy is engaging in indiscriminate sexual activity and regularly consumes alcohol and illicit drugs which she pays for through prostitution. Amy has intentionally overdosed on medication 3 times and each overdose has required medical treatment. Amy's parents consider that she is now making her own choices and there is nothing they</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				can do to help her.
			345	<p><b>When are children and young people 'in need of care and protection'?</b></p> <p>(1) For the care and protection chapters, a child or young person is <b>'in need of care and protection'</b> if:</p> <p>(a) the child or young person:</p> <p>(i) has been abused or neglected; or</p> <p>(ii) is being abused or neglected; or</p> <p>(iii) is at risk of abuse or neglect; and</p> <p>(b) no-one with parental responsibility for the child or young person is willing and able to protect the child or young person from the abuse or neglect or the risk of abuse or neglect.</p> <p>(2) Without limiting subsection (1), a child or young person is in need of care and protection if:</p> <p>(a) there is a serious or persistent conflict between the child or young person and the people with parental responsibility for him or her (other than the director-general) to the extent that the care arrangements for the child or young person are, or are likely to be, seriously disrupted; or</p> <p>(b) the people with parental responsibility for the child or young person are dead, have abandoned the child or young person or cannot</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>be found after reasonable inquiry; or</p> <p>(c) the people with parental responsibility for the child or young person are sexually or financially exploiting the child or young person or not willing and able to keep him or her from being sexually or financially exploited.</p>
			346	<p><b>Incident need not have happened in ACT</b></p> <p>(1) This section applies if a person believes that a child or young person is in need of care and protection under section 345 because the child or young person:</p> <p>(a) has been abused or neglected; or</p> <p>(b) is being abused or neglected; or</p> <p>(c) is at risk of abuse or neglect.</p> <p>(2) It does not matter whether conduct giving rise to the belief happened completely or partly outside the ACT.</p>
			347	<p><b>Who is a 'former caregiver'?</b></p> <p>(1) In the care and protection chapters:</p> <p><b>'former caregiver'</b> means:</p> <p>(a) for a child or young person for whom it is proposed to make a voluntary care agreement—the person who is providing care for the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>child or young person when the agreement is proposed; or</p> <p>(b) for any other child or young person—a person who was providing care for the child or young person immediately before parental responsibility for the child or young person was transferred to the director-general or someone else by order of the Children's Court or operation of this Act, whether or not the person had that aspect of parental responsibility for the child or young person at that time.</p> <p>(2) However, <b>'former caregiver'</b> does not include a person providing care for the child or young person:</p> <p>(a) at a childcare centre, under a family day care scheme or otherwise for reward; or</p> <p>(b) if the person provides care on a casual basis and is not a family member.</p>
			348	<p><b>What is 'contact 'with a person?</b></p> <p>In this Act:</p> <p><b>'contact'</b>, with a person, means direct or indirect contact with the person.</p> <p>Examples—direct contact</p> <p>physical or face to face contact with the person</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				Examples—indirect contact  contact by an agent, by telephone or letter or by giving the person something
			349	<b>What is in best interests of child or young person?</b>  (1) For the care and protection chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that are relevant to the child or young person:  (a) the need to ensure that the child or young person is not at risk of abuse or neglect; and  (b) any views or wishes expressed by the child or young person; and  (c) the nature of the child's or young person's relationship with each parent and anyone else; and  (d) the likely effect on the child or young person of changes to the child's or young person's circumstances, including separation from a parent or anyone else with whom the child has been living; and  (e) the practicalities of the child or young person maintaining contact with each parent and anyone else with whom the child or young person has been living or with whom the child or young person has been having substantial contact; and  (f) the capacity of the child's or young person's parents, or anyone else, to provide for the child's or young person's needs including



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>emotional and intellectual needs; and</p> <p>(g) for an Aboriginal or Torres Strait Islander child or young person—that it is a high priority to protect and promote the child’s or young person’s cultural and spiritual identity and development by, wherever possible, maintaining and building the child’s or young person’s connections to family, community and culture; and</p> <p>(h) that it is important for the child or young person to have settled, stable and permanent living arrangements; and</p> <p>(i) for decisions about placement of a child or young person—the need to ensure that the earliest possible decisions are made about a safe, supportive and stable placement; and</p> <p>(j) the attitude to the child or young person, and to parental responsibilities, demonstrated by each of the child’s or young person’s parents or anyone else; and</p> <p>(k) any abuse or neglect of the child or young person, or a family member of the child or young person; and</p> <p>(l) any court order that applies to the child or young person, or a family member of the child or young person.</p> <p>(2) For the care and protection chapters, in deciding what is in the best interests of a child or young person, a decision-maker may also consider any other fact or circumstance the decision-maker considers relevant.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			350	<p><b>Care and protection principles</b></p> <p>(1) In making a decision under the care and protection chapters in relation to a child or young person, a decision-maker must apply the following principles (the '<b>care and protection principles</b>') except when it is, or would be, contrary to the best interests of a child or young person:</p> <p>(a) the primary responsibility for providing care and protection for the child or young person lies with the child's or young person's parents and other family members; and</p> <p>(b) priority must be given to supporting the child's or young person's parents and other family members to provide for the wellbeing, care and protection of the child or young person; and</p> <p>(c) if the child or young person does not live with his or her family because of the operation of this Act—contact with his or her family, and significant people, must be encouraged, if practicable and appropriate; and</p> <p>(d) if the child or young person is in need of care and protection and the child's or young person's parents and other family members are unwilling or unable to provide the child or young person with adequate care and protection (whether temporarily or permanently)—it is the responsibility of the government to share or take over their responsibility; and</p> <p>(e) if the child or young person does not live with the child's or young person's parents because of the operation of this Act—the safety and wellbeing of the child are more important than the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>interests of the parents; and</p> <p>(f) a court should make an order for a child or young person only if the court considers that making the order would be better for the child or young person than making no order at all.</p> <p>(2) The care and protection principles must be applied in addition to the principles under section 9 (Principles applying to Act) and section 10 (Aboriginal and Torres Strait Islander children and young people principle).</p> <p><i>Note:</i> The Maori children and young people principle may also apply if an order or proceeding is transferred to the ACT from New Zealand (see s 678).</p>
			352	<p><b>Views and wishes of children and young people</b></p> <p>(1) A decision-maker making a decision in relation to a child or young person under the care and protection chapters must give the child or young person a reasonable opportunity to express his or her views and wishes personally to the decision-maker, unless the decision-maker is satisfied that the child or young person does not have sufficient developmental capacity to express his or her views or wishes.</p> <p>(2) A decision-maker may find out the views and wishes of a child or young person:</p> <p>(a) by having regard to:</p> <p>(i) anything said personally by the child or young person to the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>decision-maker; or</p> <p>(ii) anything said by a representative of the child or young person about the child's or young person's views or wishes; or</p> <p><i>Note:</i> Representation of children and young people is dealt with in the <i>Court Procedures Act 2004</i>, pt 7A (Procedural provisions: proceedings involving children).</p> <p>(iii) anything about the child's or young person's views or wishes contained in a report given to the decision-maker; or</p> <p>(b) in any other way the decision-maker considers appropriate.</p> <p>(3) A decision-maker must not require a child or young person to express the child's or young person's views or wishes about anything.</p>
			360	<p><b>Director—general to act on child concern report</b></p> <p>(1) This section applies if the director-general receives a child concern report about a child or young person.</p> <p>(2) The director-general must:</p> <p>(a) consider the report; and</p> <p>(b) carry out an initial assessment of the matters raised in the report to decide if the child or young person may be in need of care and protection; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(c) take the action that the director-general considers appropriate in relation to the initial assessment.</p> <p>(3) To carry out an initial assessment of the matters raised in the report, the director-general may take reasonable steps to obtain further information about the matters.</p> <p>Example—reasonable steps</p> <p>a home visit to interview family members</p> <p>(4) Without limiting subsection (2) (c), the director-general may do any of the following:</p> <p>(a) give advice to the person who made the child concern report about appropriate assistance that the person may consider to protect the child or young person;</p> <p>Example—contact details for support services</p> <p>(b) seek information from an information sharing entity to decide the most appropriate response to the child concern report;</p> <p>(c) refer a matter raised in the report to the chief police officer if the director-general suspects on reasonable grounds that it relates to a criminal offence;</p> <p>(d) refer the matters raised in the report to a government or community-based service for advice and support services for the child or young person and, if appropriate, the child's or young</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>person's family members;</p> <p>(e) provide or arrange support services for the child or young person and, if appropriate, the child's or young person's family members;</p> <p>(f) arrange a family group conference in relation to the child or young person;</p> <p>(g) assist a family member or a significant person to care for the child or young person;</p> <p>(h) take no action.</p> <p>(5) However, if the director-general suspects on reasonable grounds that the child or young person may be in need of care and protection the director-general must decide that the child concern report is a child protection report.</p>
