Note

In order to give effect to the Cross-border Justice Act 2009, this law must be applied with the modifications mentioned in section 13 of the Cross-border Justice Act 2009 as if this law had been altered in that way.

For modifications of this law prescribed by regulation, see Part 3, Division 16 of the Cross-border Justice Regulations 2009.

NORTHERN TERRITORY OF AUSTRALIA

YOUTH JUSTICE ACT 2005

As in force at 12 October 2026

Table of provisions

Part 1 Preliminary matters

Division 1 General matters

1 Short title 1
2 Commencement 1
3 Objects 1
4 Principles 2

Division 2 Interpretation matters

5 Interpretation 3
5A Meaning of *detainee* 9
6 Meaning of *youth* 9
7 Intimate procedures 9
8 Non-intimate procedures 10
9 Illicit drug or substance 11

Division 3 Use of force generally

10 Use of force generally 11

Part 2 Apprehension and remand

Division 1 General matters

12 Application of Part 12
13 Definitions 12
14 Register of appropriate support persons 12

Division 2 Police powers and obligations

15 Explanations by police officers 13
16 Guidelines in relation to arrest of youths 13
17 Authorised officer to be notified 13
17A Protected interview of youth 14
17B Urgent protected interview of youth 15
18 Interview of youth 16
19 Search of youth 17
20 Search must be by person of same gender 18
21 Authorised officer must consent to prosecution 18
22 Charge to be by summons except in certain cases 19
23 Responsible adults to be informed 19
24 Detention of youth not admitted to bail 20
25 Detained youth requiring medical attention 20
25A Youth may be held in police station 21
26 Separation from adults where practicable 21
27 Youth to be brought before Court promptly 22

Division 3 Forensic procedures

28 Interpretation 23
29 Restriction on carrying out procedure 23
30 Intimate procedure 23
31 Non-intimate procedure 25
32 Voluntary non-intimate procedure 26
33 Identifying procedure 27
34 Youth to be provided with copy of report 28

Division 4 Support persons and authorised officers

35 Support person 28
36 Authorised officers 29

Part 3 Diversion of youth

37 Purpose and application of Part 29
38 Definitions 30
38A Meaning of *prescribed offence* 30
39 Diversion of youth 30
40 Diversion in circumstances where youth denies behaviour 31
41 Effect of diverting youth 31
42 Extension of limitation period 32
42A Reporting on diversion of youth 32
43 Publication of information of diversion 33
44 No review or appeal 33

Part 4 Youth Justice Court

45 Continuation and constitution 34
46 Exercise of jurisdiction 34
46A Changes in constitution of Court during proceedings 34
47 Registrar of Youth Justice Court 35
48 Where Youth Justice Court may be held 36
49 Proceedings to be in closed court 36
50 Restriction of publication 38
51 Youth in need of protection 40

Part 5 Court proceedings

Division 1 Jurisdiction and proceedings generally

52 Jurisdiction of Youth Justice Court 41
53 Application of other Acts 41
54 Court to deal with matters summarily except in certain cases 42
54A Exception if adult offender would be liable to life imprisonment 42
55 Indictable offence tried summarily if youth consents 42
56 Court may decline to hear and determine charge summarily 43
56A Youth may elect to be tried summarily 43
56B Youth and adult charged – joint preliminary examination 44
57 Referral to Supreme Court for sentencing 45
58 Pleas in summary hearing 45
59 Exclusion of evidence unlawfully obtained 46
60 Points of law may be reserved for consideration of Supreme Court 46
61 Court must explain proceedings to youth 47
62 Legal representation of youth 47
63 Responsible adults to attend court 47
64 Court may refer youth to diversion 48
64A Youth Justice Court may dismiss charges 48
65 Court may remand youth 49

Division 2 Reports and submissions

66 Enquiry and examination authorised 49
67 Report as to mental condition of youth 50
68 Court may seek submissions or reports 50
69 Court must require pre-sentence report 50
70 Content of pre-sentence report 50
71 Report in certain circumstances 51
72 Court may adjourn for report to be prepared 52
73 Reports to be made available 52
74 Challenge to contents of report 52
75 Protection in relation to report 52

Division 3 Victim impact statements and victim reports

76 Definitions 53
77 Court must consider victim impact statement or victim report 53
78 Victim impact statements 54
79 Victim reports 54
80 Other matters may be addressed 55

Division 4 Community court sentencing procedure

80A Definitions 55
80B Meaning of *Aboriginal experience report* 56
80C Application for community court sentencing procedure 56
80D Community court sentencing procedure 56
80E Information in Aboriginal experience report and responses of Law and Justice Group 57
80F Rules of Court and practice directions 57

Part 6 Disposition by Court

Division 1 General principles

81 Principles and considerations to be applied to youth offenders 58
82 Powers of Supreme Court in sentencing 59

Division 2 Sentencing options

83 Orders Court may make 59
84 Court may order pre-sentencing conference 61
85 Non-parole period 62
86 Fixing non-parole period otherwise than at time of sentencing 62
87 Fixing new non-parole period in respect of multiple sentences 62
88 Court may disqualify youth from holding driving licence 63
89 Restitution 63

Division 3 Approved programs

90 Matters relating to approved programs 64

Division 4 Good behaviour orders

91 Making good behaviour order 65

Division 5 Fines

92 Imposition of fine 66

Division 6 Community work orders

93 Application and purpose of community work orders 67

94 Making community work order 67
95 Duties of youth in carrying out community work order 68
96 Breach of community work order 69
97 CEO may approve projects 69

Division 7 Suspended sentences

98 Making order to suspend sentence 69
98A Procedural matters 70

Division 8 Alternative detention orders

99 Application 70
100 Making alternative detention order 70
101 Circumstances in which alternative detention order may be made 71
102 Conditions of order 71
103 Procedural matters 72
104 If more than one alternative detention order made 72
110 Breach of alternative detention order 72

Division 9 Periodic detention orders

111 Application 73
112 Making periodic detention order 73
113 Order must specify number of detention or imprisonment periods 73
114 Conditions of order 74
115 Procedural matters 74
116 Order remains in force until served or cancelled 75
117 Warrant of commitment covers all periods 75
118 Youth in lawful custody 75
119 Appropriate authority can vary times 75
120 Youth unfit for detention or imprisonment 76

Division 10 Breach of order and re-offending during adjournment

121 Breach 76
122 Youth offends during adjournment 77

Division 11 Miscellaneous matters

123 Explanation of orders 78
124 Arrest without warrant if condition breached 78
125 Aggregate sentences of detention or imprisonment 78
126 Detention or imprisonment to be concurrent unless otherwise ordered 79
127 Cumulative orders of detention or imprisonment 79

128 Taking other offences into account 80
129 Sentence of detention or imprisonment may be backdated 80
130 Order of service of sentences of detention or imprisonment 80
131 Further sentence if detainee on parole 80
133 Parents liable for costs of detention 81
134 Forfeiture of bail 82
135 Registrar may disclose name of youth 83
137 Procedure where youth before another court 83
138 Procedure where adult before Youth Justice Court 84
139 Court has jurisdiction 84
140 Referred proceedings valid 85

Part 6AA Community youth justice officers and monitoring

Division 1 Community youth justice officers

140AA Community youth justice officers 85

Division 2 Monitoring

140AB Approval of monitoring devices 86
140AC Direction by community youth justice officer 86
140AD CEO may direct use of approved monitoring device 86
140AE Compliance with monitoring order 86

Division 3 Alcohol and drug testing

140AF Prescribed alcohol/drug tests 87
140AG Tampering with test samples 89
140AH Evidentiary matters in relation to prescribed alcohol/drug tests 89

Part 7 Reconsideration and review of sentences and appeals

141 Reconsideration of sentence 89
142 Review of sentencing orders 90
143 Court may re-open proceeding to correct sentencing errors 91
144 Appeal to Supreme Court 92
145 Appeal operates as stay 93
146 Single Judge may refer appeal to Full Court 93
147 Powers of Supreme Court on appeal 93

Part 8 Youth detention centres

Division 1AA General matters

147A Functions of CEO 93
147B Powers of CEO 93

147C Assistance to deal with or prevent emergency or escape 94

Division 1 Detention centres

148 Approval of youth detention centres 95
149 Admission to detention centre 95
150 Explanation of rights and responsibilities 95

Division 2 Superintendent

151 Superintendent of detention centre 96
152 Powers of superintendent 96
153 Prohibited actions 97
154 Use of force 98
155 Use of restraint devices 99
156 Detainee's right to be heard 100
157 Delegation by superintendent 100
158 Register of detainees 100
158A Register of use of permitted restraints 101

Division 2A Separation of detainees

158B Separation in accordance with this Division 102
158C Operational matters 102
158D Voluntary separation 103
158E Medical separation 103
158F Behavioural separation 105
158G Monitoring requirements 106

Division 3 Detainees

159 Sample by buccal swab 107
160 Detainee may be tested for alcohol or illicit drug 107
161 Search of detainees 108
162 At risk detainees 110
163 Complaint 111

Division 4 Miscellaneous matters

164 Detainee who becomes an adult 111
165 Superintendent may permit absence from centre 112
166 Early release by superintendent 112
167 Arrest of unlawfully absent detainee 112
167A Return to custody 113
167B Use of detention centre to accommodate sheriff's detainees 113
168 Inspection of detention centre 113
168A Transfer of detainee 114

Part 8A Intake and transfer facilities

168B Approval of intake and transfer facility 114
168C Purpose of intake and transfer facility 114
168D Superintendent of intake and transfer facility 114
168E Powers of superintendent of intake and transfer facility 115
168F Youth may be held at intake or transfer facility following Court order for detention 115
168G Transfer of detainee 115
168H Provisions to apply in relation to intake and transfer facilities 115

Part 9 Official visitors

169 Appointment of official visitors 116
170 Functions of official visitors 116
171 Frequency of visits 117
172 Official visitors not to interfere 117

Part 10 Medical treatment for detainees

173 Access to medical practitioner 117
174 Direction of medical practitioner 117
175 Taking of medical sample 117
176 Detainee may be required to be examined or treated 118
177 CEO can give consent 118
178 Removal to hospital 119
179 Custody of detainee in hospital 119
180 Notification of illness or death 119

Part 11 Interstate transfer of detainees and youths under supervision

181 Definitions 120
182 Application of Part 120
183 Ministers may agree 120
184 Transfer from Territory 121
185 Transfer from State to Territory 122
186 Reports 122
187 Escort for transfer 122
188 Information to be sent to corresponding Minister 123
189 Sentence transferred 123
190 Order revoked if transferee escapes 123
191 Territory transferee subject to supervision 123
192 Youth subject to supervision in State 124

Part 12 Offences

193 Escaping from lawful detention 124
194 Escape of interstate detainee 125

195 Aiding or abetting escapee 125
196 Loitering 125
197 Contraband 126
198 Communication 126
199 Offence to remove youth 126
200 Obstructing or hindering detention centre staff and other officers 127
201 Personation 127

Part 14 Miscellaneous matters

214 Confidentiality 127
215 Immunity 129
215A Prosecutions 129
215B Civil proceedings 129
216 Delegation by Minister or CEO 130
216A Annual report 130
217 Regulations 130

Part 15 Repeals and transitional matters for Youth Justice Act 2005

218 Definition 132
219 Repeal of Acts 132
220 Saving of approvals and appointments 133
221 Orders of Juvenile Court 133
222 Proceedings not completed 133
223 Offences committed before commencement of this Act 133

Part 16 Provisions for Youth Justice Amendment Act 2010

224 Exercise of jurisdiction under pre-commencement Act 134
225 Matter before Supreme Court at commencement 135

Part 17 Transitional matters

Division 1 Criminal Code Amendment (Criminal Damage) Act 2011

226 Transitional matters for Criminal Code Amendment (Criminal Damage) Act 2011 136

Division 2 Justice and Other Legislation Amendment Act 2014

227 Application of section 131 to offences committed before commencement 136

Division 3 Sentencing Legislation Amendment Act 2015

228 Application of amendments 136

Division 4 Transitional matters for Youth Justice Legislation Amendment Act 2017

229 Definitions 137
230 Immunity continues 137
231 Prosecutions may be made by Commissioner of Correctional Services 137
232 Superseded references to certain offices 138

Division 5 Transitional matters for Youth Justice Legislation Amendment Act 2018

233 Definitions 138
234 Isolated detainees 138
235 Restrained detainees 139

Division 6 Transitional matters for Youth Justice and Related Legislation Amendment Act 2019

236 Definitions 139
237 Application of section 215B after commencement 139
238 Application of section 215B before commencement 139

Division 7 Transitional matters for Sexual Offences (Evidence and Procedure) Amendment Act 2020

239 Publications allowed under section 50(2) 140

Division 9 Transitional matters for Sentencing Legislation Amendment Act 2023

241 Application of Part 5, Division 4 140

Division 10 Transitional matters for Youth Justice Legislation Amendment Act 2025

242 Definitions 140
243 Register of appropriate support persons 141
244 Amendments to section 81: sentencing principles and considerations 141
245 Amendments to section 122: offences during adjournment 141

Schedule Repealed Acts

ENDNOTES

NORTHERN TERRITORY OF AUSTRALIA

As in force at 12 October 2026

YOUTH JUSTICE ACT 2005

An Act providing for justice in relation to youths who have committed or are alleged to have committed offences, and for related matters

Part 1 Preliminary matters

Division 1 General matters

1 Short title

This Act may be cited as the *Youth Justice Act 2005*.

2 Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3 Objects

The following are objects of this Act:

(a) to specify the general principles of justice in respect of youth;

(b) to provide for the administration of justice in respect of youth;

(c) to provide how a youth who has committed, or is alleged to have committed, an offence is to be dealt with;

(d) to ensure that a youth who has committed an offence is made aware of his or her obligations (and rights) under the law and of the consequences of contravening the law;

(e) to ensure that a youth who has committed an offence is given appropriate treatment, punishment and rehabilitation;

(f) to continue in existence the Juvenile Court, established by the repealed Act, as the Youth Justice Court.

4 Principles

The following are general principles that must be taken into account in the administration of this Act:

(a) if a youth commits an offence, he or she must be held accountable and encouraged to accept responsibility for the behaviour;

(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;

(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;

(e) a youth should be made aware of his or her obligations under the law and of the consequences of contravening the law;

(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;

(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;

(h) family relationships between a youth and members of his or her family should, where appropriate, be preserved and strengthened;

(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;

(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;

(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;

(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;

(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;

(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;

(o) if practicable, an Aboriginal youth should be dealt with in a way that involves the youth's community;

(p) programs and services established under this Act for youth should:

(i) be culturally appropriate; and

(ii) promote their health and self-respect; and

(iii) foster their sense of responsibility; and

(iv) encourage attitudes and the development of skills that will help them to develop their potential as members of society;

(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;

(r) as far as practicable, proceedings in relation to youth offenders must be conducted separately from proceedings in relation to adult offenders.

Division 2 Interpretation matters

5 Interpretation

(1) In this Act:

Aboriginal means:

(a) a descendant of the Aboriginal people of Australia; or

(b) a descendant of the indigenous inhabitants of the Torres Strait Islands.

