

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
<p>ARTICLE 38</p> <p>1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.</p> <p>2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.</p> <p>3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.</p> <p>4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected</p>	Defence Act 1903	Cth	Section 34	Except as otherwise provided by this Act (see for example, section 59 below) or any other Act, the Army shall be kept up by the appointment to the Army, or the enlistment in the Army, of persons who volunteer and are accepted for service in the Army.
	Defence Act 1903	Cth	Section 59	This section provides for those persons who are liable to serve in the Australian Defence Force in time of war. All persons (except those who are exempt from service under this Part of the Act or to whom this Part of the Act does not apply) who: <p>(a) have resided in Australia for not less than 6 months; and</p> <p>(c) have attained the age of 18 years but have not attained the age of 60 years;</p> <p>are liable, when called upon under section 60, to serve in the Defence Force.</p>
	Defence Act 1903	Cth	Section 60	This section provides that in time of war, the Governor General may by proclamation call upon persons specified in section 59 to serve in the Defence Force in accordance with this Act for the duration of the time of war. <p>A Proclamation under this section must call on persons in the order in which they are included in 'classes' established</p>

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by an armed conflict.				under regulations.
	Geneva Conventions Act 1957	CTH	Schedule 5	<p>Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)</p> <p>Article 70</p> <p>If the civilian population of any territory under the control of a Party to the conflict , other than occupied territory, is not adequately provided with the supplies mentioned in Article 69, relief actions which are humanitarian and impartial in character and conducted without any adverse distinction shall be undertaken, subject to the agreement of the Parties concerned in such relief actions. Offers of such relief shall not be regarded as interference in the armed conflict or as unfriendly acts. In the distribution of relief consignments, priority shall be given to those persons, such as children, expectant mothers, maternity cases and nursing mothers, who, under the Fourth Convention or under this Protocol, are to be accorded privileged treatment or special protection.</p> <p>Article 76 - Protection of women</p> <ol style="list-style-type: none"> 1. Women shall be the object of special respect and shall be protected in particular against rape, forced prostitution and any other form of indecent assault. 2. Pregnant women and mothers having dependent infants who are arrested, detained or interned for reasons related to the armed conflict , shall have their cases considered with

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				<p>the utmost priority.</p> <p>3. To the maximum extent feasible, the Parties to the conflict shall endeavour to avoid the pronouncement of the death penalty on pregnant women or mothers having dependent infants, for an offence related to the armed conflict . The death penalty for such offences shall not be executed on such women.</p> <p>Article 77 - Protection of children</p> <p>1. Children shall be the object of special respect and shall be protected against any form of indecent assault. The Parties to the conflict shall provide them with the care and aid they require, whether because of their age or for any other reason.</p> <p>2. The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, the Parties to the conflict shall endeavour to give priority to those who are oldest.</p> <p>3. If, in exceptional cases, despite the provisions of paragraph 2, children who have not attained the age of fifteen years take a direct part in hostilities and fall into the power of an adverse Party, they shall continue to benefit from the special protection accorded by this Article, whether or not they are prisoners of war .</p>

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				<p>4. If arrested, detained or interned for reasons related to the armed conflict , children shall be held in quarters separate from the quarters of adults, except where families are accommodated as family units as provided in Article 75, paragraph 5.</p> <p>5. The death penalty for an offence related to the armed conflict shall not be executed on persons who had not attained the age of eighteen years at the time the offence was committed.</p> <p>Article 78 - Evacuation of children</p> <p>1. No Party to the conflict shall arrange for the evacuation of children, other than its own nationals, to a foreign country except for a temporary evacuation where compelling reasons of the health or medical treatment of the children or, except in occupied territory, their safety, so require. Where the parents or legal guardians can be found, their written consent to such evacuation is required. If these persons cannot be found, the written consent to such evacuation of the persons who by law or custom are primarily responsible for the care of the children is required. Any such evacuation shall be supervised by the Protecting Power in agreement with the Parties concerned, namely, the Party arranging for the evacuation, the Party receiving the children and any Parties whose nationals are being evacuated. In each case, all Parties to the conflict shall take all feasible precautions to avoid endangering the evacuation.</p> <p>2. Whenever an evacuation occurs pursuant to paragraph 1,</p>