			361	<p><b>Director—general action on child protection report</b></p> <p>(1) This section applies if the director-general decides that a child concern report is a child protection report.</p> <p>(2) The director-general must take the action that the director-general considers appropriate in relation to the report.</p> <p>(3) Without limiting subsection (2), the director-general may do any of the following:</p> <p>(a) seek information from anyone to decide the most appropriate</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>response to the report; and</p> <p>(b) give advice to the person who made the report about appropriate assistance that the person may consider to protect the child or young person; and</p> <p>(c) refer a matter raised in the report to the chief police officer if the director-general suspects on reasonable grounds that it relates to a criminal offence; and</p> <p>(d) refer the matters raised in the report to a government or community-based service for advice and support services for the child or young person and, if appropriate, the child's or young person's family members; and</p> <p>(e) provide or arrange support services for the child or young person and, if appropriate, the child's or young person's family members; and</p> <p>(f) arrange a family group conference in relation to the child or young person; and</p> <p>(g) assist a family member or a significant person to care for the child or young person; and</p> <p>(h) enter into a voluntary care agreement for the child or young person; and</p> <p>(i) take no action.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(4) This section does not affect the director-general's capacity to:</p> <p>(a) carry out a care and protection appraisal of the child or young person under section 368 (Care and protection appraisal—only with agreement or appraisal order); or</p> <p>(b) take action under section 371 (Visual examination etc without agreement); or</p> <p>(c) take emergency action in relation to the child or young person under section 406 (Emergency action—criteria for taking emergency action); or</p> <p>(d) apply to the Children's Court for a care and protection order under section 424 (Care and protection order—application by director-general).</p>
			366	<p><b>What is a 'care and protection appraisal'?</b></p> <p>In the care and protection chapters:</p> <p><b>'care and protection appraisal'</b>, of a child or young person:</p> <p>(a) means an appraisal of the child's or young person's circumstances; and</p> <p>(b) may, but need not, include the director-general carrying out 1 or more of the following activities:</p> <p>(i) a visual examination of the child or young person or someone</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>else; and</p> <p>(ii) an interview of the child or young person or someone else; and</p> <p>(iii) giving information to someone; and</p> <p>(iv) asking someone to give information to the director-general; and</p> <p>(v) making inquiries about the child or young person or someone else; and</p> <p>(vi) arranging for a care and protection assessment of the child or young person or someone else; and</p> <p>(vii) asking the child or young person or someone else to attend a stated place at a stated time for the appraisal or a care and protection assessment; and</p> <p>(viii) asking the child or young person or someone else to comply with any arrangement made by the director-general for the appraisal or a care and protection assessment.</p>
			367	<p><b>What is a 'care and protection assessment'?</b></p> <p>In the care and protection chapters:</p> <p><b>'care and protection assessment'</b> of a person:</p> <p>(a) means any of the following carried out by an authorised assessor for section 438 (Care and protection assessment—authorisation of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>assessors):</p> <ul style="list-style-type: none"> <li>(i) a medical examination or test of the person; and</li> <li>(ii) a dental examination or test of the person; and</li> <li>(iii) a social assessment of the person; and</li> <li>(iv) a paediatric or developmental assessment of the person; and</li> <li>(v) a psychological examination or test of the person; and</li> <li>(vi) a psychiatric examination or test of the person; and</li> <li>(vii) if the person is a parent or other person with parental responsibility—an assessment of the person’s parenting capacity; but</li> </ul> <p>(b) does not include an assessment, examination or test that:</p> <ul style="list-style-type: none"> <li>(i) involves surgery; or</li> <li>(ii) is prescribed by regulation.</li> </ul> <p><i>Note:</i> A person authorised under s 438 (Care and protection assessment—authorisation of assessors) must be suitably qualified for the assessment (see s 438 (2)).</p>
			368	<p>Division 11.2.2 Appraisal with agreement or order</p> <p>Care and protection appraisal—only with agreement or appraisal order</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) This section applies if the director-general decides that a child concern report about a child or young person is a child protection report under section 360(5) (Director-general to act on child concern report).</p> <p>Example</p> <p>The director-general receives a voluntary report about 10 year old Sarah on the basis of which the director-general suspects on reasonable grounds that she may be in need of care and protection. Under s 360(5), the director-general decides that the report is a child protection report.</p> <p>(2) The director-general may carry out a care and protection appraisal of the child or young person if the director-general suspects on reasonable grounds that the child or young person may be in need of care and protection.</p> <p>(3) However, the director-general may carry out an appraisal only if:</p> <p>(a) an appraisal order in force for the child or young person authorises the carrying out of the appraisal; or</p> <p><i>Note:</i> Appraisal orders are dealt with in s 372.</p> <p>(b) the director-general:</p> <p>(i) unless it is not practicable, or not in the best interests of the child or young person, to do so—has taken reasonable steps to obtain the agreement to the appraisal of each parent or each other person with</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>daily care responsibility; and</p> <p>(ii) has obtained the agreement to the appraisal of at least 1 parent or other person with daily care responsibility; or</p> <p>(c) section 370 (Care and protection appraisal—agreement need not be sought if risk etc) applies in relation to the child or young person and the appraisal is an activity mentioned in section 371 only (Visual examination etc without agreement).</p> <p>Examples—subpar (b) (i)—not practicable to obtain agreement</p> <ol style="list-style-type: none"> <li>1 the identity of the parent or other person cannot be established.</li> <li>2 the parent or other person cannot be found.</li> </ol> <p>Examples—subpar (b) (i)—not in best interests of child or young person to obtain agreement</p> <ol style="list-style-type: none"> <li>1 the parent or other person is the subject of an allegation of abuse or neglect of the child or young person.</li> <li>2 the parent's or other person's contact with the child or young person is not allowed, or is limited, under a court order (under this Act or another law in force in the Territory).</li> </ol> <p><i>Note:</i> In certain other circumstances the director-general need not seek agreement (see s 370) and may visually examine or interview the child or young person (see s 371).</p> <p>(4) The agreement of a person under subsection (3) (b) may be</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>given orally.</p> <p>(5) To avoid doubt, if the director-general shares daily care responsibility for the child or young person the agreement of another person who has daily care responsibility is not required for subsection (3) (b).</p> <p>(6) The director-general must keep a written record of an agreement under subsection (3) (b) given orally.</p>
			369	<p><b>Care and protection appraisal—acknowledgement of agreement</b></p> <p>When seeking the agreement of a person under section 368 (3) (b), the director-general must tell the person:</p> <p>(a) the purpose of the appraisal; and</p> <p>(b) if the appraisal is to include a care and protection assessment of the child or young person—the kind of assessment; and</p> <p>(c) that the agreement may be refused.</p>
			370	<p><b>Care and protection appraisal—agreement need not be sought if risk etc</b></p> <p>(1) This section applies if the director-general proposes to carry out a care and protection appraisal of a child or young person and the director-general suspects on reasonable grounds that seeking the agreement of a parent or other person who has daily care responsibility for the child or young person would be likely to:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) put the child or young person at significant risk of abuse or neglect; or</p> <p>(b) jeopardise a criminal investigation.</p> <p>Example</p> <p>The director-general receives a child concern report about Andrew and decides that the report is a child protection report. The person making the report states that Andrew has told his teacher that his father is sexually abusing him and has threatened to hurt him if he tells anyone. The director-general suspects that seeking the agreement of a person who has daily care responsibility would be likely to put Andrew at significant risk of emotional and physical abuse.</p> <p>(2) The director-general need not seek the agreement of a parent or other person who has daily care responsibility for the child or young person.</p>