Aboriginal customary law means:

(a) customary law of the Aboriginal people of Australia; or

(b) customary law of the indigenous inhabitants of the Torres Strait Islands.

Aboriginal experience report, for Part 5, Division 4, see section 80B.

Aboriginal tradition means:

(a) tradition of the Aboriginal people of Australia; or

(b) tradition of the indigenous inhabitants of the Torres Strait Islands.

alternative detention order means an order made under section 83(1)(j).

appropriate authority, in relation to a youth, means:

(a) for a youth sentenced to a term of imprisonment – the Commissioner of Correctional Services; or

(b) otherwise – the CEO.

approved member, for Part 5, Division 4, see section 80A.

approved monitoring device means a monitoring device approved under section 140AB.

approved project means a rehabilitation project or work, or both, approved under section 97.

buccal swab means a procedure where a sample of saliva or mouth cells is taken from the inside of a person's cheek by use of a swab.

CEO means the Chief Executive Officer.

charge, in respect of an offence, includes:

(a) an information in respect of an indictable offence; and

(b) a complaint in respect of a summary offence.

community court sentencing procedure, for Part 5, Division 4, see section 80A.

community work order means an order made under section 83(1)(h).

community youth justice officer means a person who is appointed as a community youth justice officer under section 140AA.

Court means the Youth Justice Court as mentioned in section 45 and, if the context requires, includes the Supreme Court exercising its jurisdiction under this Act.

custodial correctional facility, see section 11(1)(a) of the *Correctional Services Act 2014.*

detainee, see section 5A.

detention centre means a youth detention centre approved under section 148.

divert, for Part 3, see section 38.

emergency situation includes a situation in which there is an imminent risk of a youth:

(a) inflicting self-harm; or

(b) harming another person; or

(c) seriously damaging property.

family responsibility agreement, see section 65C of the *Care and Protection of Children Act 2007*.

Fines Recovery Unit means the Fines Recovery Unit established under the *Fines and Penalties (Recovery) Act 2001*.

forensic procedure means an intimate procedure or non-intimate procedure.

good behaviour order means an order made under section 83(1)(f).

identifying procedure has the meaning in section 8(2).

illicit drug or substance has the meaning in section 9.

intake and transfer facility means an intake and transfer facility approved under section 168B.

intimate procedure has the meaning in section 7.

Law and Justice Group, for Part 5, Division 4, see section 107C(2) of the *Sentencing Act 1995*.

midwife means a person registered under the Health Practitioner Regulation National Law to practise in the midwifery profession (other than as a student).

monitoring device means one of the following:

(a) an electronic device attached to, or worn by, a person for one or more of the following purposes:

(i) to monitor a person's compliance with a monitoring order;

(ii) to monitor a person's compliance with this Act;

(iii) a purpose prescribed by regulation;

(iv) to enable electronic reporting of the results of the matters mentioned in subparagraphs (i) to (iii);

(b) a voice recognition system that is designed to:

(i) verify the voice of a particular person; and

(ii) enable the person's geographical location to be monitored.

monitoring order means any of the following:

(a) an alternative detention order;

(b) any other order made under this Act or the *Sentencing Act 1995* that:

(i) imposes a condition on a youth; and

(ii) requires the CEO or a community youth justice officer to monitor compliance with the condition;

(c) a parole order as defined in section 3(1) of the *Parole Act 1971*.

non-intimate procedure has the meaning in section 8(1).

non-parole period, for a sentence of detention or imprisonment, means a period fixed by the Court during which the youth is not eligible to be released on parole.

nurse means a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession (other than as a student).

official visitor means a person appointed to be an official visitor under section 169.

parental responsibility means all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children.

periodic detention order means an order made under section 83(1)(k).

permitted restraint means a restraint device prescribed under section 155(1).

preliminary examination means the procedure under Part V of the *Local Court (Criminal Procedure) Act 1928* relating to indictable offences.

prescribed alcohol/drug test means a test prescribed as mentioned under section 140AF(6)(a).

prescribed offence, see section 38A.

proceedings, in relation to a youth, includes a preliminary examination.

prosecutor includes the Director of Public Prosecutions.

relative includes a relative according to Aboriginal tradition or contemporary social practice, a spouse and a de facto partner.

responsible adult, 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.

restricted drug, for a youth, means any of the following:

(a) a dangerous drug as defined in section 3(1) of the *Misuse of Drugs Act 1990*;

(b) a Schedule 4, 8 or 9 substance as defined in section 7 of the *Medicines, Poisons and Therapeutic Goods Act 2012*;

(c) any other drug specified in the youth's monitoring order as one that the youth is not permitted to use.

superintendent:

(a) of a detention centre – means the superintendent appointed for the detention centre under section 151(1); and

(b) of an intake and transfer facility – means the superintendent appointed for the facility under section 168D.

support person has the meaning in section 35.

the repealed Act means the *Juvenile Justice Act 1983* as in force immediately before the date on which this Act commences.

victim means:

(a) a person who suffers harm arising from an offence; or

(b) if a person dies as a result of the commission of the offence, a person who was a relative of, or who was financially or emotionally dependent on, the deceased person.

youth has the meaning in section 6.

Youth Justice Conference, in relation to a youth, includes:

(a) a conference with the victim or victims of the offence the youth is believed to have committed; and

(b) a conference with members of the youth's family.

Note for subsection (1)

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

(2) In this Act, if the context requires, ***Local Court Judge*** includes a Supreme Court Judge.

(3) In this Division:

intimate part of the body means any of the following:

(a) the genital area;

(b) the anal area;

(c) the buttocks;

(d) if the youth is a female – the breasts.

non-intimate part of the body means a part of the body that is not an intimate part of the body.

5A Meaning of *detainee*

(1) A ***detainee*** is

(a) in relation to a detention centre – a youth lawfully detained in the centre; and

(b) in relation to an intake and transfer facility – a youth lawfully detained in the facility.

(2) A youth mentioned in subsection (1)(a) or (b) remains a detainee when the youth is outside of or absent from the precincts of the detention centre or the intake and transfer facility.

(3) In this Act, a reference to a detainee in, or at, a detention centre or an intake and transfer facility includes a detainee of the centre or facility who is outside of or absent from the precincts of the centre or facility.

Examples for subsections (2) and (3)

A detainee who is, outside the precincts of a detention centre or intake and transfer facility, undertaking approved activities, attending court or in hospital receiving medical treatment, or who has absconded from a detention centre or intake and transfer facility.

6 Meaning of *youth*

(1) In this Act, a youth is:

(a) a person under 18 years of age; or

(b) in the absence of proof as to age, a person apparently under 18 years of age.

(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.

7 Intimate procedures

For this Act, an intimate procedure includes any of the following:

(a) an internal or external examination of an intimate part of the body;

(b) an internal examination of a non-intimate part of the body;

(c) taking from an intimate part of the body a substance, or a sample of a substance, on or in the body;

(d) taking a sample of blood (other than by a swab or washing from an external non-intimate part of the body);

(e) taking a sample of pubic hair;

(f) taking a sample from an intimate part of the body:

(i) by swab or washing; or

(ii) by vacuum suction, scraping or lifting by tape;

(g) taking a dental impression or an impression of a bite mark;

(h) taking a photograph, or an impression or cast, of a wound to an intimate part of the body;

(i) taking an X-ray;

(j) taking a sample of urine.

8 Non-intimate procedures

(1) For this Act, a non-intimate procedure includes any of the following:

(a) taking a sample of saliva or a sample by buccal swab;

(b) an external examination of a non-intimate part of the body;

(c) taking a sample of hair other than pubic hair;

(d) taking a sample from an external non-intimate part of the body:

(i) by swab or washing; or

(ii) by vacuum suction, scraping or lifting by tape;

(e) taking a photograph of, or an impression or cast of a wound to, a non-intimate part of the body;

(f) an identifying procedure.

(2) In subsection (1):

identifying procedure means:

(a) the taking of prints of the hands, fingers, feet or toes; or

(b) the taking of photographs of the youth that are:

(i) of an identifying nature; and

(ii) of a non-intimate part of the body.

9 Illicit drug or substance

For this Act, an illicit drug or substance is any of the following:

(a) a drug or substance, the possession of which is prohibited under a law in force in the Territory;

(b) a drug or substance for which a prescription is required, if no prescription is in force in relation to the youth:

(i) in whose possession the drug or substance is found; or

(ii) in whose body the drug or substance is detected;

(c) in relation to a youth who is detained at a detention centre or intake and transfer facility – a drug or substance, the possession of which is prohibited under the rules of the centre or facility;

(d) in relation to a youth who is the subject of an alternative detention order – a drug or substance, the possession of which is prohibited under the conditions of the order.

Division 3 Use of force generally

10 Use of force generally

(1) If this Act permits a person to use force on a youth, the person may only use force if:

(a) all other reasonably practicable measures to resolve the situation have been attempted and those measures have failed to resolve the situation; and

(b) the person using the force:

(i) gives a clear warning of the intended use of force; and

(ii) allows a reasonable amount of time for the youth to observe the warning; and

(iii) uses no more force than the person considers to be necessary and reasonable in the circumstances as perceived by the person; and

(iv) holds a current qualification in physical intervention techniques on youths.

Note for subsection (1)(b)(iv)

See section 147C(4) in relation to police officers and correctional officers providing assistance under that section.

(2) Subsection (1)(a) and (b)(i) and (ii) do not apply if the force is used in an emergency situation.

(3) For subsection (1)(b)(iii), a person considering what force is necessary and reasonable in the circumstances may have regard to the age, gender, physical and mental health, or background of the youth in relation to whom the force is to be used.

Part 2 Apprehension and remand

Division 1 General matters

12 Application of Part

This Part applies despite the provisions of any other Act.

13 Definitions

In this Part, unless the contrary intention appears:

authorised officer means:

(a) the Commissioner of Police, a Deputy Commissioner of Police or Assistant Commissioner of Police; or

(b) a police officer authorised under section 36.

interview includes asking questions of a person.

14 Register of appropriate support persons

(1) The CEO must establish and maintain a register of persons appropriate to be support persons.

(2) The register must include persons who are suitable to be support persons for Aboriginal youth.

(3) The register must not include youths, police officers or persons who are employed at a detention centre or intake and transfer facility.

Division 2 Police powers and obligations

15 Explanations by police officers

(1) If a police officer is required to inform a youth of any matter in relation to an investigation of an offence, whether under this Act or any other law in force in the Territory, the explanation must be made in a language and manner the youth is likely to understand, having regard to the youth's age, health, maturity, cultural background and English language skills.

(1A) If the youth appears to have insufficient English language skills to understand the explanation, the police officer must take reasonable efforts to obtain a qualified interpreter for the explanation.

(2) Before a youth is searched in connection with the investigation of an offence, a police officer must, unless impracticable, inform the youth of his or her ability to access legal advice and representation.

(3) Any action taken is not unlawful, and any evidence obtained is not inadmissible, only because of a failure to comply with this section.

16 Guidelines in relation to arrest of youths

(1) The Commissioner of Police may, by general orders issued under the *Police Administration Act 1978*, issue guidelines, not inconsistent with that Act or this Act, in relation to the arrest of youths and the investigation of offences committed or believed to have been committed by youths.

(2) The arrest of a youth in relation to an offence, without a warrant but in accordance with the guidelines referred to in subsection (1), is not unlawful only because:

(a) an authorised officer does not consent to a prosecution in relation to the matter; or

(b) it subsequently appears, or it is found by a court or a jury, that the youth did not commit the offence.

(3) The arrest of a youth is not unlawful only because the police officer arresting the youth did not do so in accordance with this Act or the guidelines if, at the time of the arrest the officer reasonably believed that the person arrested was not a youth.

17 Authorised officer to be notified

If the police officer who arrests a youth is not an authorised officer, he or she must, as soon as practicable after the youth is arrested, notify an authorised officer of the arrest.

17A Protected interview of youth

(1) This section applies in relation to a youth if a police officer suspects on reasonable grounds that the youth:

(a) has committed an offence; or

(b) is implicated in the commission of an offence; or

(c) has knowledge in relation to an offence.

(2) The officer may invite the youth to participate in a protected interview for any of the following purposes:

(a) to determine whether the youth may be eligible for a diversion program;

(b) to obtain information about an offence.

(3) Any statement, confession, admission or information given or made by the youth during a protected interview is not admissible in any criminal or civil proceedings against the youth.

(4) The officer must do the following before interviewing the youth under this section:

(a) inform the youth of the youth's right to silence;

(b) inform the youth that anything the youth says in the interview cannot be used against them in any criminal or civil proceedings;

(c) inform the youth of the youth's right to access legal advice and representation;

(d) provide the youth with access to legal advice and representation in a place and a manner that allows the youth privacy;

(e) inform the youth of the youth's right to contact a support person and have them be present while the officer interviews the youth.

Note for subsection (4)

Section 15 applies to explanations by police officers in relation to an investigation of an offence.

(5) If the youth's right to silence is exercised the officer must not interview the youth under this section.

(6) The officer must not interview the youth under this section unless a support person is present.

(7) The officer must keep a record of the particulars prescribed by regulation in relation to the exercise of a power under this section.

(8) After interviewing a youth under this section, a police officer must give the youth a written notice:

(a) specifying the time and date of the protected interview; and

(b) stating that any statement, confession, admission or information given or made by the youth during the protected interview is not admissible in any criminal or civil proceedings against the youth.

(9) To avoid doubt, this section does not affect any of the following:

(a) the ability of a police officer to conduct an interview with the youth under section 18;

(b) the power of a police officer, under the *Police Administration Act 1978* or any other Act, to require a youth to give the youth's name and address.

17B Urgent protected interview of youth

(1) This section applies in relation to a youth if a police officer suspects on reasonable grounds that the youth has knowledge in relation to a serious and urgent matter concerning public safety.

(2) The officer may invite the youth to participate in an urgent protected interview to obtain information about the matter.

(3) Any statement, confession, admission or information given or made by the youth during an urgent protected interview is not admissible in any criminal or civil proceedings against the youth.

(4) The officer must do the following before interviewing the youth under this section:

(a) inform the youth of the youth's right to silence;

(b) inform the youth that anything the youth says in the interview cannot be used against them in any criminal or civil proceedings;

(c) inform the youth that the interview relates to a serious and urgent matter concerning public safety;

(d) inform the youth of what the serious and urgent matter concerning public safety is.

(5) If the youth's right to silence is exercised the officer must not interview the youth under this section.

(6) The police officer must keep a record of the particulars prescribed by regulation in exercising a power under this section.

(7) To avoid doubt, this section does not affect any of the following:

(a) the ability of a police officer to conduct an interview with the youth under section 18;

(b) the power of a police officer, under the *Police Administration Act 1978* or any other Act, to require a youth to give the youth's name and address.

18 Interview of youth

(1) This section applies if a police officer believes on reasonable grounds that a youth has committed or is implicated in the commission of an offence that, if committed by an adult, would be punishable by imprisonment for 12 months or longer.

(1A) The officer must do the following before interviewing the youth in respect of the offence, or causing the youth to do anything in connection with the investigation of the offence:

(a) inform the youth of the youth's right to silence;

(b) inform the youth that anything the youth says or does in the interview can be used against them in any criminal or civil proceedings;

(c) inform the youth of the youth's right to access legal advice and representation;

(d) provide the youth with access to legal advice and representation in a place and a manner that allows the youth privacy;

(e) inform the youth of the youth's right to contact a support person and have them be present while the officer interviews the youth or causes the youth to do the act.