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				<p>each child's education, including his religious and moral education as his parents desire, shall be provided while he is away with the greatest possible continuity.</p> <p>3. With a view to facilitating the return to their families and country of children evacuated pursuant to this Article, the authorities of the Party arranging for the evacuation and, as appropriate, the authorities of the receiving country shall establish for each child a card with photographs, which they shall send to the Central Tracing Agency of the International Committee of the Red Cross. Each card shall bear, whenever possible, and whenever it involves no risk of harm to the child, the following information:</p> <ul style="list-style-type: none"> (a) surname(s) of the child; and (b) the child's first name(s); and (c) the child's sex; and (d) the place and date of birth (or, if that date is not known, the approximate age); and (e) the father's full name; and (f) the mother's full name and her maiden name; and (g) the child's next-of-kin; and (h) the child's nationality; and (i) the child's native language, and any other languages he

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				<p>speaks; and</p> <p>(j) the address of the child's family; and</p> <p>(k) any identification number for the child; and</p> <p>(l) the child's state of health; and</p> <p>(m) the child's blood group; and</p> <p>(n) any distinguishing features; and</p> <p>(o) the date on which and the place where the child was found; and</p> <p>(p) the date on which and the place from which the child left the country; and</p> <p>(q) the child's religion, if any; and</p> <p>(r) the child's present address in the receiving country; and</p> <p>(s) should the child die before his return, the date, place and circumstances of death and place of interment.</p>
	<p>Geneva Conventions Act 1957</p>	<p>CTH</p>	<p>Schedule 4</p>	<p>Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949</p> <p>Article 14</p> <p>In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas,</p>

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				<p>hospital and safety zones and localities so organized as to protect from the effects of war , wounded, sick and aged persons, children under fifteen, expectant-mothers and mothers of children under seven.</p> <p>Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.</p> <p>The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.</p> <p>Article 17</p> <p>The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.</p> <p>Article 23</p> <p>Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its</p>

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				<p>adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.</p> <p>The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:</p> <p>(a) that the consignments may be diverted from their destination; or</p> <p>(b) that the control may not be effective, or</p> <p>(c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.</p> <p>The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.</p> <p>Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which</p>

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				<p>such passage is allowed.</p> <p>Article 24</p> <p>The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.</p> <p>The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.</p> <p>They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.</p> <p>Article 38</p> <p>With the exception of special measures authorized by the present Convention, in particular by Articles 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:</p> <p>(1) They shall be enabled to receive the individual or</p>

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				<p>collective relief that may be sent to them.</p> <p>(2) They shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.</p> <p>(3) They shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.</p> <p>(4) If they reside in an area particularly exposed to the dangers of war , they shall be authorised to move from that area to the same extent as the nationals of the State concerned.</p> <p>(5) Children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.</p> <p>Article 50</p> <p>The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.</p> <p>The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.</p> <p>Should the local institutions be inadequate for the purpose,</p>

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				<p>the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.</p> <p>A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.</p> <p>The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.</p> <p>Article 82</p> <p>The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.</p> <p>Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of</p>

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				<p>employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them.</p> <p>Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.</p> <p>Article 89</p> <p>Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees.</p> <p>Internees shall also be given the means by which they can prepare for themselves any additional food in their possession.</p> <p>Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.</p> <p>Internees who work shall receive additional rations in proportion to the kind of labour which they perform.</p> <p>Expectant and nursing mothers, and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.</p>

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				<p>Article 94</p> <p>The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees, whilst leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises.</p> <p>All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.</p> <p>Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people.</p> <p>Article 132</p> <p>Each interned person shall be released by the Detaining Power as soon as the reasons which necessitated his internment no longer exist.</p> <p>The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, the repatriation, the return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick,</p>

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	<p>Criminal Code Act 1995</p>	CTH	Schedule s 268.68	<p>and internees who have been detained for a long time.</p> <p>268.68 War crime - using, conscripting or enlisting children National armed forces</p> <p>(1) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator uses one or more persons to participate actively in hostilities as members of the national armed forces; and</p> <p>(b) the person or persons are under the age of 15 years; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 17 years.</p> <p>(2) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator conscripts one or more persons into the national armed forces; and</p> <p>(b) the person or persons are under the age of 15 years; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 15 years.</p> <p>(3) A person (the perpetrator) commits an offence if:</p>