			371	<p><b>Visual examination etc without agreement</b></p> <p>(1) If section 370 applies in relation to a child or young person, the director-general may, without the agreement of a parent or other person who has daily care responsibility for the child or young person:</p> <p>(a) visually examine the child or young person; and</p> <p>(b) interview the child or young person.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(2) If the child or young person is a student at a school, a patient at a health facility or being cared for by a childcare service, the director-general:</p> <p>(a) may enter the school, health facility or childcare service to visually examine or interview the child or young person; and</p> <p>(b) if entering the school, health facility or childcare service, must:</p> <p>(i) produce his or her identity card; and</p> <p>(ii) tell the person in charge of the school, health facility or childcare service the purpose of the entry.</p> <p>(3) After the director-general visually examines or interviews the child or young person, the director-general must take reasonable steps to tell at least 1 parent or other person who has daily care responsibility for the child or young person that the examination or interview has been carried out.</p> <p><i>Note 1:</i> The director-general may carry out a care and protection appraisal, with the agreement of a person who has daily care responsibility for the child or young person, if the director-general suspects on reasonable grounds that the child or young person may be in need of care and protection (see s 368).</p> <p><i>Note 2:</i> The director-general may carry out a care and protection appraisal if an appraisal order is in force for the child or young person.</p> <p>(4) However, the director-general need not tell a person about the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>examination or interview if satisfied that doing so would be likely to:</p> <p>(a) put the child or young person at significant risk of abuse or neglect; or</p> <p>(b) jeopardise a criminal investigation.</p> <p>(5) This section does not affect the director-general's capacity to:</p> <p>(a) do anything mentioned in section 360 (4) (Director-general to act on child concern report) or section 361 (3) (Director-general action on child protection report); or</p> <p>(b) take emergency action in relation to the child or young person under section 406 (Emergency action—criteria for taking emergency action); or</p> <p>(c) apply to the Children's Court for a care and protection order under section 424 (Care and protection order—application by director-general); or</p> <p>(d) give information under part 25.3 (Sharing protected information).</p>
			372	<p><b>What is an appraisal order?</b></p> <p>In the care and protection chapters: appraisal order:</p> <p>(a) means an order authorising the director-general to carry out a care and protection appraisal of a child or young person; and</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p><i>Note:</i> A care and protection appraisal may include a care and protection assessment (see s 366).</p> <p>(b) may, but need not, include 1 or more of the following requirements:</p> <p>(i) that a person attend, alone or with someone else, at a stated place at a stated time for the appraisal; and</p> <p>(ii) that a person or entity comply with arrangements made by the director-general for the appraisal; and</p> <p>(iii) that a person or entity allow entry to a stated place for the appraisal; and</p> <p>(iv) that a person or entity give the director-general information about the care, wellbeing or development of a child or young person; and</p> <p>(v) that something be produced to the court or given to the director-general or someone else; and</p> <p>(vi) that a person not have contact with the child or young person, or not have contact with the child or young person except if a stated person or a person of a stated class is present; and</p> <p><i>Note:</i> Contact includes indirect contact (see s 348).</p> <p>(c) may, but need not, include a temporary parental responsibility provision.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			373	<p><b>What is a temporary parental responsibility provision?</b></p> <p>In the care and protection chapters:</p> <p>temporary parental responsibility provision:</p> <p>(a) means a provision in an appraisal order for a child or young person that transfers daily care responsibility for the child or young person to the director-general; and</p> <p>(b) may provide for the director-general to enter and search any place the director-general believes on reasonable grounds the child or young person is, to find the child or young person.</p> <p><i>Note 1:</i> A temporary parental responsibility provision must not be longer than 4 weeks (see s 384).</p> <p><i>Note 2:</i> The director-general may ask the chief police officer for assistance in carrying out a temporary parental responsibility provision in an appraisal order. The chief police officer must, if asked, give assistance to the director-general by assigning police officers to assist the director-general in carrying out the action (see s 679).</p>
			379	<p><b>Appraisal orders—who must be given application</b></p> <p>(1) The director-general must give a copy of an application for an appraisal order for a child or young person to the following people at least 1 working day before the application is to be heard by the court:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) the child or young person; and</p> <p>(b) each parent of the child or young person; and</p> <p>(c) each other person (if any) who has daily care responsibility, or long-term care responsibility, for the child or young person; and</p> <p>(d) the public advocate.</p> <p>(2) This section does not apply:</p> <p>(a) to an application under section 377 (Appraisal orders—urgent applications); or</p> <p>(b) if the director-general or a police officer has daily care responsibility for a child or young person under part 13.1</p> <p><i>Note:</i> In those cases, the director-general need only give a copy of the application to people before the application is heard by the court (see s 377 and s 413).</p>
			383	<p><b>Appraisal orders—different provisions and requirements</b></p> <p>In making an appraisal order for a child or young person, the Children's Court may include any of the following whether or not it was applied for:</p> <p>(a) a requirement that:</p> <p>(i) a person attend, alone or with someone else, at a stated place at a</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>stated time for the appraisal; or</p> <p>(ii) a person or entity comply with arrangements made by the director-general for the appraisal; or</p> <p>(iii) that a person or entity allow entry to a stated place for the appraisal; or</p> <p>(iv) a person or entity give the director-general information about the care, wellbeing or development of a child or young person; or</p> <p>(v) something be produced to the court or given to the director-general or someone else; or</p> <p>(vi) that a person not have contact with the child or young person, or not have contact with the child or young person except if a stated person or a person of a stated class is present;</p> <p><i>Note:</i> Contact includes indirect contact (see s 348).</p> <p>(b) a temporary parental responsibility provision.</p>
			405	<p><b>What is 'emergency action'?</b></p> <p>In this Act:</p> <p><b>'emergency action'</b>, taken by the director-general or a police officer, for a child or young person:</p> <p>(a) means transferring daily care responsibility for the child or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>young person to the director-general or police officer; and</p> <p>(b) includes arranging for the child's or young person's care and protection by keeping the child or young person at a place or by moving the child or young person from a place to another place.</p> <p><i>Note 1:</i> If the director-general has daily care responsibility for a child or young person, the director-general must place the child or young person with an out-of-home carer (see pt 15.4) unless the child or young person is in therapeutic protection.</p> <p><i>Note 2:</i> An authorised person or police officer may at any time enter premises if the authorised person or police officer believes on reasonable grounds that a child or young person at the premises is in need of emergency care and protection and the purpose of the entry is to take emergency action for the child or young person (including using force that is reasonable and necessary to obtain entry to safeguard the wellbeing of the child or young person) (see s 814).</p>
			406	<p><b>Emergency action—criteria for taking emergency action</b></p> <p>(1) The director-general or a police officer may take emergency action for a child or young person if the director-general or police officer believes on reasonable grounds that the child or young person is in need of emergency care and protection or emergency therapeutic protection.</p> <p>(2) To remove any doubt, the director-general or police officer may take emergency action for a child or young person if the child or young person is in the care of:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) a parent of the child or young person; or</p> <p>(b) someone else who has daily care responsibility for the child or young person.</p> <p><i>Note:</i> Daily care responsibility for a child or young person is dealt with in s 19.</p>
			407	<p><b>Emergency action—assistance</b></p> <p>The director-general or police officer may use whatever assistance is necessary and reasonable to take emergency action.</p> <p><i>Note:</i> The director-general may ask the chief police officer for assistance in carrying out emergency action and the chief police officer must assign police officers to assist the director-general (see pt 18.1).</p>
			408	<p><b>Emergency action—certain people must be told</b></p> <p>(1) If a police officer takes emergency action for a child or young person, the police officer must:</p> <p>(a) immediately tell the director-general, in writing:</p> <p>(i) the name of the child or young person; and</p> <p>(ii) why the emergency action was taken; and</p> <p>(b) if practicable—tell the following people about the emergency</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>action as soon as practicable:</p> <ul style="list-style-type: none"> <li>(i) the parents of the child or young person; and</li> <li>(ii) each other person (if any) who has daily care responsibility, or long-term care responsibility, for the child or young person; and</li> <li>(c) deliver the child or young person to the place or person advised by the director-general.</li> </ul> <p>(2) However, if it is not practicable for the police officer to tell the director-general in writing immediately, the police officer may tell the director-general orally immediately and then in writing as soon as practicable.</p> <p>(3) If the director-general takes emergency action for a child or young person, or is told that a police officer has taken emergency action for a child or young person, the director-general must, as soon as practicable, tell the following people that emergency action has been taken for the child or young person:</p> <ul style="list-style-type: none"> <li>(a) if not already told about the emergency action: <ul style="list-style-type: none"> <li>(i) the parents of the child or young person; and</li> <li>(ii) each other person (if any) who has daily care responsibility, or long-term care responsibility, for the child or young person; and</li> <li>(b) the public advocate; and</li> </ul> </li> </ul>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(c) the Children's Court.