Note for subsection (1A)

Section 15 applies to explanations by police officers in relation to an investigation of an offence.

(1B) If a youth exercises the youth's right to silence, including exercising the right through legal representation, the officer must not interview the youth in respect of the offence.

(2) The officer must not interview the youth in respect of the offence, or cause the youth to do anything in connection with the investigation of the offence, unless a support person is present while the officer interviews the youth or the youth does the act.

(2A) Despite subsection (2), the police officer may conduct a breath test, breath analysis or saliva test in relation to the youth in accordance with a requirement of section 24, 29AAA, 29AAB, 29AAC, 29AAD or 29AAF of the *Traffic Act 1987* without a support person being present if the officer has made reasonable endeavours to arrange the presence of such a person.

Example for subsection (2A)

Used multiple contact methods to attempt to contact multiple friends, relatives, responsible adults or support persons.

(3) This section does not affect the power of a police officer, under the *Police Administration Act 1978* or any other Act, to require a youth to give the youth's name and address.

(4) The police officer must keep a record of the particulars prescribed by the Regulations in exercising a power under this section.

(5) To avoid doubt, this section does not apply in relation to the following:

(a) the search of a youth under section 19;

(b) a procedure carried out under Division 3.

Notes for subsection (5)

1 Section 19 provides for the presence of a support person while a search is carried out.

2 Section 29 provides for the presence of a support person while a forensic procedure is carried out.

19 Search of youth

(1) A police officer must not search the property, person or clothing of a youth as part of an investigation of an offence unless there is a support person present.

(2) Subsection (1) does not apply if the officer reasonably believes:

(a) that a search of the property, person or clothing of the youth needs to be carried out as a matter of urgency; and

(b) that a delay to allow a support person to be present would create an unacceptable risk of harm to the youth or another person or the loss or destruction of evidence.

(3) If the search is conducted without a support person being present, the officer must do so in a manner that preserves the dignity of the youth as best as is practicable.

(4) The officer must not require a youth to remove any clothing that the youth is wearing unless:

(a) the officer has reasonable grounds for believing that the removal and examination of the clothing may afford evidence of the commission of an offence; and

(b) the youth is provided with adequate clothing to replace the clothing removed.

20 Search must be by person of same gender

(1) The person or clothing of a youth must only be searched by a person of the same gender as the youth and the search must be carried out in a place and a manner that allows the youth privacy from persons of the other gender.

(2) If a police officer of the same gender as the youth is not available within a reasonable time, a person of the appropriate gender who is not a police officer may carry out the search under the direction of a police officer who must take the necessary measures to preserve the youth's privacy and dignity.

(3) A person who carries out a search of a youth in accordance with subsection (2) has, for the purposes of that search, the same powers and the same protection as a police officer.

21 Authorised officer must consent to prosecution

(1) A youth must not be charged with an offence without the consent of an authorised officer.

(2) A document that charges a youth with one or more offences must:

(a) indicate that the charges have been consented to by an authorised officer; and

(b) identify the authorised officer.

(3) The document is evidence that:

(a) the officer named is an authorised officer; and

(b) the youth has been charged with the offence or offences with the consent of the authorised officer.

(4) Subsection (1) does not affect a requirement under any other law to obtain consent to a prosecution.

22 Charge to be by summons except in certain cases

(1) A police officer must not charge a youth at a police station with an offence unless the officer believes on reasonable grounds that:

(a) the youth will not appear in court to answer a summons in relation to the offence; or

(b) releasing the youth from custody will be accompanied by a substantial risk of:

(i) a continuation or repetition of the offence or another offence by the youth; or

(ii) the loss or destruction of evidence relating to the offence; or

(iii) harm to the youth.

(2) If subsection (1)(a) or (b) applies, the officer may, subject to section 21, charge the youth at a police station with the offence and:

(a) release the youth on bail; or

(b) apply under section 24 for an order that the youth be detained in custody.

(3) Subsection (2)(a) does not apply if the offence with which the youth is charged is an offence to which section 7A(1) of the *Bail Act 1982* applies.

23 Responsible adults to be informed

(1) As soon as practicable after a youth is:

(a) arrested in relation to an offence; or

(b) charged with an offence,

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.

(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.

(3) This section applies whether the responsible adult resides in the Territory or not.

24 Detention of youth not admitted to bail

(1) If a youth has been charged with an offence and is not admitted to bail, a police officer must, as soon as practicable, apply to the Court or a Local Court Judge for an order that the youth be detained at a detention centre or other place approved by the Minister for the purpose.

(2) A police officer may apply for an order under subsection (1) in person or, if it is not practicable to apply in person, the officer may apply by telephone to a Local Court Judge.

(3) If the Court or Local Court Judge makes the order, it must:

(a) be in writing; and

(b) specify the detention centre or other place at which the youth is to be detained.

(4) The Court or Local Court Judge must give or send a copy of the order to the police officer as soon as practicable.

(5) The police officer may take the youth to the detention centre or other place under the order despite not having received the copy if he or she is informed of the order by the Court or Local Court Judge by telephone.

(6) The person in charge of the detention centre or place must detain the youth at the centre or place in accordance with the order or, if the order has been given by telephone, a version of the order signed by the police officer.

(7) The police officer who charged the youth must take all reasonable steps to ensure that a responsible adult in respect of the youth is notified that the youth has been detained in custody and the place at which the youth is detained.

25 Detained youth requiring medical attention

(1) This section applies if:

(a) a youth is to be detained in accordance with an order under section 24; and

(b) the youth requires medical attention.

(2) Instead of being taken to the detention centre or other place specified in the order under section 24, the youth may be taken to a hospital as defined in section 5 of the *Medical Services Act 1982* or a private hospital as defined in section 4 of the *Private Hospitals Act 1981* and, if the person in charge of the hospital or private hospital consents, be detained there.

(3) If there is not a hospital available, the youth must be taken to a community health centre.

(4) While in the hospital or health centre, the youth remains in the custody of the Police Force.

(5) On being discharged from the hospital or health centre, the youth must be taken to the specified detention centre or other approved place unless he or she has in the meantime been admitted to bail.

25A Youth may be held in police station

(1) This section applies in relation to a youth if:

(a) the youth is charged with an offence and detained in custody under section 24; and

(b) the youth has not yet been brought before the Court under section 27 in relation to the charge; and

(c) it is not reasonably practicable to deliver the youth to:

(i) a detention centre or other place as ordered by the Court under section 24; or

(ii) an intake and transfer facility under section 168F.

(2) The youth may be detained in a police station or watch house for a period of up to 48 hours before being transferred to a place mentioned in paragraph (c), unless earlier brought before the Court.

26 Separation from adults where practicable

If a youth is taken from the place at which he or she is detained to a court, or from a court to the place of detention, he or she must, as far as practicable, be kept apart from other persons under detention who are not youths.

27 Youth to be brought before Court promptly

(1) If a youth is charged with an offence and is not released from custody, the youth must be brought before the Court:

(a) as soon as practicable and within 24 hours after the charge; or

(b) on the next business day after the charge.

(2) The youth may be brought before the Court by audiovisual link or by telephone.

(3) Subject to subsection (6), if the youth is not brought before the Court in accordance with subsection (1), the person in whose custody the youth is being held must immediately release the youth.

(4) The person in whose custody the youth is being held may apply to a Local Court Judge to extend the time mentioned in subsection (1).

(5) The application to the Judge may be made by audiovisual link or by telephone.

(6) The Judge may grant the extension of time if the Judge is satisfied that circumstances beyond the control of the person in whose custody the youth is being held prevent the person from bringing the youth before the Court in accordance with subsection (1).

Examples of circumstances for subsection (6) include the following:

(a) an emergency situation or natural disaster that causes delays in transportation arrangements for the youth;

(b) a weather event that causes delays in transportation arrangements for the youth;

(c) riotous conduct in a remote community where the youth is located which prevents the youth from being transported to the Court;

(d) the youth requires medical attention;

(e) the equipment required to bring the youth before the Court has failed;

(f) there is a safety or security concern in transporting the youth to the Court.

(7) If the Judge grants the extension of time under subsection (6), the Judge must make orders in relation to when and how the youth must be brought before the Court.

Division 3 Forensic procedures

28 Interpretation

(1) In this Division:

senior police officer means a police officer of the rank of Superintendent or a higher rank.

(2) In this Division, a reference to carrying out a forensic procedure includes causing the procedure to be carried out by another person.

29 Restriction on carrying out procedure

A forensic procedure must not be carried out under this Division unless a support person is present while the procedure is carried out.

30 Intimate procedure

(1) An authorised officer or a police officer for the time being in charge of a police station may arrange for a medical practitioner or dentist to carry out an intimate procedure on a youth in the following circumstances:

(a) the youth is in lawful custody in respect of an offence;

(b) the youth has been charged with an offence;

(c) the youth has been summoned to appear in proceedings against him or her for an offence;

(d) an authorised officer has consented to proceedings in respect of an offence being brought against the youth by summons.

(2) The officer may only make the arrangement if he or she believes on reasonable grounds that the procedure may provide evidence relating to the offence or any other offence punishable by imprisonment.

(3) The intimate procedure must only be carried out with the approval of a Local Court Judge.

(4) The officer may apply to a Local Court Judge for the approval:

(a) in person; or

(b) if that is not practicable – by telephone.

(5) The Local Court Judge may approve an intimate procedure being carried out if, after hearing the officer and the youth to whom the

application relates, the Local Court Judge is satisfied that the officer has reasonable grounds for believing that the procedure may provide evidence referred to in subsection (2).

(6) The approval must:

(a) be in writing; and

(b) specify the intimate procedure that may be carried out.

(7) The Local Court Judge must give or send a copy of the approval to the officer as soon as practicable.

(8) The officer may proceed under the approval despite not having received it if he or she is informed of the approval by the Local Court Judge by telephone.

(9) A medical practitioner or dentist may carry out the intimate procedure in accordance with the approval.

(10) A police officer:

(a) may assist a medical practitioner or dentist to carry out the intimate procedure; and

(b) may use reasonable force when assisting the medical practitioner or dentist.

Note for subsection (10)

See section 10 in relation to the use of force.

(11) Before the intimate procedure is carried out, a police officer must inquire whether the youth, or the support person who is with the youth in accordance with section 29, wishes to have a medical practitioner or dentist of his or her own choice present when the procedure is carried out.

(12) If the youth or support person wishes to have a medical practitioner or dentist of his or her own choice present, the police officer must:

(a) provide reasonable facilities to enable the youth or person to arrange for the medical practitioner or dentist to be present; and

(b) unless it would be impracticable to do so – arrange for the intimate procedure to be carried out at a time when the medical practitioner or dentist can be present.

(13) A medical practitioner or dentist is not civilly or criminally liable for an act done or omitted to be done in good faith in carrying out an intimate procedure under this section.

(14) This section does not prevent a medical practitioner or dentist from examining a youth in lawful custody at the request of the youth or treating the youth for an illness or injury.

(15) In this section:

dentist means a person registered under the Health Practitioner Regulation National Law:

(a) to practise in the dental profession as a dentist (other than as a student); and

(b) in the dentists division of that profession.

31 Non-intimate procedure

(1) A police officer may carry out a non-intimate procedure on a youth in the following circumstances:

(a) the youth is suspected by a police officer, on reasonable grounds, of having committed an indictable offence;

(b) the youth has been charged with an offence punishable by imprisonment;

(c) the youth has been summoned to appear in proceedings against the youth for an offence punishable by imprisonment;

(d) an authorised officer has consented to proceedings in respect of an offence punishable by imprisonment being brought against the youth by summons.

(2) The non-intimate procedure may be carried out:

(a) if the approval of a Local Court Judge is obtained; or

(b) if the approval of a senior police officer is obtained.

(3) A senior police officer must not approve the procedure unless he or she is satisfied the youth is 14 years of age or older.

(4) A police officer may apply to a Local Court Judge or a senior police officer for the approval:

(a) in person; or

(b) if that is not practicable – by telephone.

(5) The Local Court Judge or senior police officer may approve a non-intimate procedure being carried out after hearing the police officer and the youth to whom the application relates.

(6) The approval must:

(a) be in writing; and

(b) specify the non-intimate procedure that may be carried out.

(7) The Local Court Judge or senior police officer must give or send a copy of the approval to the police officer as soon as practicable.

(8) The police officer may proceed under the approval despite not having received it if he or she is informed of the approval by the Local Court Judge or senior police officer by telephone.

(9) If the non-intimate procedure is the taking of a sample by buccal swab, the police officer must direct the youth to provide the sample.

(10) If the youth does not comply by providing a sample sufficient to enable an analysis of it to be carried out, the police officer may take the sample.

(11) The police officer may use reasonable force in carrying out the non-intimate procedure.

Note for subsection (11)

See section 10 in relation to the use of force.

32 Voluntary non-intimate procedure

(1) A senior police officer may carry out a non-intimate procedure on a youth if the youth consents in writing, and a responsible adult in respect of the youth consents in writing, to the procedure being carried out.

(2) If the procedure is carried out for the purposes of investigating an offence, any information obtained from the procedure:

(a) must not be used for investigating any other offence other than a relevant offence; and

(b) is inadmissible as evidence in any proceedings other than proceedings for the offence or a relevant offence.

(3) In this section:

relevant offence means an offence that, if committed by an adult, would be punishable by a term of imprisonment of 14 years or more.

33 Identifying procedure

(1) An authorised officer or a police officer for the time being in charge of a police station may carry out an identifying procedure on a youth in the following circumstances:

(a) the youth is in lawful custody in respect of an offence;

(b) the youth has been charged with an offence;

(c) the youth has been summoned to appear in proceedings against him or her for an offence;

(d) an authorised officer has consented to proceedings in respect of an offence being brought against the youth by summons.

(2) The officer may carry out the procedure if he or she is satisfied that the youth is 14 years of age or older.

(3) If the officer considers the youth is younger than 14 years, the officer must apply to a Local Court Judge for approval to carry out the identifying procedure.

(4) The officer may apply:

(a) in person; or

(b) if that is not practicable – by telephone.

(5) The Local Court Judge may approve an identifying procedure being carried out after hearing the officer and the youth to whom the application relates.

(6) The approval must:

(a) be in writing; and

(b) specify the identifying procedure that may be carried out.

(7) The Local Court Judge must give or send a copy of the approval to the officer as soon as practicable.

(8) The officer may proceed under the approval despite not having received it if he or she is informed of the approval by the Local Court Judge by telephone.

(9) The officer may use reasonable force in carrying out the identifying procedure.

Note for subsection (9)

See section 10 in relation to the use of force.

34 Youth to be provided with copy of report

(1) A youth on whom a forensic procedure is carried out under this Division, or the support person with the youth, must be provided with a copy of:

(a) if the procedure was carried out by a medical practitioner or dentist – the report in respect of the procedure by the medical practitioner or dentist; and

(b) any reports in relation to the testing or analysis of samples obtained from the procedure.