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				<p>(a) the perpetrator enlists one or more persons into the national armed forces; and</p> <p>(b) the person or persons are under the age of 15 years; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 10 years.</p> <p>Other armed forces and groups</p> <p>(4) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator uses one or more persons to participate actively in hostilities other than as members of the national armed forces; and</p> <p>(b) the person or persons are under the age of 18 years; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 17 years.</p> <p>(5) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator conscripts one or more persons into an armed force or group other than the national armed forces; and</p> <p>(b) the person or persons are under the age of 18 years; and</p>

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				<p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty: Imprisonment for 15 years.</p> <p>(6) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator enlists one or more persons into an armed force or group other than the national armed forces; and</p> <p>(b) the person or persons are under the age of 18 years; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an international armed conflict.</p> <p>Penalty for a contravention of this subsection: Imprisonment for 10 years.</p>
	Criminal Code Act 1995	CTH	Schedule 1 s 268.88	<p>268.88 War crime - using, conscripting or enlisting children</p> <p>National armed forces</p> <p>(1) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator uses one or more persons to participate actively in hostilities as members of the national armed forces; and</p> <p>(b) the person or persons are under the age of 15 years; and</p> <p>(d) the perpetrator's conduct takes place in the context of, and is associated with, an armed conflict that is not an</p>

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				<p>international armed conflict.</p> <p>Penalty: Imprisonment for 17 years.</p> <p>(2) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator conscripts one or more persons into the national armed forces; and</p> <p>(b) the person or persons are under the age of 15 years; and</p> <p>(d) the perpetrator's conduct takes place in the context of, and is associated with, an armed conflict that is not an international armed conflict.</p> <p>Penalty: Imprisonment for 15 years.</p> <p>(3) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator enlists one or more persons into the national armed forces; and</p> <p>(b) the person or persons are under the age of 15 years; and</p> <p>(d) the perpetrator's conduct takes place in the context of, and is associated with, an armed conflict that is not an international armed conflict.</p> <p>Penalty: Imprisonment for 10 years.</p> <p>Other armed forces and groups</p>

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				<p>(4) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator uses one or more persons to participate actively in hostilities other than as members of the national armed forces; and</p> <p>(b) the person or persons are under the age of 18 years; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an armed conflict that is not an international armed conflict.</p> <p>Penalty: Imprisonment for 17 years.</p> <p>(5) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator conscripts one or more persons into an armed force or group other than the national armed forces; and</p> <p>(b) the person or persons are under the age of 18 years; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an armed conflict that is not an international armed conflict.</p> <p>Penalty: Imprisonment for 15 years.</p> <p>(6) A person (the perpetrator) commits an offence if:</p> <p>(a) the perpetrator enlists one or more persons into an armed force or group other than the national armed forces; and</p>

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				<p>(b) the person or persons are under the age of 18 years; and</p> <p>(c) the perpetrator's conduct takes place in the context of, and is associated with, an armed conflict that is not an international armed conflict.</p> <p>Penalty for a contravention of this subsection: Imprisonment for 10 years.</p>
	<p>International Criminal Code Act 2002</p>	<p>CTH</p>	<p>Schedule 1</p>	<p>Article 8</p> <p>War Crimes</p> <p>2 'War crimes' means:</p> <p>(b) Other serious violations of the laws and customs applicable in international armed conflict , within the established framework of international law, namely, any of the following acts:</p> <p>(xxvi) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.</p> <p>(e) (vii) Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;</p> <p>Article 36</p> <p>8 (a) The States Parties shall, in the selection of judges, take into account the need, within the membership of the Court,</p>

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				<p>for:</p> <ul style="list-style-type: none"> (i) The representation of the principal legal systems of the world; and (ii) Equitable geographical representation; and (iii) A fair representation of female and male judges. <p>(b) States Parties shall also take into account the need to include judges with legal expertise on specific issues, including, but not limited to, violence against women or children.</p>

2. New South Wales

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3. Victoria

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6. Western Australia

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7. Northern Territory

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<p>ARTICLE 38</p> <p>1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.</p> <p>2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.</p> <p>3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.</p> <p>4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.</p>	<p>No Relevant Legislation</p>			

8. Tasmania

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

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9. Australian Capital Territory

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