			409	<p><b>Emergency action—daily care responsibility after action</b></p> <p>(1) If the director-general takes emergency action for a child or young person, the director-general has daily care responsibility for the child or young person.</p> <p>(2) If a police officer takes emergency action for a child or young person, the police officer has daily care responsibility for the child or young person until the police officer tells the director-general about the emergency action under section 408.</p> <p><i>Note:</i> The police officer must tell the director-general immediately in writing, or, if that is not practicable, immediately orally and as soon as practicable in writing (see s 408 (1) and (2)).</p> <p>(3) After the police officer tells the director-general about the emergency action, the director-general has daily care responsibility for the child or young person.</p> <p>(4) The director-general may authorise a police officer to exercise daily care responsibility for a child or young person on behalf of the director-general.</p> <p><i>Note:</i> If 2 or more people have parental responsibility for a child or young person, either of them may discharge the responsibility. However, if the director-general is 1 of the people, no-one else may discharge the responsibility in a way that would be incompatible with the director-general's discharge of the responsibility (see s 18</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				and s 475 (2)).
			410	<p><b>Emergency action—length of daily care responsibility</b></p> <p>If the director-general or a police officer takes emergency action for a child or young person, the director-general or police officer may keep daily care responsibility for the child or young person without an order of the Children's Court:</p> <p>(a) for not longer than 2 working days after the day the emergency action was taken; or</p> <p>(b) if the 2 working days are interrupted by a Saturday, a Sunday and a public holiday—until the matter can be brought before the court on the next sitting day of the court.</p>
			411	<p><b>Care and protection appraisal and placement</b></p> <p>If the director-general has daily care responsibility for a child or young person under this division, the director-general may make arrangements for the care and protection of the child or young person including:</p> <p>(a) arranging a care and protection appraisal that includes an examination of the circumstance that led to the taking of the emergency action; and</p> <p><i>Note:</i> Care and protection appraisals are dealt with in pt 11.2.</p> <p>(b) placing the child or young person with a person including:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(i) a parent of the child or young person; or</p> <p>(ii) someone else who has daily care responsibility, or long-term care responsibility, for the child or young person; or</p> <p>(iii) a former caregiver of the child or young person.</p>
			412	<p><b>Emergency action—contact with family</b></p> <p>(1) If the director-general or a police officer has daily care responsibility for a child or young person under this division, the director-general or police officer must, as far as practicable, allow reasonable contact between the child or young person and his or her family members and significant people.</p> <p>(2) However, the director-general or police officer is not required to allow contact if the contact would create a risk of harm to the child or young person.</p>
			413	<p><b>Emergency action—application for orders</b></p> <p>(1) This section applies if:</p> <p>(a) the director-general or a police officer has daily care responsibility for a child or young person under this division; and</p> <p>(b) the director-general applies for any of the following orders for the child or young person:</p> <p>(i) an appraisal order; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(ii) a care and protection order; and</p> <p>(iii) an assessment order; and</p> <p>(iv) a therapeutic protection order.</p> <p>(2) The director-general need only give a copy of the application to people under the following sections before the application is heard by the Children's Court:</p> <p>(a) section 379 (Appraisal orders—who must be given application); and</p> <p>(b) section 427 (Care and protection orders—who must be given application); and</p> <p>(c) section 445 (Assessment orders—who must be given application); and</p> <p>(d) section 541 (Therapeutic protection orders—who must be given application).</p> <p>(3) The Children's Court must give initial consideration to the application on the day it is filed.</p>
			414	<p><b>Emergency action—end of daily care responsibility</b></p> <p>(1) This section applies if the director-general or a police officer has daily care responsibility for a child or young person under this division.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(2) The director-general or police officer stops having daily care responsibility for the child or young person if:</p> <p>(a) the child or young person is returned to someone mentioned in section 415 (2); or</p> <p>(b) the Children's Court makes an order giving daily care responsibility for the child or young person to someone else.</p>
			415	<p><b>Emergency action—return of child or young person</b></p> <p>(1) This section applies if the director-general or a police officer has daily care responsibility for a child or young person under this division and, at the end of the period for which the director-general or police officer may keep responsibility:</p> <p>(a) none of the following orders have been made for the child or young person:</p> <p>(i) an appraisal order with a temporary parental responsibility provision; and</p> <p>(ii) an interim care and protection order with a parental responsibility provision; and</p> <p>(iii) a care and protection order with a parental responsibility provision; and</p> <p>(iv) an interim therapeutic protection order; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(v) a therapeutic protection order; and</p> <p>(b) the director-general or police officer still has daily care responsibility for the child or young person.</p> <p>(2) The director-general or police officer must deliver the child or young person into the care of 1 of the following people:</p> <p>(a) a parent of the child or young person who has parental responsibility for the child or young person; and</p> <p>(b) someone else who has daily care responsibility, or long-term care responsibility, for the child or young person; and</p> <p>(c) a former caregiver of the child or young person.</p>
			416	<p><b>What is an 'emergency action release order'?</b></p> <p>In this Act:</p> <p><b>'emergency action release order'</b>, for a child or young person for whom the director-general or a police officer has daily care responsibility under part 13.1, means an order for the release of the child or young person into the care of a stated person.</p>
			417	<p><b>What is an 'emergency action release order'?</b></p> <p>In this Act:</p> <p><b>'emergency action release order'</b>, for a child or young person for whom the director-general or a police officer has daily care</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				responsibility under part 13.1, means an order for the release of the child or young person into the care of a stated person.
			418	<b>Emergency action release order—application to state grounds</b>  An application for an emergency action release order must state the grounds on which the order is sought.
			419	<b>Emergency action release order—who must be given application</b>  The applicant must give a copy of the application for the emergency action release order to the following people before the application is heard by the court: <ul style="list-style-type: none"> <li>(a) the child or young person; and</li> <li>(b) each parent of the child or young person; and</li> <li>(c) each other person (if any) who had daily care responsibility, or long-term care responsibility, for the child or young person immediately before the emergency action was taken; and</li> <li>(d) the director-general; and</li> <li>(e) the public advocate.</li> </ul> <i>Note:</i> If the director-general applies for an appraisal order, a care and protection order, an assessment order or a therapeutic protection order for the child or young person, the director-general need only give a copy of the application to people before the application is

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				heard by the court (see s 413).