(2) However, a report does not need to be given to the youth or support person if the sample that was analysed or tested was a sample from a person other than the youth despite that the sample was taken from the body of the youth under the procedure.

Division 4 Support persons and authorised officers

35 Support person

(1) For this Part, a support person, in relation to a youth, is one of the following:

(a) a responsible adult in respect of the youth;

(b) a person nominated by the youth;

(c) a legal practitioner acting for the youth;

(d) a person called upon under subsection (5).

(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.

(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.

(4) Unless in the person's capacity as a responsible adult in respect of the youth, a police officer or a person employed at a detention centre or intake and transfer facility cannot be a support person.

(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.

(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:

(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

(b) it would lead to undue delay after the time in which a support person is able to be present.

36 Authorised officers

The Commissioner of Police, a Deputy Commissioner of Police or Assistant Commissioner of Police may authorise any of the following police officers to act for this Part:

(a) an officer of or above the rank of Senior Sergeant;

(b) an officer who is in charge of a police station;

(c) an officer who from time to time:

(i) holds a specified rank; or

(ii) performs specified duties (including duties as the officer in charge of a specified police station).

Part 3 Diversion of youth

37 Purpose and application of Part

(1) The purpose of this Part is to provide a means of diverting youths who are believed on reasonable grounds to have committed offences.

(2) Except as provided by section 41, this Part does not affect the application in respect of a youth of any law relating to:

(a) investigating and collecting evidence of criminal activities and the commission of offences; or

(b) questioning, apprehending, detaining, arresting, charging and bailing a suspected offender; or

(c) prosecuting a person for an offence.

38 Definitions

In this Part:

divert, in relation to a youth, means to take an action under section 39.

prescribed offence, see section 38A.

38A Meaning of *prescribed offence*

For this Act, a prescribed offence is:

(a) an offence prescribed by regulation; or

(b) an offence against a law, or a repealed law, of the Territory or another jurisdiction (including a jurisdiction outside Australia) that substantially corresponds to an offence prescribed under paragraph (a).

39 Diversion of youth

(1) This section applies if a police officer believes on reasonable grounds that:

(a) a person has committed an offence; and

(b) the person is a youth or was a youth when the offence was committed.

(2) The officer must, instead of charging the youth with the offence, do one or more of the following as the officer considers appropriate:

(a) give the youth a verbal warning;

(b) give the youth a written warning;

(c) cause a Youth Justice Conference involving the youth to be convened;

(d) refer the youth to a diversion program.

(3) Subsection (2) does not apply if:

(a) the youth's whereabouts is unknown; or

(b) the alleged offence is a prescribed offence; or

(d) the youth has some other history that makes diversion an unsuitable option (including a history of previous diversion or previous convictions).

(4) However, the Commissioner of Police (or the Commissioner's delegate) may authorise or require a police officer to deal with a youth by Youth Justice Conference or by referring the youth to a diversion program despite the fact that the case is covered by subsection (3).

(6) This section does not prevent the diversion of a youth in relation to an offence with which the youth has been charged.

40 Diversion in circumstances where youth denies behaviour

(1) Despite section 39(2) and (4), if a youth denies having had a role in the behaviour constituting the alleged offence:

(a) the youth must not be diverted under section 39(2)(c) or (d) or (4); and

(b) a police officer may, in accordance with this Act, charge the youth with the offence that the officer believes on reasonable grounds the youth has committed and the youth may be prosecuted for the offence.

(2) This section does not apply in relation to a youth who has been referred for assessment for inclusion in a diversion program or a Youth Justice Conference under section 64(1)(b).

41 Effect of diverting youth

(1) If a youth is diverted in relation to an offence and the diversion is completed to the satisfaction of a police officer, no criminal investigation or criminal legal proceedings can be commenced or continued against the youth in respect of the offence.

(2) Any admission made or information given by a youth during the course of diversion in relation to an offence is not admissible in any subsequent criminal or civil proceedings in relation to the offence.

(3) However, subsection (2) does not prevent the admission of evidence that has been properly obtained in accordance with the *Police Administration Act 1978* and this Act.

42 Extension of limitation period

(1) This section applies if a youth is diverted in relation to an offence but fails to satisfactorily complete a Youth Justice Conference or diversion program.

(2) Subject to section 21, proceedings may be commenced against the youth for the offence despite that the applicable limitation period has expired.

(3) The proceedings must be commenced before the later of:

(a) the expiry of the applicable limitation period; or

(b) 3 months after the diversion is determined to have been unsatisfactory.

42A Reporting on diversion of youth

(1) A police officer must prepare or obtain a report containing the following:

(a) if the officer refers the youth to a diversion program under section 39(2)(d) or (4) and the youth declines to participate in the program or does not complete the program – a statement of that fact and any reasons offered by the youth for declining or not completing the program;

(b) if the officer declines to refer the youth to a diversion program under section 39(2)(d) – a statement of that fact and the reasons of the officer for declining;

(c) if the officer is authorised by the Commissioner of Police (or the Commissioner's delegate) under section 39(4) to refer the youth to a diversion program and the officer declines to refer the youth to the program – a statement of that fact and the reasons of the officer for declining;

(d) if the officer is authorised by the Commissioner of Police (or the Commissioner's delegate) under section 39(4) to refer the youth to a diversion program and the youth declines to participate in the program or does not complete the program – a statement of that fact and any reasons offered by the youth for declining or not completing the program;

(e) if the youth is not referred to a diversion program because section 39(3) applies – a statement of that fact.

(2) If the youth is charged with the offence, the prosecution must, as soon as practicable, provide the report mentioned in subsection (1) to the youth's legal representative and to the Youth Justice Court.

43 Publication of information of diversion

(1) If a person is found guilty of an offence, information concerning the diversion of the person as a youth for that or any other offence may be produced in the Youth Justice Court for the purpose of determining the sentence to be imposed on the person for the offence.

(2) Information and details of the diversion of a youth must not be published, except as aggregated data for statistical purposes where the information does not permit any particular youth to be identified.

(3) A person who publishes information in contravention of subsection (2) commits an offence.

Maximum penalty: If the offender is a natural person – 200 penalty units or imprisonment for 12 months.

If the offender is a body corporate – 1 000 penalty units.

(4) In this section, a reference to the diversion of a youth includes a reference to dealing with the youth under a scheme for the diversion of youths operating in a State or another Territory that is similar to the scheme operating under this Part.

44 No review or appeal

(1) A decision:

(a) to divert or not to divert a youth; or

(b) that a youth did or did not complete a diversion satisfactorily,

cannot be reviewed or appealed against in any court or tribunal.

(2) Subsection (1) does not affect the power of the Court to refer a youth for assessment under section 64.

Part 4 Youth Justice Court

45 Continuation and constitution

(1) The Juvenile Court established under the repealed Act is continued in existence as the Youth Justice Court.

(2) Each Local Court Judge is a Judge of the Youth Justice Court.

(3) The Youth Justice Court is a court of record and has a seal that must be affixed to all process issued out of the Court.

46 Exercise of jurisdiction

(1) The jurisdiction of the Youth Justice Court is exercisable by a Judge sitting alone.

(2) The Chief Judge may appoint as a Youth Judge a Local Court Judge who, in the opinion of the Chief Judge, has the knowledge, qualifications, skills and experience in the law and the social or behavioural sciences, and in dealing with youths and their families, as the Chief Judge considers appropriate.

(3) An appointment of a Local Court Judge as a Youth Judge does not affect:

(a) the terms and conditions of the Judge's appointment under the *Local Court Act 2015*; or

(b) the ability of a Local Court Judge who is not a Youth Judge to exercise the jurisdiction of the Youth Justice Court.

46A Changes in constitution of Court during proceedings

(1) In particular proceedings, the Court need not be constituted by the same person or persons for the whole of the proceedings, until the taking of evidence commences.

(2) Once the taking of evidence commences, the Court must be constituted by the same person or persons until the proceedings are determined.

(3) If, in criminal proceedings, the defendant pleads guilty and the proceedings are adjourned before the making of sentencing submissions commences, after that adjournment:

(a) the Court need not be constituted by the same person as when the plea was entered; but

(b) the Court must then be constituted by the same person until the proceedings are determined.

(4) Further, if at any stage of proceedings the person who constitutes the Court is unable to continue, the Court constituted by a different person or persons may continue to deal with the proceedings.

(5) The question whether a person is unable to continue is decided by the Chief Judge and the Chief Judge's decision is not liable to be challenged on any ground.

(6) In this section, a person is ***unable to continue*** if the person:

(a) dies; or

(b) vacates office; or

(c) is, by reason of illness, injury or other cause, unable to continue dealing with the proceedings without unreasonable delay.

47 Registrar of Youth Justice Court

(1) A registrar of the Local Court is a Registrar of the Youth Justice Court.

(2) If the Court is required to perform its functions at a place outside the Territory, the Minister may appoint as a Registrar of the Court at the place:

(a) a person who holds office as a registrar or deputy registrar of a court of the jurisdiction in which the place is located; or

(b) another appropriately qualified person.

(3) The conditions of service (including as to remuneration) of the appointed person are those that the person is entitled to under the law of the other jurisdiction.

(4) A person appointed under subsection (2)(a) ceases to hold office if the person ceases to hold office as a registrar or deputy registrar of a court of the other jurisdiction.

(5) With the approval of the Minister, a Registrar of the Court may concurrently hold office as a registrar or deputy registrar of a court of another jurisdiction.

(6) In this section:

remuneration includes salary, allowances, fees, emoluments and benefits (whether in money or otherwise).

48 Where Youth Justice Court may be held

(1) The Youth Justice Court may sit in the locations (including a place outside the Territory) that the Minister directs and in any building approved by the Minister for the holding of the Court.

(2) The Minister must ensure that the places for the Court to sit:

(a) provide adequate and appropriate facilities for the proceedings of the Court; and

(b) as far as practicable are separate from the places in which proceedings in relation to adults are being held.

(3) Despite subsection (1), if the Court considers it is expedient to sit in another place, the Court may sit in that other place.

49 Proceedings to be in closed court

(1) The Court must be closed to the public for proceedings under this Act against a youth.

(2) However, in addition to the parties to the proceedings and Court staff, the following persons may attend the proceedings:

(a) a legal practitioner, whether or not the legal practitioner is the legal representative of the youth who is the subject of the proceedings;

(b) a responsible adult in relation to the youth;

(c) a person nominated by the youth for support;

(d) an employee or representative of the Agency or another Agency;

(e) a witness called to give evidence in the proceedings;

(f) a victim of the alleged offence committed by the youth;

(g) a person nominated by a victim for support;

(h) a genuine representative of the news media;

(i) an interpreter for a person attending the proceedings.

(3) Any other person may seek the leave of the Court to attend the proceedings.

(4) The Court may order that a person not remain in or enter a room or place in which the Court is being held, or remain within the hearing of the Court.

(5) In making an order under subsection (4), the Court must have regard to any prejudicial impact on the interests of the youth of the person's presence in the room or place in which the Court is being held, or within the hearing of the Court.

(6) However, subsection (4) does not authorise the Court to exclude the following from the proceedings:

(a) the youth;

(b) a legal practitioner representing the youth;

(c) the prosecutor.

(7) A person commits an offence if:

(a) the person is subject to an order under subsection (4); and

(b) the person remains in or enters a room or place in which the Court is being held, or remains within the hearing of the Court.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(8) A person other than a person mentioned in subsection (2) commits an offence if:

(a) the person has not been granted leave of the Court to attend proceedings under subsection (3); and

(b) the person remains in or enters a room or place in which the Court is being held, or remains within the hearing of the Court.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

50 Restriction of publication

(1) Subject to this section, a person who publishes a report of, or information relating to, proceedings in the Court or proceedings in any other court arising out of proceedings in the Court that contains any particulars likely to lead to the identification of the following is guilty of an offence:

(a) the particular venue of the Court in which the proceeding was heard;

(b) the youth or other party to the proceeding;

(c) a witness in the proceeding.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) Subsection (1) does not apply if:

(a) a police officer, under an arrangement for the exchange of such information, sends to the Police Force of a State or another Territory information relating to the conviction of a youth for an offence; or

(b) a person publishes a report or information containing particulars of the youth who is the subject of the proceedings with the consent of the youth; or

(c) a person publishes a report or information:

(i) containing particulars likely to lead to the identification of a witness in the proceeding who is a complainant as defined in section 3 of the *Sexual Offences (Evidence and Procedure) Act 1983* and who consents to the publication in accordance with section 6(2)(b) of that Act; and

(ii) that does not contain particulars likely to lead to the identification of the youth who is the subject of the proceeding and who has not consented to the publication; and

(iii) that does not contain particulars likely to lead to the identification of another witness in the proceeding who is a complainant as defined in section 3 of the *Sexual Offences (Evidence and Procedure) Act 1983* and who has not consented to the publication in accordance with section 6(2)(b) of that Act.

(2A) For proceedings for a sexual offence in which the youth is a defendant, the youth may not give consent under subsection (2)(b) to publish a report or information containing particulars of the youth until the youth has turned 18 years of age.

(3) A person may apply to the Court for permission to publish the report or information.

(4) The Court may grant permission for the publication if the Court is satisfied that:

(a) the circumstances giving rise to the application are an emergency; and

(b) publication is reasonably necessary for the safety of:

(i) the youth or a witness in the proceedings; or

(ii) any other person in the community.

(5) Subject to subsection (6), the CEO may grant permission for the publication of any particular of a detainee who has escaped from a detention centre or intake and transfer facility if the CEO is satisfied that publication:

(a) is reasonably necessary for the safety of the detainee or for any other person; or

(b) will assist in apprehending the detainee or protecting the community.

(6) In making a determination under subsection (5), the CEO must:

(a) have regard to the desirability of minimising the stigma to the detainee and the detainee's family; and

(b) grant permission for publication only to the extent necessary to apprehend the detainee.

(7) In this section:

particulars likely to lead to the identification, in relation to a person, include the following particulars:

(a) the name of the person;

(b) the names of:

(i) any relative of the person; or

(ii) any other person having the care of the person; or

(iii) in addition to subparagraphs (i) and (ii), in the case of an Aboriginal person – a member of the person's community;

(c) the name or address of any place of residence of the person, or the locality in which the residence is situated;

(d) the name or address of any place of education, training or employment attended by the person, or the locality in which the place is situated.

sexual offence, see section 3 of the *Sexual Offences (Evidence and Procedure) Act 1983*.

51 Youth in need of protection

(1) This section applies if the Court believes:

(a) a youth who is charged with an offence is or may be a child in need of protection; or

(b) there is a risk to the wellbeing of the youth.

(1A) The Court may take into account a parent's compliance with a family responsibility agreement in forming its belief under subsection (1).

(2) The Court may require the CEO:

(a) to investigate the circumstances of the youth; and

(b) to take appropriate action to promote the wellbeing of the youth.

(3) If the Court requires the CEO to investigate the circumstances of the youth, the CEO must, as soon as practicable, give the Court a report on:

(a) those circumstances (including, for example, whether or not the youth is a child in need of protection); and

(b) any action that has been taken in relation to the youth regarding those circumstances.

(4) The Court may:

(a) adjourn the matter for the preparation of the report; and

(b) remand the youth under section 65.