			420	<p><b>Emergency action release order—criteria for making</b></p> <p>The Children's Court may make an emergency action release order for a child or young person only if satisfied that the child or young person is no longer in need of emergency care and protection or emergency therapeutic protection.</p> <p><i>Note: 1</i> In a proceeding for an emergency action release order, a fact is proved if it is proved on the balance of probabilities (see s 711).</p> <p><i>Note 2: :</i> The court may make an order imposing an obligation on a person only if the person agrees to it, has been given an opportunity to be heard about it or cannot be found (see s 718).</p>
			422	<p><b>What is a 'care and protection order'?</b></p> <p>In this Act:</p> <p><b>'care and protection order':</b></p> <p>(a) means an order about the care and protection of a child or young person; and</p> <p>(b) may contain any of the following provisions:</p> <p>(i) a contact provision; or</p> <p>(ii) a drug use provision; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(iii) an enduring parental responsibility provision; or</p> <p>(iv) an ACAT mental health provision; or</p> <p>(v) a residence provision; or</p> <p>(vi) a short-term parental responsibility provision; or</p> <p>(vii) a long-term parental responsibility provision; or</p> <p>(viii) a specific issues provision; or</p> <p>(ix) a supervision provision.</p>
			424	<p><b>Care and protection order—application by director-general</b></p> <p>The director-general may apply to the Children's Court for a care and protection order for a child or young person if the director-general believes on reasonable grounds that the child or young person is in need of care and protection.</p> <p><i>Note 1:</i> Statements, documents and reports must be included in the application (see s 696).</p> <p><i>Note 2:</i> Oral applications may also be made (see s 698).</p>
			425	<p><b>Care and protection order—application by others</b></p> <p>(1) Someone (the '<b>other applicant</b>') other than the director-general may apply to the Children's Court for a care and protection order for a child or young person if:</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) the other applicant believes on reasonable grounds that the child or young person is in need of care and protection; and</p> <p>(b) if the director-general has not applied for a care and protection order for the child or young person—the other applicant has consulted the director-general about the application; and</p> <p>(c) the other applicant has the leave of the Children's Court to make the application.</p> <p>(2) If the other applicant seeks the leave of the Children's Court to make the application, the Children's Court:</p> <p>(a) must hear the other applicant and the director-general; and</p> <p>(b) may give the other applicant leave to make the application.</p> <p>(3) If the other applicant applies for a care and protection order for a child or young person, the director-general and the public advocate may each appear and be heard in the proceeding.</p> <p><i>Note 1:</i> Statements, documents and reports must be included in the application (see s 696).</p> <p><i>Note 2:</i> Oral applications may also be made (see s 698).</p>
			426	<p><b>Care and protection order—application must state provisions sought and grounds</b></p> <p>(1) An application for a care and protection order must state:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(a) the provisions proposed to be included in the order; and</p> <p>(b) the grounds on which the care and protection order is sought.</p> <p>(2) An application for a care and protection order with a parental responsibility provision must also state:</p> <p>(a) whether parental responsibility is proposed to be shared or transferred; and</p> <p>(b) each person who is to share parental responsibility; and</p> <p>(c) each person to whom parental responsibility is to be transferred.</p> <p><i>Note:</i> The Children's Court may also include a provision in a care and protection order whether or not anyone applied, or cross-applied, for it (see s 383).</p>
			427	<p><b>Care and protection orders—who must be given application</b></p> <p>(1) The applicant for a care and protection order for a child or young person must give a copy of the application to the following people at least 3 working days before the application is to be heard by the court:</p> <p>(a) the child or young person; and</p> <p>(b) each parent of the child or young person; and</p> <p>(c) each other person (if any) who has daily care responsibility, or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>long-term care responsibility, for the child or young person; and</p> <p>(d) if the applicant is not the director-general—the director-general; and</p> <p>(e) the public advocate.</p> <p>(2) This section does not apply if the director-general or a police officer has daily care responsibility for a child or young person under part 13.1 (Emergency action).</p> <p><i>Note:</i> For s (2), the director-general need only give a copy of the application to people before the application is heard by the court (see s 413).</p>
			428	<p><b>Care and protection order—cross-application for different provisions</b></p> <p>(1) A party to a proceeding for a care and protection order for a child or young person may cross-apply for a different provision to be included in the order, different terms in a provision in the order or a different order, if the party:</p> <p>(a) believes on reasonable grounds that the different provision, terms or order is in the best interests of the child or young person; and</p> <p>(b) has leave of the Children's Court to cross-apply.</p> <p>Example—different term in provision in order</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>An order includes a residence provision about with whom the child must live. A party may cross-apply for the residence provision to provide for the child to live with a different person.</p> <p><i>Note:</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p> <p>(2) If a party seeks the leave of the Children's Court to cross-apply, the court may give leave only if satisfied that there are reasonable grounds for believing that the different provision, terms or order is in the best interests of the child or young person.</p> <p><i>Note 1:</i> Statements, documents and reports must be included in the application (see s 696).</p> <p><i>Note 2:</i> Oral applications may also be made (see s 698).</p>
			429	<p><b>Care and protection order—cross-application must state provisions sought and grounds</b></p> <p>(1) A cross-application for a care and protection order must state:</p> <p>(a) the provisions that the applicant proposes to have included in the order, the proposed different terms in the provisions in the order or the proposed different order; and</p> <p>(b) for a cross-application for a different provision, terms or order in a care and protection order:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(i) the draft different provision, terms or order; and</p> <p>(ii) why the different provision, terms or order would be in the best interests of the child or young person.</p> <p><i>Note:</i> The Children's Court may also include a provision in a care and protection order whether or not anyone applied, or cross-applied, for it (see s 383).</p> <p>(2) A cross-application for a care and protection order with a parental responsibility provision must also state:</p> <p>(a) whether parental responsibility is proposed to be shared or transferred; and</p> <p>(b) each person who is to share parental responsibility; and</p> <p>(c) each person to whom parental responsibility is to be transferred.</p>
			430	<p><b>Care and protection order—court to consider application and cross-application promptly</b></p> <p>(1) The Children's Court must give initial consideration to an application, or cross-application, for a care and protection order not later than 5 working days after the day the application, or cross-application, is filed.</p> <p>(2) The application or cross-application must be initially listed before a magistrate.</p> <p>(3) The magistrate must give directions about the conduct of the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>proceeding (including the hearing of the application or cross-application) at the time the application or cross-application is initially considered.</p> <p>(4) If a care and protection order in relation to the child or young person who is the subject of the application or cross-application is in force on the day the application or cross-application is filed, but the care and protection order would end before the application or cross-application is heard, the care and protection order continues in force until the application or cross-application is heard and decided (whether or not the application or cross-application is considered within the period required under this section).</p> <p>(5) This section does not apply if the director-general or a police officer has daily care responsibility for a child or young person under part 13.1 (Emergency action).</p> <p><i>Note:</i> For s (5), the court must give initial consideration to the application on the day it is filed (see s 413).</p>
			445	<p><b>Assessment orders—who must be given application</b></p> <p>(1) The applicant for an assessment order in relation to a child or young person must give a copy of the application to the following people at least 3 working days before the application is to be heard by the court:</p> <p>(a) the child or young person; and</p> <p>(b) each parent of the child or young person; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(c) each other person (if any) who has daily care responsibility, or long-term care responsibility, for the child or young person; and</p> <p>(d) the public advocate.</p> <p>(2) This section does not apply if the director-general or a police officer has daily care responsibility for a child or young person under part 13.1 (Emergency action).</p> <p><i>Note:</i> For s (2), the director-general need only give a copy of the application to people before the application is heard by the court (see s 413).</p>
			464	<p><b>Care and protection order—criteria for making</b></p> <p>(1) The Children's Court may make a care and protection order for a child or young person if the court:</p> <p>(a) is satisfied that the child or young person is in need of care and protection; and</p> <p>(b) has considered the care plan prepared by the director-general for the child or young person; and</p> <p>(c) is satisfied that:</p> <p>(i) the provisions included in the order are necessary to ensure the care and protection of the child or young person; and</p> <p>(ii) making the order is in the best interests of the child or young</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>person.</p> <p>(2) The Children's Court must include in a care and protection order, on application or its own initiative, any of the following provisions that the Children's Court is satisfied is in the best interests of the child or young person:</p> <ul style="list-style-type: none"> <li>(a) a contact provision; and</li> <li>(b) a drug use provision; and</li> <li>(c) an enduring parental responsibility provision; and</li> <li>(d) an ACAT mental health provision; and</li> <li>(e) a residence provision; and</li> <li>(f) a short-term parental responsibility provision; and</li> <li>(g) a long-term parental responsibility provision; and</li> <li>(h) a specific issues provision; and</li> <li>(i) a supervision provision.</li> </ul> <p>(3) However, the Children's Court must not include in a care and protection order an enduring parental responsibility provision unless satisfied that the criteria mentioned in section 482 (Enduring parental responsibility provision—criteria for making) are met.</p> <p>(4) Unless the Children's Court orders otherwise, the director-general must give a copy of a care plan provided for a</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>proceeding to each other party to the proceeding.</p> <p>(5) The Children's Court:</p> <p>(a) must not merely accept the admission of the parties to the proceeding that the child or young person is in need of care and protection; but</p> <p>(b) must satisfy itself that the child or young person is in need of care and protection.</p> <p><i>Note 1:</i> In a proceeding for a care and protection order, a fact is proved if it is proved on the balance of probabilities (see s 711).</p> <p><i>Note 2:</i> The court may make an order imposing an obligation on a person only if the person agrees to it, has been given an opportunity to be heard about it or cannot be found (see s 718).</p> <p>(6) The Children's Court may include a provision in a care and protection order on application by a party to the proceeding or on its own initiative.</p> <p>(7) If the Children's Court intends someone to make decisions about where the child or young person lives, the court must include a residence provision in the care and protection order.</p>
			475	<p><b>Director-general sharing daily care responsibility</b></p> <p>(1) This section applies if the director-general shares with another person daily care responsibility for a child or young person.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(2) No other person with daily care responsibility for the child or young person may discharge the responsibility in a way that would be incompatible with the director-general's discharge of the responsibility.</p> <p><i>Note:</i> Usually, if parental responsibility is shared between 2 or more people, either of them may discharge the responsibility (see s 18).</p>
			482	<p><b>482 Enduring parental responsibility provision—criteria for making</b></p> <p>(1) The Children's Court may, on application or on its own initiative, include an enduring parental responsibility provision in a care and protection order for a child or young person if:</p> <p>(a) no-one with parental responsibility for the child or young person (other than under a care and protection order) has had care of the child or young person for:</p> <p>(i) the 2 years immediately before the order is made; or</p> <p>(ii) a total of at least 2 years in the 3 years immediately before the order is made; and</p> <p>(b) the child or young person has been living with a stated person under a care and protection order for:</p> <p>(i) the 2 years immediately before the order is made; or</p> <p>(ii) a total of more than 2 years in the 3 years immediately before</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the order is made; and</p> <p>(c) the court is satisfied that:</p> <p>(i) no-one with parental responsibility for the child or young person (other than under a care and protection order) (a previous carer) is willing or able to exercise daily care responsibility or long-term care responsibility for the child or young person; or</p> <p>(ii) it is not in the best interests of the child or young person for a previous carer to exercise those responsibilities for the child or young person; and</p> <p>(d) the court is satisfied that:</p> <p>(i) it is unlikely that a previous carer of the child or young person will be willing or able to exercise daily care and responsibility or long-term care responsibility for the child or young person before the child or young person is 18 years old; or</p> <p>(ii) it is unlikely that it would be in the best interests of the child or young person for a previous carer to exercise those responsibilities for the child or young person before the child or young person is 18 years old; and</p> <p>(e) the court is satisfied that the stated person is willing and able to exercise daily care responsibility or long-term care responsibility for the child or young person; and</p> <p>(f) the court is satisfied that including the provision is the best way to meet the child's or young person's need for emotional security in</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>the long-term; and</p> <p>(g) for an Aboriginal or Torres Strait Islander child or young person—the court has given any Aboriginal or Torres Strait Islander person or organisation that has provided ongoing support services to the child or young person and his or her family a reasonable opportunity to provide a written report about the making of the proposed provision.</p> <p>(2) In this section:</p> <p>stated person means the person to whom the court proposes to transfer daily care responsibility and long-term care responsibility for the child or young person under the proposed enduring parental responsibility provision.</p> <p><i>Note 1:</i> An enduring parental responsibility provision may be amended or revoked under pt 14.5.</p> <p><i>Note 2:</i> In a proceeding for a care and protection order, a fact is proved if it is proved on the balance of probabilities (see s 711).</p> <p><i>Note 3:</i> The court may make an order imposing an obligation on a person only if the person agrees to it, has been given an opportunity to be heard about it or cannot be found (see s 718).</p>
			504	<p><b>Director-general sharing long-term care responsibility</b></p> <p>(1) This section applies if the director-general:</p> <p>(a) shares with another person long-term care responsibility for a</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>child or young person; and</p> <p>(b) under a parental responsibility provision is required to consult with each other person who shares long-term care responsibility for the child or young person in making a decision about a long-term matter for the child or young person.</p> <p>(2) If another person who has long-term care responsibility for the child or young person disagrees with the director-general's proposed decision about a long-term matter for the child or young person:</p> <p>(a) the person or the director-general may apply to the Children's Court for an order about the matter; and</p> <p>(b) the director-general must not make the decision without the person's agreement.</p> <p><i>Note:</i> Usually, if parental responsibility is shared between 2 or more people, either of them may discharge the responsibility (see s 18).</p>
			512	<p><b>Director-general may place child or young person with out-of-home carer</b></p> <p>(1) If the director-general has daily care responsibility for a child or young person, the director-general may place the child or young person with an out-of-home carer.</p> <p>(2) If the director-general is placing an Aboriginal or Torres Strait Islander child or young person with an out-of-home carer, the placement must be in accordance with section 513.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<i>Note:</i> An authorised person may, at any reasonable time, enter premises where a child or young person is living if the director-general has placed the child or young person with an out-of-home carer under this section and the purpose of the entry is to ensure that the child or young person is being properly cared for (see s 815).
			513	<p><b>Priorities for placement with out-of-home carer:</b></p> <p>Aboriginal or Torres Strait Islander child or young person</p> <p>(1) If the director-general is placing an Aboriginal or Torres Strait Islander child or young person with an out-of-home carer under section 512, the director-general must place the child or young person with the first of the options mentioned in subsection (2) that:</p> <p>(a) is available; and</p> <p>(b) to which the child or young person does not object; and</p> <p>(c) is consistent with any Aboriginal or Torres Strait Islander cultural plan in force for the child or young person.</p> <p>(2) The director-general may place an Aboriginal or Torres Strait Islander child or young person with any of the following out-of-home carers:</p> <p>(a) a kinship carer; and</p> <p>(b) a foster carer who is a member of the child's or young person's Aboriginal or Torres Strait Islander community in a relationship of responsibility for the child or young person according to local</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>custom and practice; and</p> <p>(c) a foster carer who is a member of the child's or young person's community; and</p> <p>(d) an Aboriginal or Torres Strait Islander foster carer; and</p> <p>(e) a non-Aboriginal or Torres Strait Islander foster carer who:</p> <p>(i) the director-general believes on reasonable grounds is sensitive to the child's or young person's needs; and</p> <p>(ii) the director-general believes on reasonable grounds is capable of promoting the child's or young person's ongoing contact with the child's or young person's Aboriginal or Torres Strait Islander family, community and culture; and</p> <p>(iii) if family reunion or continuing contact with the child's or young person's Aboriginal or Torres Strait Islander family, community or culture is a consideration in the placement—lives near the child's or young person's Aboriginal or Torres Strait Islander family or community.</p> <p>(3) In this section:</p> <p>Aboriginal or Torres Strait Islander cultural plan, for an Aboriginal or Torres Strait Islander child or young person, means a care plan developed for the child or young person by the director-general under section 455 (What is a care plan?) that includes proposals for the preservation and enhancement of the identity of the child or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				young person as an Aboriginal or Torres Strait Islander person.