(5) In this section:

CEO, see section 13 of the *Care and Protection of Children Act 2007*.

child in need of protection means a child who is in need of protection as defined in section 20 of the *Care and Protection of Children Act 2007*.

parent, see section 17 of the *Care and Protection of Children Act 2007*.

wellbeing of a youth, means the wellbeing of a child as defined in section 13 of the *Care and Protection of Children Act 2007*.

Part 5 Court proceedings

Division 1 Jurisdiction and proceedings generally

52 Jurisdiction of Youth Justice Court

(1) The following must be dealt with in accordance with this Act by the Youth Justice Court:

(a) all charges in respect of summary offences or indictable offences allegedly committed by a youth;

(b) all applications in the Territory relating to unlawful activity, or alleged unlawful activity, of youths, whether or not that activity took place, or is alleged to have taken place, in the Territory.

(2) The jurisdiction of the Youth Justice Court in relation to an offence allegedly committed by a youth is not affected only because the alleged offender has subsequently turned 18 years of age.

(3) Subsection (1) does not limit the jurisdiction of the Supreme Court to deal with a matter involving a youth where an ex officio indictment has been presented to that Court.

53 Application of other Acts

(1) Unless this Act makes specific provision in relation to proceedings, orders or convictions, the following applies as if the Youth Justice Court were the Local Court:

(a) the *Local Court (Criminal Procedure) Act 1928*, except for Part IV, Division 2A of that Act;

(b) Part 4, Division 2, section 42 and Part 4, Divisions 4 and 5 of the *Local Court Act 2015*.

(1A) In a provision of any other Act relating to unlawful activity or alleged unlawful activity:

(a) a reference to the Local Court includes, in relation to a youth, a reference to the Youth Justice Court; and

(b) a reference to a Local Court Judge includes, in relation to a youth, a reference to a Judge of the Youth Justice Court; and

(c) a reference to a registrar of the Local Court includes, in relation to a youth, a registrar of the Youth Justice Court.

Note for subsection (1A)

Acts relating to unlawful activity or alleged unlawful activity include the Criminal Code, Bail Act 1982 and Parole Act 1971.

(2) This Act does not affect the powers of a justice of the peace to issue a summons or warrant in relation to a youth.

54 Court to deal with matters summarily except in certain cases

Subject to sections 54A, 55(4) and 56, all charges before the Youth Justice Court are to be heard and determined summarily.

54A Exception if adult offender would be liable to life imprisonment

(1) Subsection (2) applies to a charge in respect of an offence allegedly committed by a youth that would be punishable by imprisonment for life if the offence had been committed by an adult.

(2) The Youth Justice Court must deal with the charge by way of preliminary examination.

55 Indictable offence tried summarily if youth consents

(1) This section applies if a youth is charged in respect of an indictable offence that is neither of the following:

(a) an offence mentioned in section 120 of the *Local Court (Criminal Procedure) Act 1928*;

(b) an offence mentioned in section 54A(1).

(2) The Youth Justice Court must inform the youth and a responsible adult in relation to the youth (if present in court) of the youth's right to consent or not to the charge being heard and determined summarily.

(3) If the youth consents, the Court must hear and determine the charge summarily.

(4) If the youth does not consent, the Court must deal with the charge by way of preliminary examination.

(5) For subsection (2), if no responsible adult in relation to the youth is present in court, the Court:

(a) may adjourn the proceeding to enable a responsible adult to be present; and

(b) may continue the proceeding after the adjournment even if no responsible adult is present.

56 Court may decline to hear and determine charge summarily

(1) If, at any stage of the proceedings (prior to a finding of guilt), the Youth Justice Court considers it is not appropriate to hear and determine summarily a charge in respect of an indictable offence for which the Court has jurisdiction, the Court:

(a) may decline to hear and determine the charge summarily; and

(b) if it declines – must give its reasons for declining; and

(i) if dealing with the charge by way of preliminary examination – must continue by way of preliminary examination; and

(ii) otherwise – must continue the proceedings as if the Court had been dealing with the charge by way of preliminary examination.

(2) For subsection (1), it is immaterial whether or not the youth:

(a) has consented under section 55(3) to the charge being heard and determined summarily; or

(b) has elected under section 56A(2) to have the charge heard and determined summarily.

56A Youth may elect to be tried summarily

(1) Subsection (2) applies if the Youth Justice Court is dealing by way of preliminary examination with a charge in respect of an indictable offence that is not an offence of the type mentioned in section 54A(1).

(2) The youth may, at any time before or during the preliminary examination, elect to have the charge heard and determined summarily.

56B Youth and adult charged – joint preliminary examination

(1) This section applies if:

(a) a youth and an adult are charged with offences founded on the same facts; and

(b) under this Act the charge against the youth is to be dealt with by way of preliminary examination; and

(c) under the *Local Court (Criminal Procedure) Act 1928* the charge against the adult is to be dealt with by way of preliminary examination under that Act.

(2) If this section applies, the 2 preliminary examinations may be conducted as a joint preliminary examination by a Local Court Judge constituting, at the same time, both the Local Court and the Youth Justice Court.

(3) When conducting a joint preliminary examination:

(a) for the charge against the youth – the presiding Judge constitutes the Youth Justice Court and must deal with the matter under this Act; and

(b) for the charge against the adult – the presiding Judge constitutes the Local Court and must deal with the matter under the *Local Court (Criminal Procedure) Act 1928.*

(4) A court conducting a joint preliminary examination may, at any stage, disjoin the examinations and deal with the defendants separately if satisfied it would be in the interests of justice to do so.

(5) When a joint preliminary examination is conducted, the examination:

(a) in so far as it relates to the youth, is a preliminary examination under this Act; and

(b) in so far as it relates to the adult, is a preliminary examination under the *Local Court (Criminal Procedure) Act 1928*.

57 Referral to Supreme Court for sentencing

(1) Subsection (2) applies if:

(a) the Youth Justice Court is conducting a preliminary examination in respect of a youth in accordance with section 55(4) or 56; and

(b) at any stage of the proceedings the youth indicates that he or she wishes to plead guilty.

(2) If the Youth Justice Court considers it appropriate, the Court may accept the guilty plea and do either of the following:

(a) sentence the youth;

(b) refer the youth to the Supreme Court for sentencing.

58 Pleas in summary hearing

(1) If a charge in respect of an offence is to be heard and determined summarily in the Youth Justice Court, the youth who is charged with an offence must enter a plea:

(a) at the commencement of the hearing; or

(b) if the proceeding began as a preliminary examination but the youth elects under section 56A to have the charge heard and determined summarily – on the continuation of the proceeding as a summary hearing.

(2) If the youth pleads guilty to a charge in respect of an offence, the Court may, at any stage of the proceedings, if it is of the opinion that the youth may not be guilty of the offence charged, order that the plea of guilty be withdrawn and a plea of not guilty be entered.

(3) If the Court makes an order under subsection (2), the youth is not entitled to plead autrefois convict by reason of his or her initial plea of guilty.

(4) A youth may change his or her plea from not guilty to guilty at any stage of proceedings.

(5) Subsection (4) does not apply in relation to a plea entered under subsection (2).

59 Exclusion of evidence unlawfully obtained

(1) In proceedings against a youth in respect of an offence, the Court may order that evidence in relation to the youth is not admissible if satisfied the evidence was obtained:

(a) in contravention of this Act; or

(b) as a consequence of a contravention of or a failure to comply with this Act.

(2) However, the Court may admit the evidence if satisfied that admission of the evidence would specifically and substantially benefit the public interest without unduly prejudicing the rights of any person.

(3) The Court must have regard to the following matters when deciding whether or not to admit the evidence:

(a) the seriousness of the offence, the difficulty of detecting the offender, the need to apprehend the offender urgently and the need to preserve evidence of the facts;

(b) the nature and seriousness of the contravention or failure;

(c) the extent to which the evidence might have been lawfully obtained;

(d) any other matters the Court considers relevant.

(4) This section is in addition to, and does not derogate from, any other law or rule under which a court may refuse to admit evidence.

60 Points of law may be reserved for consideration of Supreme Court

(1) The Youth Justice Court may reserve a question of law arising from or in relation to proceedings against a youth for an offence and may state a special case or cases for the opinion of the Supreme Court.

(2) A question may be reserved at any time during proceedings for the matter in the Youth Justice Court or at any time within one month after the Youth Justice Court has finally determined the matter.

(3) The Supreme Court must deal with a special case with as little delay as practicable and may do any of the following:

(a) amend the special case;

(b) send the special case back to the Youth Justice Court for amendment;

(c) make any order that it considers appropriate.

(4) An order under subsection (3)(c) may include an order as to costs of the proceedings in the Supreme Court and in the Court below.

(5) The Youth Justice Court must deal with the matter having regard to the order of the Supreme Court in relation to the special case or question reserved.

61 Court must explain proceedings to youth

(1) The Court must satisfy itself that a youth who is the subject of proceedings for an offence understands the nature of the proceedings.

(2) If the youth is not represented by a legal practitioner, the Court must explain to him or her in a language and manner the youth is likely to understand, having regard to the youth's age, health, maturity, cultural background and English language skills:

(a) the nature of the allegations against him or her; and

(b) the legal implications of those allegations; and

(c) the elements of the offence that must be established by the prosecution.

(3) An order or finding of the Court cannot be called into question only on the ground of failure to comply with this section if the Court has substantially complied with subsections (1) and (2).

62 Legal representation of youth

If a youth is not legally represented in proceedings for an offence and the Court considers the youth needs legal representation, the Court may require that legal representation be provided to the youth and may adjourn or stay the proceedings until satisfactory arrangements are made for the representation of the youth.

63 Responsible adults to attend court

(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.

(2) Subsection (1) does not apply if the Court is satisfied that it would be unreasonable to require that attendance.

(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.

(4) The Court may:

(a) adjourn the proceedings to allow for the responsible adult to be present; and

(b) continue the hearing after the adjournment despite that the responsible adult is not present.

64 Court may refer youth to diversion

(1AA) The Youth Justice Court may, at any stage of the proceedings against a youth in respect of an offence, take action under subsection (1) unless:

(a) the proceedings relate to a prescribed offence; or

(b) under section 39(3)(d), diversion was previously considered an unsuitable option for the youth.

(1) The Youth Justice Court may, in respect of the offence:

(a) adjourn the proceedings; and

(b) refer the youth to be assessed for inclusion in a diversion program or a Youth Justice Conference conducted for the purposes of Part 3.

(2) Subsection (1) applies whether or not:

(a) the youth has entered a plea to a charge in respect of the offence; or

(b) there has been a finding of guilt in relation to a charge in respect of the offence.

64A Youth Justice Court may dismiss charges

(1) Subject to subsection (2), the Youth Justice Court may, at any stage of the proceedings against a youth in respect of an offence, dismiss the charge in respect of the offence, whether or not the Court finds the charge proven against the youth.

(2) The Youth Justice Court must not dismiss a charge for an offence if a youth was included in a diversion program mentioned in section 39(2)(d) or involved in a Youth Justice Conference in

respect of the offence but did not successfully complete the program or Conference.

65 Court may remand youth

(1) The Court may, at any stage of proceedings in relation to a youth, remand the youth and, by order:

(a) allow the youth to go at large; or

(b) release the youth on bail; or

(c) release the youth into the care and supervision of any person; or

(d) remand the youth in custody.

(2) If the youth is remanded in custody, he or she can be detained in a detention centre or, if the youth has turned 15 years of age, in either a custodial correctional facility or detention centre as ordered by the Court.

(3) Unless the youth is committed for trial in the Supreme Court, an order remanding the youth in custody must not, except with his or her consent, be for a period of more than 15 days.

Note for subsection (3)

Subsection (3) does not prevent the Court from making consecutive orders remanding the youth in custody that result in the youth remaining in custody in excess of 15 days.

(4) The Court may revoke an order made under subsection (1) and may substitute any other order it can make under that subsection.

Division 2 Reports and submissions

66 Enquiry and examination authorised

A person who is required to provide the Court with a report in relation to a youth:

(a) is authorised to make any necessary enquiries; and

(b) may require the youth to be interviewed and examined by a medical practitioner or other appropriate person.

67 Report as to mental condition of youth

(1) If the Court considers that the mental condition of a youth who is charged with an offence may affect his or her criminal responsibility or ability to understand proceedings, the Court may cause the youth to be examined by an appropriately qualified person.

(2) The Court may adjourn proceedings in order for the youth to be examined.

(3) The person who examines the youth must report (whether orally or in writing) to the Court as to the youth's mental condition.

68 Court may seek submissions or reports

(1) If a youth has been found guilty of an offence, the Court may (whether before or after the proceedings are complete) seek submissions or reports in relation to the youth.

(2) A submission or report may be written or oral.

69 Court must require pre-sentence report

(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 the circumstances of the youth.

(2) In order to be informed, the Court must require a pre-sentence report to be provided to it.

(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.

(4) The Court may require the report to address specific matters in relation to the youth that the Court wishes to be informed about.

70 Content of pre-sentence report

(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:

(a) the age of the youth;

(b) the social history and background of the youth;

(c) the medical and psychiatric history of the youth;

(d) the youth's educational background;

(e) the youth's employment history;

(f) the circumstances of the offence of which the youth has been found guilty;

(g) the circumstances of other offences of which the youth has been found guilty;

(h) any relevant diversion history of the youth;

(i) the extent to which the youth is complying with any sentence currently imposed on him or her;

(j) the financial circumstances of the youth and his or her family;

(k) any special needs of the youth;

(l) any courses, programs, treatment, therapy or other assistance that could be available to the youth and from which he or she may benefit;

(m) family and community views of the youth's offending behaviour;

(n) risk issues in relation to the youth and further offending.

(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.

71 Report in certain circumstances

(1) If a youth has been found guilty of an offence and the Court is considering imposing on a youth a sentence that includes any of the following, the Court must require a report as to the suitability of the youth for the proposed sentence:

(a) a sentence that includes supervision;

(b) a community work order;

(c) alternative detention;

(d) periodic detention.

(2) If the Court is considering a sentence that involves a fine or restitution by financial compensation, the Court must satisfy itself (if necessary by requiring a report) that the sentence is appropriate having regard to the financial circumstances of the youth.

72 Court may adjourn for report to be prepared

If the Court has requested a report in relation to a youth, the Court may:

(a) adjourn the proceedings to enable the report to be prepared; and

(b) remand the youth in accordance with section 65.

73 Reports to be made available

(1) A copy of every written report in relation to a youth received by the Court under this Division must be given to each of the following:

(a) the youth;

(b) a responsible adult in respect of the youth who is present in court;

(c) the prosecutor.

(2) However, the Court may order that the report or part of the report must not be given to the youth or to a specified person if the Court is of the opinion that the report contains material that, if disclosed to the youth or another person, may be prejudicial to the welfare of the youth.

74 Challenge to contents of report

A person to whom a copy of a report is given may cross-examine the author of the report or the person who carried out an investigation on which the report was based, and the youth reported on or a responsible adult in respect of the youth may give evidence or call witnesses to rebut the contents of the report.

75 Protection in relation to report

(1) This section applies to a person acting in good faith who does any of the following:

(a) provides information for the purpose of preparing a report under this Division;

(b) prepares the report;

(c) gives the report to the Court.