			532	<p><b>What is a 'therapeutic protection order'?</b></p> <p>In this Act:</p> <p><b>'therapeutic protection order'</b>, for a child or young person, means an order that:</p> <p>(a) directs that the child or young person be confined:</p> <p>(i) for a period of time (the <b>'period of confinement'</b>) starting on a stated day (the <b>'start day'</b>); and</p> <p>(ii) at a therapeutic protection place; and</p> <p>(iii) for implementation of a stated therapeutic protection plan; and</p> <p>(b) transfers daily care responsibility for the child or young person to the director-general for the period of confinement; and</p> <p><i>Note:</i> Pt 15.3 (Director-general has daily care responsibility) does not apply if daily care responsibility for a child or young person is transferred to the director-general under a therapeutic protection order (see s 506).</p> <p>(c) includes any conditions the Children's Court considers necessary to prevent the child or young person from engaging in harmful conduct.</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			533	<p><b>What is 'harmful conduct'?</b></p> <p>In this Act:</p> <p><b>'harmful conduct'</b>, engaged in by a child or young person, means conduct which leads to a significant risk of significant harm to the child or young person or someone else.</p>
			539	<p><b>Therapeutic protection order—application by director-general</b></p> <p>(1) Only the director-general may apply for a therapeutic protection order.</p> <p>(2) The director-general may apply to the Children's Court for a therapeutic protection order for a child or young person if satisfied that the criteria for making the order are met.</p> <p><i>Note 1:</i> Criteria for making a therapeutic protection order are in s 549.</p> <p><i>Note 2:</i> Oral applications may also be made (see s 698).</p>
			540	<p><b>Therapeutic protection order—application to state grounds etc</b></p> <p>An application for a therapeutic protection order for a child or young person must:</p> <p>(a) state the grounds on which the order is sought; and</p> <p>(b) include:</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(i) a risk assessment for the child or young person; and</p> <p>(ii) a copy of previous therapeutic protection orders for the child or young person (if any); and</p> <p>(iii) the therapeutic protection history for the child or young person (if any); and</p> <p>(c) state the less restrictive ways that the director-general has:</p> <p>(i) tried to prevent the child or young person from engaging in harmful conduct and how the less restrictive ways were not successful (if any); and</p> <p>(ii) considered to prevent the child or young person from engaging in harmful conduct and how the less restrictive ways were not appropriate (if any); and</p> <p>(d) include:</p> <p>(i) a therapeutic protection plan for the child or young person; and</p> <p>(ii) a therapeutic protection transition plan for the child or young person; and</p> <p>(iii) information about how the therapeutic protection order is part of the overall care plan for the child or young person.</p> <p><i>Note:</i> Statements, documents and reports must be included in the application (see s 696).</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			541	<p><b>Therapeutic protection orders—who must be given application</b></p> <p>(1) The director-general must give a copy of the application for the therapeutic protection order for the child or young person to the following people at least 1 working day before the application is to be heard by the Children's Court:</p> <ul style="list-style-type: none"> <li>(a) the child or young person; and</li> <li>(b) each parent of the child or young person; and</li> <li>(c) each other person (if any) who has daily care responsibility, or long-term care responsibility, for the child or young person; and</li> <li>(d) the public advocate.</li> </ul> <p>(2) This section does not apply if the director-general or a police officer has daily care responsibility for a child or young person under part 13.1 (Emergency care and protection).</p> <p><i>Note:</i> For s (2), the director-general need only give a copy of the application to people before the application is heard by the Children's Court (see s 413).</p>
			542	<p><b>Therapeutic protection order—Children's Court to consider application promptly</b></p> <p>(1) The Children's Court must give initial consideration to an application for a therapeutic protection order not later than 2 working days after the day the application is filed.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(2) The Children's Court must give directions about the conduct of the proceeding (including the hearing of the application) at the time the application is initially considered.</p> <p>(3) This section does not apply if the director-general or a police officer has daily care responsibility for a child or young person under part 13.1 (Emergency action).</p>
			549	<p><b>Therapeutic protection order—criteria for making</b></p> <p>The Children's Court may, on the application of the director-general, make a therapeutic protection order for a child or young person only if satisfied that:</p> <p>(a) if the order is not made:</p> <p>(i) there will be a significant risk of significant harm to:</p> <p>(A) the child or young person; or</p> <p>(B) someone else; and</p> <p>(ii) the risk of harm arises from the child's or young person's conduct; and</p> <p>(iii) the risk of harm will be imminent; and</p> <p>(b) the director-general has:</p> <p>(i) tried less restrictive ways to prevent the child or young person from engaging in harmful conduct but the less restrictive ways have</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>not been successful; or</p> <p>(ii) considered less restrictive ways to prevent the child or young person from engaging in harmful conduct but the less restrictive ways were not appropriate; and</p> <p>(c) there are no less restrictive ways for the director-general to prevent the child or young person from engaging in harmful conduct; and</p> <p>(d) the child or young person is at least 10 years old; or</p> <p>(e) the child or young person:</p> <p>(i) is not suffering from a mental illness or mental dysfunction; or</p> <p>(ii) in addition to any other behaviours or dysfunction giving rise to the risk of harm is suffering from a mental illness or mental dysfunction but the Children's Court is satisfied that making a therapeutic protection order for the child or young person is the best way to support the child or young person; and</p> <p><i>Note:</i> The Children's Court must make an interim therapeutic protection order for a child or young person if an application for a therapeutic protection order for the child or young person has been made but not finally decided and the court suspects on reasonable grounds that the child or young person is suffering from a mental illness or mental dysfunction. The order must direct the child or young person to submit to the jurisdiction of the ACAT (see s 545).</p> <p>(f) no-one who has parental responsibility for the child or young</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>person (other than the director-general) is willing and able to prevent the child or young person from engaging in harmful conduct; and</p> <p><i>Note:</i> Parental responsibility is dealt with in div 1.3.2.</p> <p>(g) confinement of the child or young person is necessary to prevent the child or young person from engaging in harmful conduct; and</p> <p>(h) the director-general has developed a therapeutic protection plan for the child or young person; and</p> <p>(i) the therapeutic protection plan is more likely than not to reduce the likelihood of the child or young person engaging in harmful conduct in the future; and</p> <p>(j) making the order is in the best interests of the child or young person.</p> <p>Examples—other ways to prevent child or young person from engaging in harmful conduct—par (b) and (c)</p> <p>1 The director-general provided Alex’s family with intensive family support services.</p> <p>2 The director-general sought a care and protection order including a parental responsibility provision for Bonny. Under the order, Bonny was placed with a foster carer and provided with intensive support services.</p> <p>3 The director-general provided Colin with the same services that are provided under a therapeutic protection plan but Colin was not</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>confined at a therapeutic protection place.</p> <p><i>Note 1:</i> In a proceeding for a therapeutic protection order, a fact is proved if it is proved on the balance of probabilities (see s 711).</p> <p><i>Note 2:</i> The Children's Court may make an order imposing an obligation on a person only if the person agrees to it, has been given an opportunity to be heard about it or cannot be found (see s 718).</p>
			550	<p><b>Therapeutic protection order—length</b></p> <p>The length of a therapeutic protection order:</p> <p>(a) must be stated in the order; and</p> <p>(b) must not be longer than 8 weeks.</p> <p><i>Note:</i> A therapeutic protection order may be extended (see div 16.2.6).</p>
			551	<p><b>Therapeutic protection order—statement of reasons</b></p> <p>If the Children's Court hears and decides an application for a therapeutic protection order, the court must record a written statement of reasons for the decision.</p> <p><i>Note:</i> A party may ask for the statement of reasons (see s 722 (2)).</p>
			678	<p><b>ACT registration of interstate orders and proceedings—Maori children and young people</b></p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) This section applies if:</p> <p>(a) a child welfare order or child welfare proceeding for a child or young person is transferred under an interstate law to the ACT from New Zealand; and</p> <p>(b) the child or young person is a Maori child or young person.</p> <p>(2) In deciding what finding or order to make in a proceeding for the child or young person under this Act, the Children's Court must have regard to the principle that, if practicable, the relationship between the child or young person and his or her family, whanau, hapu, iwi, family groups and community group must be maintained and strengthened.</p>
			730	<p><b>Principles—Chapter 20</b></p> <p>In making a decision or taking action under this chapter for a childcare service, the following childcare services principles should be applied:</p> <p>(a) childcare services must provide care that is safe, positive and nurturing; and</p> <p>(b) childcare services must promote the educational, social and developmental wellbeing of children.</p> <p>Note: In making a decision under this chapter for a child or young person, the decision-maker must regard the best interests of the child or young person as the paramount consideration (see s 8). In making a decision under this chapter otherwise than for a particular child or</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				young person, the decision-maker must consider the best interests of children and young people (see s 8).
			815	This section deals with the power of an authorised person to enter the premises where a child or young person is living.
	<b>Crimes (Sentencing) Act 2005</b>	ACT	133G	<p><b>Young offenders—sentences of imprisonment</b></p> <p>(1) This section applies if a court is sentencing a young offender to imprisonment under section 10.</p> <p>Note: Section 10 allows a court to sentence an offender to imprisonment if satisfied that no other penalty is appropriate.</p> <p>(2) The sentence of imprisonment must be a last resort and for the shortest appropriate term.</p> <p>(3) The court must consider making a combination sentence consisting of:</p> <p>the sentence of imprisonment; and</p> <p>a good behaviour order with a supervision condition.</p> <p>Note: There is no provision for the setting of a non-parole period for a sentence of imprisonment imposed on a young offender (see s 64 (3), definition of excluded sentence of imprisonment).</p> <p>(4) The court must not sentence the young offender to imprisonment for life.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			64	<p><b>Application—pt 5.2</b></p> <p>(1) This part applies to a sentence of imprisonment imposed by a court on an offender for an offence, other than an excluded sentence of imprisonment.</p> <p>(2) However, if the sentence of imprisonment includes a periodic detention period, this part applies only to that part of the sentence to be served otherwise than by periodic detention.</p> <p>(3) In this section:</p> <p><b>'excluded sentence of imprisonment'</b> means:</p> <p>...(f) a sentence of imprisonment imposed on a young offender.</p>
	<b>Human Rights Act 2004</b>	ACT	11	<p><b>Protection of the family and children</b></p> <p>(1) The family is the natural and basic group unit of society and is entitled to be protected by society.</p> <p>(2) Every child has the right to the protection needed by the child because of being a child, without distinction or discrimination of any kind.</p> <p>Examples of distinction or discrimination</p> <p>Distinction or discrimination because of race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			22(3)	A child who is charged with a criminal offence has the right to a procedure that takes account of the child's age and the desirability of promoting the child's rehabilitation.
	<b>Mental Health (Treatment and care) Act 1994</b>	ACT	25(1)	<p><b>Consultation by ACAT etc.</b></p> <p>(1) Before making a mental health order in relation to a person, the ACAT must, as far as practicable, consult:</p> <p>(a) if the person is a child, the people with parental responsibility for the child under the <i>Children and Young People Act 2008</i>, division 1.3.2; and</p> <p>(b) the person most likely to be responsible for providing the treatment, programs and other services proposed to be ordered.</p> <p><i>ACAT</i> means the ACT Civil and Administrative Tribunal established under the <i>ACT Civil and Administrative Tribunal Act 2008</i>.</p>
			70A	<p><b>Recommendations about people with mental illness or mental dysfunction</b></p> <p>(1) This section applies if the Children's Court makes a care and protection order, interim care and protection order with a mental health ACAT provision or interim therapeutic protection order, under the <i>Children and Young People Act 2008</i> requiring a person to submit to the jurisdiction of the ACAT to enable the ACAT:</p> <p>(a) to determine whether the person has a mental illness or mental</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>dysfunction; and</p> <p>(b) if the ACAT determines that the person has a mental illness or mental dysfunction, to make recommendations to the court about how the person should be dealt with.</p> <p>(2) After an inquiry, and as the ACAT thinks appropriate in relation to the person:</p> <p>(a) the ACAT must determine on the balance of probabilities, whether or not the person has a mental illness or mental dysfunction; and</p> <p>(b) if the ACAT determines that the person has a mental illness or mental dysfunction, the ACAT must make recommendations.</p>
			79(2)(b)	<p><b>Applications</b></p> <p>(1) This section applies to an application to the ACAT under the Act.</p> <p><i>Note:</i> Making applications to the ACAT is dealt with under the <i>ACT Civil and Administrative Tribunal Act 2008</i>, s 10.</p> <p>(2) The ACAT must, as soon as practicable and not longer than 24 hours after the application is lodged, give a copy of the application to:</p> <p>(a) the public advocate; and</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				(b) if the subject person is a child—the CYP director-general.  <b>'CYP director-general'</b> means the director-general responsible for the <i>Children and Young People Act 2008</i> .
	<b>Parentage Act 2004</b>	ACT	23	<b>'substitute parent agreement'</b> means a contract, agreement, arrangement or understanding under which:  (a) a woman agrees that:  (i) the woman will become, or attempt to become, pregnant; and  (ii) a child born as a result of the pregnancy will be taken to be (whether by adoption, agreement or otherwise) the child of someone else; or  (b) a woman who is pregnant agrees that a child born as a result of the pregnancy will be taken to be (whether by adoption, agreement or otherwise) the child of someone else.
			38	<b>Children all of equal status</b>  (1) This section applies if the relationship of a person with his or her parents, or with either of them, is to be decided under a Territory law, whether in a proceeding before a court or otherwise.  (2) The relationship must be decided without regard to whether the parents of the person are or have ever been married to, or in a civil union or civil partnership with, each other.  (3) All other relationships of or to the person, whether of

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				consanguinity or affinity, must be decided in the same way.  (4) This section is subject to section 39.  (5) In this section:  <b>'affinity'</b> means affinity derived through marriage, civil union, civil partnership or any other domestic partnership.
			40	<b>Meaning of commercial substitute parent agreement</b>  <b>'commercial substitute parent agreement'</b> means a substitute parent agreement under which a person agrees to make or give to someone else a payment or reward, other than for expenses connected with:  (a) a pregnancy (including any attempt to become pregnant) that is the subject of the agreement; or  (b) the birth or care of a child born as a result of that pregnancy.
			41	<b>Commercial substitute parent agreements prohibited</b>  A person commits an offence if the person intentionally enters into a commercial substitute parent agreement.  Maximum penalty: 100 penalty units, imprisonment for 1 year or both.
			42	<b>Procurement of substitute parent agreements</b>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(1) A person commits an offence if the person procures someone to enter into a substitute parent agreement with a third person.</p> <p>Maximum penalty: 100 penalty units, imprisonment for 1 year or both.</p> <p>(2) However, a person does not commit an offence under subsection (1) if the person intends to be a party to the agreement.</p>
			43	<p><b>Advertising in relation to substitute parent agreements</b></p> <p>(1) A person commits an offence if the person:</p> <p>(a) publishes an advertisement, notice or anything else with the intention of inducing someone to enter into a substitute parent agreement; or</p> <p>(b) publishes an advertisement, notice or anything else that:</p> <p>(i) is likely to induce someone to enter into a substitute parent agreement; or</p> <p>(ii) seeks or purports to seek someone who is willing to enter into a substitute parent agreement; or</p> <p>(iii) states or implies that someone is willing to enter into a substitute parent agreement.</p> <p>Maximum penalty:</p> <p>(a) if the offence relates to a commercial substitute parent</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>agreement—50 penalty units, imprisonment for 6 months or both; or</p> <p>(b) in any other case—50 penalty units.</p> <p>(2) In this section:</p> <p><b>'publish'</b>—something is <b>'published'</b> if it is:</p> <p>(a) included in a newspaper, periodical publication or other publication; or</p> <p>(b) publicly exhibited in, on, over or under a building, vehicle or place (whether or not a public place and whether on land or water), or in the air in view of people on a street or in a public place; or</p> <p>(c) contained in a document given to someone or left on premises where someone lives or works; or</p> <p>(d) broadcast by radio or television; or</p> <p>(e) electronically disseminated in another way (for example, by inclusion on a web site).</p>
			44	<p><b>Facilitating pregnancy</b></p> <p>A person commits an offence if:</p> <p>(a) the person intentionally provides a professional or technical service to someone else; and</p> <p>(b) the person knows the other person is, or intends to be, a party to</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>a commercial substitute parent agreement; and</p> <p>(c) the person provides the service with the intention of assisting the other person to become pregnant for the purpose of the agreement.</p> <p>Maximum penalty: 100 penalty units, imprisonment for 1 year or both.</p>
			45	<p><b>Geographical nexus for offences</b></p> <p>(1) A geographical nexus exists between the ACT and an offence against this part if, when the offence is committed, the person who commits the offence is ordinarily resident in the ACT.</p> <p>(2) This section is additional to, and does not limit, the Criminal Code, section 64 (2) (Extension of offences if required geographical nexus exists).</p>
	<b>Public Advocate Act 2005</b>	ACT	10	<p><b>Functions of public advocate</b></p> <p>The public advocate has the following functions:</p> <p>(a) acting as advocate for the rights of children and young people and, as part of acting as advocate for those rights, doing the following:</p> <p>(i) promoting the protection of children and young people from abuse and exploitation; and</p> <p>(ii) monitoring the provision of services for the protection of</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>children and young people; and</p> <p>(iii) dealing, on behalf of people with a disability and children and young people, with entities providing services; and</p> <p>(iv) exercising the functions given to the public advocate under the <i>Children and Young People Act 2008</i>, the <i>Guardianship and Management of Property Act 1991</i> and the <i>Mental Health (Treatment and Care) Act 1994</i>.</p>