(2) The person is not civilly or criminally liable, and is not in breach of any professional code of conduct, for:

(a) the preparing or giving of the report; or

(b) the disclosure of any information in the report.

Division 3 Victim impact statements and victim reports

76 Definitions

In this Division:

harm includes any of the following:

(a) physical injury;

(b) psychological or emotional suffering, including grief;

(c) contraction or fear of contraction of a sexually transmissible medical condition;

(d) pregnancy;

(e) economic loss.

victim impact statement means an oral or written statement prepared for the purposes of this Division and containing details of the harm suffered by a victim of an offence arising from the offence.

victim report means an oral or written statement prepared by the prosecutor for the purposes of this Division and containing details of the harm suffered by a victim of an offence arising from the offence.

77 Court must consider victim impact statement or victim report

(1) Before the Court sentences a youth for an offence, the Court must permit the prosecutor to present a victim impact statement or victim report in relation to each victim of the offence.

(2) The Court must consider each victim impact statement and each victim report presented before determining the sentence to be imposed in relation to the offence.

(3) The Court must not draw any inference in favour of a youth (or against a victim) because a victim impact statement or victim report is not presented to the Court.

78 Victim impact statements

(1) The prosecutor must present a victim impact statement if the victim consents to its presentation.

(2) If the victim is incapable, because of age or physical or mental disability, of giving consent to the presentation of a victim impact statement, the victim impact statement may be prepared by a person who, in the opinion of the Court, has a sufficiently close relationship with the victim.

(3) A victim impact statement may, with the permission of the Court, be presented by a person other than the prosecutor.

(4) A written victim impact statement must be signed and a copy must be given to the youth.

(5) If a victim impact statement is to be presented orally, a written or oral summary of the statement must be given to the youth.

(6) A legal practitioner representing the youth or, with the leave of the Court, the youth, may cross-examine:

(a) the person who signed a written victim impact statement; or

(b) the person (not being the prosecutor) presenting the statement orally,

about the contents of the statement.

79 Victim reports

(1) The prosecutor must present a victim report if:

(a) a victim does not consent to the presentation of a victim impact statement in relation to him or her; and

(b) the details of the harm suffered by the victim arising from the offence are reasonably ascertainable; and

(c) the victim has been informed of the contents of the victim report and does not object to its presentation.

(2) If the victim is incapable, because of age or physical or mental disability, of giving consent to the presentation of a victim report, the victim report may be presented if a person who, in the opinion of the Court, has a sufficiently close relationship with the victim has been informed of the contents of the report and does not object to its presentation.

(3) A victim report may also be presented if:

(a) the victim cannot be located after reasonable attempts have been made by the prosecutor; and

(b) the details of the harm suffered by the victim arising from the offence are reasonably ascertainable.

(4) A victim report need not be presented to the Court if the details of the harm are already before the Court as evidence or as part of a report prepared in relation to the youth.

(5) A copy of a written victim report must be given to the youth.

(6) If a victim report is to be presented orally, a written or oral summary of the report must be given to the youth.

80 Other matters may be addressed

(1) A victim impact statement or victim report may contain details of the harm caused to the victim arising from another offence:

(a) for which the youth has already been sentenced, or will be sentenced in the proceedings then before the Court; or

(b) which has already been taken into account in a sentence, or which may be taken into account in the proceedings then before the Court.

(2) A victim impact statement or victim report may contain a statement as to the victim's wishes in respect of the sentence of the Court for the offence.

Division 4 Community court sentencing procedure

80A Definitions

In this Division:

Aboriginal experience report, see section 80B.

approved member, of a Law and Justice Group, means a member of the Law and Justice Group who is approved under section 107C(3) of the *Sentencing Act 1995*.

community court sentencing procedure means the sentencing of a youth in accordance with this Division.

Law and Justice Group, for a place, see section 107C(2) of the *Sentencing Act 1995*.

80B Meaning of *Aboriginal experience report*

An ***Aboriginal experience report***, as defined in section 107B of the *Sentencing Act 1995*, applies to this Division as if an offender is a youth under this Act.

80C Application for community court sentencing procedure

(1) A youth may apply to the Youth Justice Court for the Court to sentence the youth for an offence in accordance with the community court sentencing procedure if the youth:

(a) has pleaded guilty to an offence in the Youth Justice Court; and

(b) has agreed with the prosecutor to facts in relation to the offence and those facts have been given to the Court; and

(c) is Aboriginal.

(2) The application must specify a place:

(a) in the Territory for the sitting of the Court; and

(b) for which a Law and Justice Group is established.

(3) The Court may grant the application or refuse to grant the application.

(4) In deciding whether to grant the application or refuse to grant the application, the Court must have regard to:

(a) the youth's connection to the place specified in the application; and

(b) any other matter the Court considers relevant.

80D Community court sentencing procedure

(1) If the Youth Justice Court grants an application under section 80C(3), the Court must:

(a) sit and hear the proceedings at the place specified in the youth's application; and

(b) make an order under section 83 in relation to the offence at the place.

(2) Before making the order under section 83, the Court:

(a) must consider an Aboriginal experience report in respect of the youth and the offence; and

(b) may consider the responses given to any questions asked of the approved members of the Law and Justice Group who prepared the report as mentioned in subsection (5).

(3) Sections 72, 73 and 75 apply to an Aboriginal experience report as if the report was requested, received or prepared under Division 2.

(4) The Court may adjourn the proceedings to enable the Aboriginal experience report to be prepared.

(5) After receiving the Aboriginal experience report the Court may, in relation to the information contained in the report:

(a) ask questions of the approved members of the Law and Justice Group who prepared the Aboriginal experience report; and

(b) allow another person to ask questions of the approved members of the Law and Justice Group who prepared the Aboriginal experience report.

(6) The response given to a question asked under subsection (5) may be given in writing or orally.

(7) To avoid doubt, this section does not limit the matters the Court would ordinarily consider in imposing a sentence on the youth.

80E Information in Aboriginal experience report and responses of Law and Justice Group

The fact that information is contained in an Aboriginal experience report or a response given to a question asked under section 80D(5) does not constitute proof of the information.

80F Rules of Court and practice directions

The Chief Judge may make rules of Court, or issue practice directions, regulating the practice and procedure of the Court under this Division.

Part 6 Disposition by Court

Division 1 General principles

81 Principles and considerations to be applied to youth offenders

(1) When sentencing a youth who has been found guilty of an offence, the Court must:

(a) have primary regard to any impact of the offence on each victim of the offence; and

(b) also have regard to:

(i) the principles applying generally for disposing of charges for offences, except as those principles are modified by this Act; and

(ii) the general principles of youth justice set out in section 4.

(2) The Court must consider any information about the youth or the offence that may assist the Court to decide how to dispose of the matter, and in particular must consider:

(a) the nature and seriousness of the offence; and

(b) any history of offences previously committed by the youth; and

(c) the youth's cultural background; and

(d) the age and maturity of the youth; and

(e) any previous order in relation to an offence that still applies to the youth, and any further order that is liable to be imposed if the youth has not complied with the terms of the previous order; and

(f) the extent to which any person was affected as a victim of the offence.

(3) The Court must dispose of the matter in a way that is in proportion to the seriousness of the offence.

(4) The Court must have regard to the fact that the rehabilitation of a youth may be facilitated by:

(a) the participation of the youth's family; and

(b) giving the youth opportunities to engage in educational programs and in employment,

but the absence of such participation or opportunities must not result in the youth being dealt with more severely for the offence.

(5) The Court must take into account whether the youth has taken steps to make amends with any of the victims of the offence.

82 Powers of Supreme Court in sentencing

(1) If a youth is found guilty before the Supreme Court of an offence, the Supreme Court may do any of the following:

(a) exercise, in addition to its powers, the powers of the Youth Justice Court;

(b) order that the youth be detained in a detention centre or imprisoned for a period not exceeding the period of imprisonment for which such an offence would be punishable if committed by an adult;

(c) remit the case to the Youth Justice Court.

(2) If the Supreme Court makes an order under subsection (1)(b), it may also make any order in relation to that detention or imprisonment that it could make in relation to a sentence of imprisonment under the *Sentencing Act 1995*.

(3) If the Supreme Court finds a youth guilty of murder, the Supreme Court may, despite section 157(2) of the Criminal Code, sentence the youth to life imprisonment or a shorter period of detention or imprisonment as it considers appropriate.

Division 2 Sentencing options

83 Orders Court may make

(1) If the Court finds a charge proven against a youth it may, whether or not it proceeds to conviction, do one or more of the following:

(a) dismiss the charge for the offence;

(b) discharge the youth without penalty;

(c) adjourn the matter for a period not exceeding 6 months and, if during that period the youth does not commit a further offence, discharge the youth without penalty;

(d) adjourn the matter to a specified date not more than 12 months from the date of the finding of guilt, and grant bail to the youth in accordance with the *Bail Act 1982*:

(i) for the purpose of assessing the youth's capacity and prospects for rehabilitation; or

(ii) for the purpose of allowing the youth to demonstrate that rehabilitation has taken place; or

(iii) for any other purpose the Court considers appropriate in the circumstances;

(e) order the youth to participate in a program approved by the Minister, as specified in the order, and adjourn the matter for that purpose (*see* Division 3);

(f) order that the youth be released on his or her giving such security as the Court considers appropriate that he or she will:

(i) appear before the Court if called on to do so during the period, not exceeding 2 years, specified in the order; and

(ii) be of good behaviour for the period of the order; and

(iii) observe any conditions imposed by the Court (*see* Division 4);

(g) fine the youth not more than the maximum penalty that may be imposed under the relevant law in relation to the offence (*see* Division 5);

(h) make a community work order that the youth participate in an approved project for the number of hours, not exceeding 480 hours, specified in the order (*see* Division 6);

(i) order that the youth serve a term of detention or imprisonment that is suspended wholly or partly (*see* Division 7);

(j) order that the youth serve a term of detention or imprisonment that is suspended on the youth entering into an alternative detention order (*see* Division 8);

(k) order that the youth serve a term of detention or imprisonment that is to be served periodically under a periodic detention order (*see* Division 9);

(l) order that the youth serve a term of detention or imprisonment;

(m) make any other order in respect of the youth that another court could make if the youth were an adult convicted of that offence other than a community correction order or intensive community correction order under the *Sentencing Act 1995*.

Example for subsection (1)(d)(iii)

Allowing a parent or responsible adult in respect of the youth to demonstrate compliance with a family responsibility agreement.

(2) If the Court orders that the youth serve a term of detention or imprisonment, the term must not exceed the lesser of:

(a) the maximum period that may be imposed under the relevant law in relation to the offence; or

(b) for a youth who is:

(i) 15 years of age or more – 2 years; or

(ii) less than 15 years of age – 12 months.

(3) The Court must not order the imprisonment of a youth who is less than 15 years of age.

(4) If the Supreme Court remits a case to the Youth Justice Court under section 82(1)(c), the Youth Justice Court must deal with the youth as if the youth had been found guilty of the offence in that Court.

(5) This section does not limit the power of the Supreme Court to impose on a youth a sentence it could otherwise impose on him or her.

84 Court may order pre-sentencing conference

(1) The Court may, when determining the appropriate sentence for a youth who has been found guilty of an offence, adjourn the proceedings and order the youth to participate in a pre-sentencing conference.

(2) A pre-sentencing conference may be with any of the victims of the offence the youth is charged with, community representatives, members of the youth's family or any other persons as the Court considers appropriate.

(3) The Court may:

(a) direct that the conference be convened at a specified time and place; and

(b) appoint a person who is appropriately qualified as the convenor of the conference.

(4) The convenor must report to the Court as to the outcome of the conference.

85 Non-parole period

(1) If the Court sentences a youth to a term of detention or imprisonment longer than 12 months that is not suspended in whole or part, the Court must fix a non-parole period unless the Court considers that the nature of the offence, the past history of the youth or the circumstances of the particular case make the fixing of such a period inappropriate.

(2) If the sentence is in respect of more than one offence, the non-parole period fixed under subsection (1) is in respect of the aggregate period of detention or imprisonment that the youth is liable to serve under all the sentences imposed.

(3) Subject to section 87, if the Court sentences a youth to a term of detention or imprisonment of 12 months or less, or a term that is suspended in whole or part, the Court may not fix a non-parole period.

86 Fixing non-parole period otherwise than at time of sentencing

(1) This section applies if the Court fails to fix a non-parole period under section 85.

(2) The failure does not invalidate the sentence.

(3) On application by the appropriate authority, a prosecutor, the youth or a person on behalf of the youth, the Court may fix a non-parole period in accordance with section 85 in any manner in which the Court might have done so at the time of sentencing.

87 Fixing new non-parole period in respect of multiple sentences

(1) This section applies if:

(a) a youth has been sentenced to be detained or imprisoned for an offence and a non-parole period has been fixed in respect of the sentence; and

(b) before the end of the non-parole period the youth is sentenced by the Court to a further term of detention or imprisonment.

(1A) The Court must fix a new single non-parole period in respect of all the sentences the youth is to serve or complete.

(2) The new single non-parole period fixed at the time of the imposition of the further sentence:

(a) supersedes any previous non-parole period that the youth is to serve or complete; and

(b) must not be such as to render the youth eligible to be released on parole earlier than would have been the case if the further sentence had not been imposed.

88 Court may disqualify youth from holding driving licence

(1) The Court may, in addition to any other order it may make if a youth is found guilty of an offence, make an order disqualifying the youth from holding a licence to drive a motor vehicle:

(a) as from a day or time specified in the order; and

(b) for a period specified in the order or until further order.

(2) The Court may make the order if satisfied that, having regard to all the facts and circumstances before it, the youth is not a fit and proper person to hold such a licence.

(3) The Court may make the order if the charge is proved, whether or not a conviction is recorded.

(4) The order has the same force and effect as an order under the *Traffic Act 1987*.

(5) The Court may, at any time on application by or on behalf of the youth disqualified under the order, vary or revoke the order if the Court is satisfied it is just and expedient to do so.

(6) This section is in addition to any powers of a court under the *Traffic Act 1987* or any other Act to make an order disqualifying a person from holding a licence to drive a motor vehicle.

89 Restitution

(1) The Court may, in addition to any other order it may make in relation to a youth who is found guilty of an offence, make an order for:

(a) restitution by way of monetary compensation; or

(b) with the consent of the youth and the victim, performance of service as compensation for an offence.

(2) In making the order, the Court must have regard to:

(a) the amount of loss or damage suffered as a result of the offence; and

(b) the ability of the youth to comply with the order.

(3) An order under subsection (1) for monetary compensation must not exceed $5 000.

(4) Monetary compensation under this section must be paid to the Fines Recovery Unit for distribution in accordance with the order.

(5) The *Fines and Penalties (Recovery) Act 2001* applies in relation to an amount payable under this section.

(6) If the Court orders performance of service as compensation:

(a) the monetary value of the compensation must be specified in the order; and

(b) the value of the service performed is to be determined in accordance with the Regulations; and

(c) the youth must perform the service until the monetary value of the compensation has been satisfied.

(7) An order under this section does not preclude any other action or proceedings for damages by a person who suffered loss or damages as a result of an offence.

Division 3 Approved programs

90 Matters relating to approved programs

(1) This section applies in relation to an order under section 83(1)(e).

(2) The Minister may, by notice in the *Gazette*, approve a program for this section.

(3) If the Court is satisfied that the youth has satisfactorily completed the program, the Court may make an order discharging the youth without penalty.

(4) If the Court is satisfied that the youth has failed to satisfactorily complete the program, the Court must:

(a) revoke the order (if it is still in force); and

(b) deal with the youth for the relevant offence or offences in any manner in which the Court could deal with the youth if it had just found the youth guilty of the offence or those offences.

(5) In determining how to deal with the youth under subsection (4)(b), the Court must take into account the extent to which the youth had complied with the order or conditions or continuing obligation.

(6) In dealing with a youth under this section, the Court must not impose on the youth a penalty greater than the maximum penalty it could have imposed on him or her in respect of the original offence.

Division 4 Good behaviour orders

91 Making good behaviour order

(1) This section applies if the Court makes a good behaviour order.

(2) A good behaviour order in respect of a youth may impose any of the following conditions on the youth as the Court considers appropriate:

(a) that the youth reside with a particular person, or at a particular place, specified in the order;

(b) that the youth obey the reasonable directions of a person specified in the order;

(c) that the youth refrain from the activities, or from associating with persons, specified in the order;

(d) that the youth be under the supervision of the CEO and that the youth reports to a person nominated by the CEO, at the place and times as determined by that person, during the period of the order;

(e) any other condition the Court considers appropriate.

(3) If the Court makes a good behaviour order in respect of a youth, the youth must sign the order to signify acceptance of the terms before leaving the precincts of the Court.

(4) A copy of a good behaviour order must be:

(a) given to the youth; and

(b) given to a responsible adult in respect of the youth, if in attendance at the Court; and

(c) sent to the CEO, if the order entails supervision.

(5) A youth who is the subject of a good behaviour order may, by order of the Court or by notice issued by the Registrar, be called upon during the period specified in the order to appear before the Court.

(6) An order or notice under subsection (5) must be served on the youth not less than 4 days before the time specified in the notice for the appearance.

(7) An application for an order under subsection (5) may be made in the absence of the youth.

Division 5 Fines

92 Imposition of fine

(1) This section applies if the Court imposes a fine under section 83(1)(g).

(2) The fine may be enforced under the *Fines and Penalties (Recovery) Act 2001* unless the Court orders detention or imprisonment in default in accordance with subsection (3).

(3) The Court may order that if the fine is not paid within 28 days the youth must be detained at a detention centre or imprisoned until his or her liability to pay the fine is discharged.

(4) If the Court makes an order under subsection (3) and the youth does not pay the fine within 28 days, the Court may issue a warrant of commitment in respect of the youth specifying the period of detention or imprisonment to be one day for each amount (or part of that amount) prescribed for the purposes of section 88 of the *Fines and Penalties (Recovery) Act 2001* that comprises the fine.

(5) If the youth serves the total period of detention or imprisonment under a warrant under subsection (4), the fine is taken to be satisfied.

(6) If the youth serves part of the period of detention or imprisonment under a warrant under subsection (4), the fine is taken to be partially satisfied by the amount calculated at the rate prescribed for the purposes of section 88 of the *Fines and Penalties (Recovery) Act 2001* for each day actually served.

(7) Unless otherwise ordered by the Court, any period of detention or imprisonment that the youth has to serve as a result of an order under subsection (3) must be served:

(a) cumulatively on any incomplete sentence or sentences of detention or imprisonment imposed on the youth for the default of a payment of a fine or sum of money; and

(b) concurrently with any incomplete sentence or sentences of detention or imprisonment imposed on the youth other than for the default of a payment of a fine or sum of money, whether the other sentence was or the other sentences were imposed before or at the same time as that term.

Division 6 Community work orders

93 Application and purpose of community work orders

(1) This Division applies in relation to a community work order.

(2) The purpose of a community work order is to reflect the public interest in ensuring that a youth who commits an offence makes amends to the community by performing work that is of benefit to the community.

94 Making community work order

(1) The Court may make a community work order in relation to a youth if:

(a) the youth consents to the making of the order and to the terms of the order; and

(b) the Court is satisfied there is an approved project suitable for the youth to participate in; and

(c) a community youth justice officer advises the Court that arrangements have been or will be made for the youth to participate in the approved project; and

(d) the Court is satisfied that the youth is a suitable person to participate in the approved project.

(2) For subsection (1)(d), the Court must require a report from a community youth justice officer as to the youth's circumstances and any other matter the Court specifies.

(3) If the Court makes a community work order, the youth must sign the order to signify acceptance of the terms of the order before leaving the precincts of the Court.

(4) If the Court makes a community work order, it must ensure that a copy of the order is:

(a) given to the youth; and

(b) given to a responsible adult in respect of the youth, if in attendance at the Court; and

(c) sent to the CEO.

(5) A community work order may require the youth to be present:

(a) at a place and to a person; and

(b) within a time;

specified in the order or as directed by the CEO in writing.

(6) If the time and place are not specified in the order, the CEO must cause a written direction to be given to the youth as soon as practicable after the order is made.

(7) If the community work order:

(a) is in respect of 2 or more offences; or

(b) is in addition to one or more other community work orders in force in respect of the youth,

the total number of hours to be worked under the order, or orders as the case may be, must not exceed 480 hours.

95 Duties of youth in carrying out community work order

(1) A youth who is the subject of a community work order:

(a) must participate, for the number of hours specified in the order, in an approved project as directed by a community youth justice officer; and

(b) must participate in the project to the satisfaction of a community youth justice officer or the project supervisor; and

(c) must, while participating in the project, comply with any reasonable directions of a community youth justice officer or the project supervisor; and

(d) must inform a community youth justice officer of any change in the youth's residential address within 48 hours after the change; and

(e) must not commit an offence while the order is in force.

(2) Unless the youth consents, he or she must not be required to participate in an approved project under a community work order for more than 8 hours (exclusive of time allowed for meals) in any one day.

96 Breach of community work order

(1) A youth who is the subject of a community work order breaches the order if the youth:

(a) fails to comply with a term or condition of the order; or

(b) fails to carry out the youth's obligations under section 95; or

(c) disturbs or interferes with any other person participating in or doing anything under a community work order; or

(d) assaults, threatens, insults or uses abusive language to a community youth justice officer or the project supervisor; or

(e) changes address to avoid the youth's obligations under this Act.

(2) If the community work order that is breached is in addition to one or more other community work orders in force in respect of the youth, any time spent participating in approved projects under the orders is taken to have been spent in the projects in the succession in which the orders were made, and the youth is taken to be in breach of all the orders that remain unsatisfied.

97 CEO may approve projects

(1) The CEO may approve a rehabilitation project or work, or both, as a project to be participated in under a community work order.

(2) An approved project must have a person nominated to be the project supervisor.

Division 7 Suspended sentences

98 Making order to suspend sentence

(1) This section applies in relation to an order under section 83(1)(i).

(2) The Court may suspend all or part of a sentence of detention or imprisonment on the conditions it considers appropriate.

(3) If the Court suspends all or part of a sentence, it must specify a period, not exceeding 2 years, during which the youth must not commit any further offences.

(4) The period in subsection (3) begins:

(a) if the whole of the sentence is suspended – on the date of the order; and

(b) if part of the sentence is suspended – on the date specified in the order.

98A Procedural matters

(1) If the Court makes an order suspending the sentence imposed on a youth, the youth must sign the order to signify acceptance of the terms before leaving the precincts of the Court.

(2) If the Court makes an order suspending the sentence imposed on a youth, it must ensure that a copy of the order is:

(a) given to the youth; and

(b) given to a responsible adult in respect of the youth, if in attendance at the Court; and

(c) sent to the appropriate authority.

Division 8 Alternative detention orders

99 Application

This Division applies in relation to an alternative detention order.

100 Making alternative detention order

(1) The Court may suspend the sentence imposed on a youth if the youth enters into an alternative detention order and the Court is satisfied it is desirable to do so in the circumstances.

(2) The Court must specify in the order the premises or place (which may include a restricted area) at which the youth is to reside or remain and the period, not exceeding 12 months, that the order is to remain in force.

(3) The Court must not make the order unless the youth consents to the making of the order and to the terms of the order.

101 Circumstances in which alternative detention order may be made

(1) The Court can only make an alternative detention order if it is satisfied that:

(a) suitable arrangements are available for the youth to reside at the premises or place specified in the report; and

(b) the premises or place specified in the report is suitable for the purposes of the order; and

(c) the making of the order is not likely to inconvenience or put at risk other persons living in those premises or at that place or the community generally; and

(d) the youth is a suitable person for alternative detention.

(2) In order to be satisfied as to those matters, the Court must require from the CEO a report.

(3) The CEO must prepare and provide to the Court a report addressing the matters referred to in subsection (1) and any other matters specified by the Court.

(4) In preparing the report, the CEO must take into account the views of those members of the community who, in the opinion of the CEO, may be affected by the making of the order.

102 Conditions of order

(1) An alternative detention order may be subject to the terms and conditions the Court considers appropriate including, but not limited to, that the youth:

(a) not leave the premises or place specified in the order except at the times and for the periods as prescribed or as otherwise permitted by the CEO or a community youth justice officer; and

(b) wear or have attached an approved monitoring device in accordance with the directions of the CEO, and allow the placing, or installation in, and retrieval from, the premises or place specified in the order of a machine, equipment or device necessary for the efficient operation of the approved monitoring device; and

(c) obey the reasonable directions of the CEO.

(2) The Regulations may prescribe conditions with which a youth who is subject to an alternative detention order must comply.

103 Procedural matters

(1) If the Court makes an alternative detention order, the youth must sign the order to signify acceptance of the terms before leaving the precincts of the Court.

(2) If the Court makes an alternative detention order, it must ensure that a copy of the order is:

(a) given to the youth; and

(b) given to a responsible adult in respect of the youth, if in attendance at the Court; and

(ba) sent to the CEO; and

(c) if the youth is sentenced to a term of imprisonment – sent to the Commissioner.

104 If more than one alternative detention order made

(1) If the Court makes an alternative detention order in respect of 2 or more offences, the aggregate period the order is to remain in force must not exceed 12 months.

(2) If one or more other alternative detention orders are in force in respect of the youth, the Court must not make a further alternative detention order that results in the aggregate periods of the orders exceeding 12 months.

110 Breach of alternative detention order

A youth breaches an alternative detention order if the youth:

(a) fails to reside in or remain at the premises or place specified in the order; or

(b) fails to comply with a term or condition of the order; or

(c) wilfully destroys, damages or removes, or attempts to destroy, damage or remove, any part of an approved monitoring device or any associated machine, equipment or device; or

(d) fails to comply with a lawful direction of a community youth justice officer to submit to a prescribed alcohol/drug test; or

(e) disturbs or interferes with another person residing in the premises or at the place specified in the order; or

(f) assaults, threatens, insults or uses abusive language to a community youth justice officer; or

(g) contravenes a condition prescribed under section 102(2).

Division 9 Periodic detention orders

111 Application

This Division applies in relation to a periodic detention order.

112 Making periodic detention order

(1) The Court may make a periodic detention order in respect of a youth if:

(a) the youth consents to the making of the order and to the terms of the order; and

(b) the Court is satisfied there are appropriate facilities available; and

(c) the Court is satisfied that the youth is a suitable person for periodic detention.

(2) For subsection (1)(c), the Court must require a report from the Commissioner of Correctional Services or the CEO as to the youth's circumstances and any other matter the Court specifies.

113 Order must specify number of detention or imprisonment periods

A periodic detention order must specify:

(a) the number of periods of detention or imprisonment the youth must serve; and

(b) the length of each period of detention or imprisonment; and

(c) the detention centre or custodial correctional facility at which the youth must serve the sentence; and

(d) the date and time at which the youth must first report to the detention centre or custodial correctional facility; and

(e) the day of the week and the time at which the youth must subsequently report during the term of the sentence.

114 Conditions of order

(1) A periodic detention order is subject to the following conditions:

(a) the youth must report to the relevant detention centre or custodial correctional facility (as the case may be) on the day or date and at the time specified in the order;

(b) the youth must not commit an offence while the order is in force;

(c) the youth must notify the superintendent of the detention centre, or the officer in charge of the custodial correctional facility (as the case may be), within 48 hours of being charged with an offence, in the Territory or elsewhere, while the order is in force;

(d) the youth must notify the superintendent of the detention centre, or the officer in charge of the custodial correctional facility (as the case may be), of any change in the youth's address, while the order is in force, within 48 hours after the change;

(e) while the order is in force, the youth must obey all lawful instructions and directions of the appropriate authority or the superintendent of the detention centre or the officer in charge of the custodial correctional facility (as the case may be);

(f) any other conditions the Court considers appropriate.

(2) For subsection (1)(e), lawful instructions and directions includes instructions or directions in relation to participation in any program or activity.

115 Procedural matters

(1) If the Court makes a periodic detention order, the youth must sign the order to signify acceptance of the terms before leaving the precincts of the Court.

(2) If the Court makes a periodic detention order, it must ensure that a copy of the order is:

(a) given to the youth; and

(b) given to a responsible adult in respect of the youth, if in attendance at the Court; and

(c) sent to the appropriate authority.

116 Order remains in force until served or cancelled

A periodic detention order remains in force until:

(a) the relevant detention or imprisonment periods required to be served under the order, or any detention or imprisonment periods by which the order has been extended under section 119, have been served; or

(b) the order has been cancelled or revoked.

117 Warrant of commitment covers all periods

The Court must issue a warrant of commitment in respect of the youth that is taken to apply to all detention or imprisonment periods to be served under the periodic detention order.

118 Youth in lawful custody

The youth is taken to be in lawful custody while serving each period of detention or imprisonment under the order.

119 Appropriate authority can vary times

(1) The appropriate authority may grant a youth leave of absence from a period of detention or imprisonment:

(a) for health reasons; or

(b) on compassionate grounds; or

(c) for any other reason the appropriate authority considers sufficient.

(2) Leave of absence may be granted either before or after the detention or imprisonment period to which it relates.

(3) If the appropriate authority refuses to grant leave of absence to a youth in relation to one or more detention or imprisonment periods, the youth may apply to the Youth Justice Court and the Court may, if it considers it appropriate, direct that leave of absence be granted in respect of all or any of those detention or imprisonment periods.

(4) An application under subsection (3) must be made within 21 days after the refusal.

(5) If the Court directs that leave of absence be granted, the appropriate authority is taken to have granted leave of absence for each detention or imprisonment period specified by the Court.

(6) A youth who is granted leave of absence from a period of detention or imprisonment:

(a) is not taken to be serving that period of detention or imprisonment for the purposes of the youth's sentence; and

(b) must continue to report under the periodic detention order until the specified number of detention or imprisonment periods have been served.

120 Youth unfit for detention or imprisonment

(1) The superintendent of a detention centre or the officer in charge of a custodial correctional facility (as the case may be) may refuse to admit a youth to the centre or facility if the superintendent or officer believes on reasonable grounds that the youth is unfit to serve a period of detention or imprisonment because the youth's behaviour is unruly or is otherwise a threat to the good order or security of the centre or facility.

(2) A youth refused admission under subsection (1) is taken to have failed to report for detention or imprisonment.

Division 10 Breach of order and re-offending during adjournment

121 Breach

(1) A youth breaches an order if the youth:

(a) fails, without reasonable excuse, to comply with a term or condition of the order; or

(b) fails to comply with the Regulations relating to the order; or

(c) commits an offence against a law in force in the Territory or elsewhere while he or she is subject to the order; or

(d) does an act, or omits to do an act, that comprises a breach under another provision of this Act.

(2) The Court may, on application by the appropriate authority or prosecutor or of its own motion, make an order under this section.

(3) Notice of the application or hearing must be given to the youth.

(4) A justice of the peace may issue a warrant for the arrest of the youth if satisfied that:

(a) the youth is in breach of an order; and

(b) the youth may not appear in Court.

(5) If the youth does not attend the hearing, the Court may issue a warrant for the arrest of the youth.

(6) If the Court is satisfied by evidence on oath or by affidavit, or by the admission of a youth, that the youth has breached an order, the Court may:

(a) if the order is still in force:

(i) confirm or vary the order; or

(ii) revoke the order and deal with the youth under section 83 as if it had just found him or her guilty of the relevant offence or offences; and

(b) if the order is no longer in force – deal with the youth under section 83 as if it had just found him or her guilty of the relevant offence or offences.

(7) In determining how to deal with the youth under subsection (6), the Court must take into account the extent to which the youth had complied with the order before the application was made.

(8) In dealing with a youth under this section, the Court must not impose on the youth a penalty greater than the maximum penalty it could have imposed on him or her in respect of the original offence.

122 Youth offends during adjournment

(1) This section applies if:

(a) the Court:

(i) finds a charge proven against a youth; and

(ii) adjourns the matter under section 83(1)(c) or (e); and

(iii) discharges the youth without penalty; and

(b) the youth is subsequently found guilty of an offence committed during the period of the adjournment.

(2) The Court that finds the youth guilty of the offence referred to in subsection (1)(b) must, in addition to imposing a penalty in respect of that offence, impose on the youth any penalty that could have been imposed in respect of the offence to which subsection (1)(a) applies.

(3) It is immaterial that the aggregate of both penalties may exceed a limit referred to in section 83.

Division 11 Miscellaneous matters

123 Explanation of orders

(1) If the Court makes an order in relation to a youth, the Court must explain the order to the youth in a language and manner the youth is likely to understand, having regard to the youth's age, health, maturity, cultural background and English language skills.

(2) The Court must explain to the youth:

(a) the purpose and effect of the order; and

(b) the consequences of non-compliance with the order and the circumstances in which the youth would be taken to breach the order; and

(c) that the Court has the power to review the order on the application of the appropriate authority, the youth or a person on behalf of the youth.

(3) An order is not invalidated by a failure to comply with subsection (2).

124 Arrest without warrant if condition breached

If a police officer has reason to believe that a youth has breached a condition imposed on the youth under this Part, the officer:

(a) may arrest the youth without a warrant; and

(b) must bring him or her before the Court as soon as practicable.

125 Aggregate sentences of detention or imprisonment

(1) If the Court finds a youth guilty of 2 or more offences arising out of the same incident or course of conduct, the Court may impose one term of detention or imprisonment in respect of both or all of those offences.

(2) The term of detention or imprisonment must not exceed the lesser of:

(a) the maximum term that could be imposed if a separate term were imposed in respect of each offence; or

(b) for a youth who:

(i) has turned 15 years of age – 2 years; or

(ii) is under 15 years of age – 12 months.

(3) Subsection (1) does not apply if one of the offences is a violent offence, or a sexual offence, within the meaning of the *Sentencing Act 1995*.

126 Detention or imprisonment to be concurrent unless otherwise ordered

(1) If a youth:

(a) is serving, or has been sentenced to serve, a term of detention or imprisonment for an offence; and

(b) is sentenced by the Court to serve another term of detention or imprisonment for another offence,

the later term of detention or imprisonment must be served concurrently with the term of detention or imprisonment for the first offence.

(2) Subsection (1) does not apply if:

(a) this Act otherwise provides; or

(b) the Court otherwise orders when imposing the later sentence.

127 Cumulative orders of detention or imprisonment

(1) If a youth:

(a) is serving, or has been sentenced to serve, a term of detention or imprisonment for an offence; and

(b) is sentenced to serve another term of detention or imprisonment for another offence,

the Court may direct the term of detention or imprisonment for the other offence is to start from the end of the term of detention or imprisonment for the first offence or an earlier date.

(2) Subsection (1) applies whether the term of detention or imprisonment for the first offence is being served concurrently with or cumulatively on the term of detention or imprisonment for another offence.

128 Taking other offences into account

Section 107 of the *Sentencing Act 1995* applies in relation to proceedings under this Act as if:

(a) a reference to a court were a reference to the Youth Justice Court; and

(b) a reference to a person included a reference to a youth.

129 Sentence of detention or imprisonment may be backdated

Despite any other provision of this Act, if:

(a) a youth has been in custody after his or her arrest for an offence; and

(b) the youth is convicted of that offence and sentenced to detention or imprisonment,

the Court may order that the detention or imprisonment is taken to have commenced on the day on which the youth was arrested or on any other day between that day and the day on which the Court passes sentence.

130 Order of service of sentences of detention or imprisonment

If a youth has been sentenced to several terms of detention or imprisonment in respect of any of which a non-parole period was fixed, the terms are taken to be served in succession as follows:

(a) any term in respect of which a non-parole period was not fixed;

(b) the non-parole period;

(c) unless and until released on parole, the balance of any term after the end of the non-parole period.

131 Further sentence if detainee on parole

(1) This section applies if:

(a) a youth is sentenced in the Territory to a term of detention or imprisonment for an offence that was committed while a parole order under the *Parole Act 1971* was in force for the youth; and

(b) the parole order:

(i) was revoked by the Chairperson under section 5B(1)(b) of the *Parole Act 1971* before the youth was sentenced; or

(ii) was cancelled by a court under section 6 of the *Parole Act 1971* before the youth was sentenced; or

(iii) is taken, under section 5D of the *Parole Act 1971*, to have been revoked because of the sentence.

(2) The Court must also order the youth to be detained or imprisoned for:

(a) if the parole order was revoked or cancelled as mentioned in subsection (1)(b)(i) or (ii) – the term that the youth had not served when released from detention under the parole order minus the part of the term the youth served after the parole order was revoked or cancelled; or

(b) otherwise – the term that the youth had not served when released from detention under the parole order.

(3) The term of detention or imprisonment to be served in accordance with subsection (2) starts at the end of the term of detention or imprisonment to which the youth is sentenced for the offence mentioned in subsection (1).

(4) In this section:

Chairperson, see section 3(1) of the *Parole Act 1971*.

133 Parents liable for costs of detention

(1) If, under section 83, a youth is ordered by the Court to be detained at a detention centre, the Court may order that a parent or the parents of the youth pay an amount towards the cost of detaining the youth in a detention centre or intake and transfer facility.

(2) The amount must not exceed:

(a) $100 per week for each week during which the youth is detained in a detention centre or intake and transfer facility; or

(b) for periodic detention – $15 per day for each day the youth is detained in a detention centre or intake and transfer facility.

(3) If the Court makes an order under subsection (1), it must specify the amount that the parent is, or parents are, required to pay towards the cost of detaining the youth.

(4) The *Fines and Penalties (Recovery) Act 2001* applies in relation to an amount ordered to be paid under this section and any amount payable must be paid to the Fines Recovery Unit.

(5) The Court must not make an order under this section in respect of a parent or the parents of a youth unless:

(a) the parent is, or parents are, given an opportunity to be heard and it has taken into account any matters put to it by the parent or parents; and

(b) it is satisfied that the parent has, or parents have, failed to exercise reasonable supervision and control of the youth; and

(c) it is satisfied, after taking into account all the circumstances, that it is reasonable to make the order.

134 Forfeiture of bail

(1) If the Court orders forfeiture of a bail undertaking, Part 8 of the *Fines and Penalties (Recovery) Act 2001* applies and payment can be enforced under that Act unless the Court orders detention or imprisonment in default under subsection (2).

(2) The Court may order that if the forfeited amount is not paid within 28 days, the youth in respect of whom the order is made must be detained at a detention centre or imprisoned until his or her liability to pay the forfeited amount is discharged.

(3) If the Court makes an order under subsection (2) and the forfeited amount is not paid within 28 days, the Court may issue a warrant of commitment in respect of the youth specifying the period of detention or imprisonment calculated on the basis of the amount forfeited as follows:

(a) the period must be one day for each amount (or part of that amount) prescribed for the purposes of section 88 of the *Fines and Penalties (Recovery) Act 2001* that comprises the amount forfeited;

(b) the period must not be less than one day;

(c) the period must not exceed 3 months.

(4) If a youth serves the total period of detention or imprisonment under a warrant under subsection (3), the forfeiture is taken to be satisfied.

(5) If a youth serves part of the period of detention or imprisonment under a warrant under subsection (3), the forfeiture is taken to be partially satisfied by the amount calculated at the rate prescribed for the purposes of section 88 of the *Fines and Penalties (Recovery) Act 2001* for each day actually served.

(6) Unless otherwise ordered by the Court, any period of detention or imprisonment that the youth has to serve as a result of an order under subsection (2) must be served:

(a) cumulatively on any incomplete sentence or sentences of detention or imprisonment imposed on the youth for the default of a payment of a fine or sum of money; and

(b) concurrently with any incomplete sentence or sentences of detention or imprisonment imposed on the youth other than for the default of a payment of a fine or sum of money, whether the other sentence was or the other sentences were imposed before or at the same time as that term.

135 Registrar may disclose name of youth

(1) Subsection (2) applies if:

(a) a charge against a youth for an offence is proven (whether or not a conviction is recorded); and

(b) a person intends to commence proceedings for loss or damage as a result of the offence; and

(c) the proceedings under this Act in respect of the youth were closed to the public.

(2) The person may apply to the Registrar who must supply the person with the name and address of the youth.

137 Procedure where youth before another court

(1) If, in any proceedings before a court other than the Youth Justice Court, it appears to the court that the proceeding should have been instituted in the Youth Justice Court, the court may:

(a) order a stay of the proceedings; or

(b) proceed with the hearing and determination of those proceedings in accordance with this Act as if the court were the Youth Justice Court.

(2) If a court stays proceedings under subsection (1)(a), it must:

(a) refer the proceedings for hearing and determination by the Youth Justice Court; and

(b) do one of the following:

(i) allow the youth to go at large;

(ii) release the youth on bail;

(iii) release the youth into the care and supervision of any person;

(iv) remand the youth in custody in a detention centre or other suitable place (that is not a custodial correctional facility).

138 Procedure where adult before Youth Justice Court

(1) If, in the course of any proceedings before the Youth Justice Court, it appears to the Court that the proceedings should have been instituted in the Local Court, the Youth Justice Court may:

(a) order a stay of the proceedings; or

(b) proceed with the hearing and determination of those proceedings as if it were the Local Court.

(2) If the Youth Justice Court stays proceedings under subsection (1), it must:

(a) refer the proceedings for hearing and determination by the Local Court; and

(b) do one of the following:

(i) allow the defendant to go at large;

(ii) release the defendant on bail;

(iii) remand the defendant in suitable custody.

139 Court has jurisdiction

A court to which proceedings are referred under section 137 or 138 has jurisdiction to hear and determine the proceedings.

140 Referred proceedings valid

If proceedings are referred to the Youth Justice Court under section 137:

(a) the proceedings must be dealt with under this Act from the date of referral, despite that before that date the proceedings or any part of those proceedings did not comply with this Act or that a requirement of this Act had not been complied with; and

(b) the proceedings are not invalid only because, before the date of the referral, those proceedings did not comply with this Act or a requirement of this Act had not been complied with.

Part 6AA Community youth justice officers and monitoring

Division 1 Community youth justice officers

140AA Community youth justice officers

(1) The CEO may appoint a public sector employee to be a community youth justice officer.

(2) A community youth justice officer:

(a) has the following functions:

(i) to prepare reports for the Court as required;

(ii) to supervise a youth who is the subject of supervision under a non-custodial order;

(iii) to monitor the compliance of a youth who is the subject of a monitoring order with the conditions of the order;

(iv) other duties as directed by a court or the CEO;

(v) any other functions conferred by this or any other Act; and

(b) has the powers necessary to perform those functions and any other powers conferred by this or any other Act.

(3) The CEO may exercise the powers and perform the functions of a community youth justice officer conferred by this or any other Act.

(4) In this section:

non-custodial order means any of the following:

(a) a monitoring order;

(b) a community work order;

(c) any other order made under this Act or the *Sentencing Act 1995* that requires a youth to be supervised.

Division 2 Monitoring

140AB Approval of monitoring devices

The CEO may approve a monitoring device for use to monitor the location and activities of youth who are subject to monitoring orders.

140AC Direction by community youth justice officer

(1) A community youth justice officer may give a youth who is subject to a monitoring order any reasonable direction that the officer considers appropriate.

(2) The direction may be about a matter dealt with in the youth's monitoring order, but the direction must not contradict the conditions of the order.

(3) A failure by a youth to comply with the direction is taken to be a breach of the conditions of the monitoring order.

140AD CEO may direct use of approved monitoring device

The CEO may direct a youth who is subject to a monitoring order to submit to the use of an approved monitoring device (including its attachment to the youth) to monitor the youth's compliance with the order.

140AE Compliance with monitoring order

(1) This section applies in relation to a youth who is subject to a monitoring order.

(2) A community youth justice officer may do one or more of the following:

(a) enter the approved residence;

(b) search the approved residence;

(c) search the youth;

(d) place on, or attach to, the youth an approved monitoring device;

(e) at the approved residence, do either or both of the following:

(i) install an approved monitoring device and related equipment;

(ii) inspect or remove any installed device or equipment.

(3) A community youth justice officer may exercise the power mentioned in subsection (2)(e)(ii) after the monitoring order has expired in order to remove a device or related equipment.

(4) In this section:

approved residence, for a youth who is subject to a monitoring order, means the place at which the youth is required under the order to reside.

related equipment means a thing used in connection with the effective operation of an approved monitoring device.

Division 3 Alcohol and drug testing

140AF Prescribed alcohol/drug tests

(1) A community youth justice officer may direct a youth who is subject to a monitoring order to submit to:

(a) a prescribed alcohol/drug test to detect the presence, or ascertain the concentration of, alcohol in the youth's body if the youth is prohibited under the order from consuming alcohol; or

(b) a prescribed alcohol/drug test to detect the presence, or ascertain the concentration of, a restricted drug in the youth's body if the youth is prohibited under the order from using a restricted drug.

(2) If a youth is required under this Division to submit to a prescribed alcohol/drug test, the youth must:

(a) give to a prescribed sampler, or allow a prescribed sampler to take, (as the case requires) a sample of breath or a bodily substance that is sufficient for the purposes of the test; and

(b) comply with any reasonable direction of the sampler.

Note for subsection (2)

Tampering with a sample may constitute an offence against section 140AG.

(3) If a youth does not submit to a test as required under subsection (2):

(a) the prescribed sampler may take the required sample without the youth's consent; and

(b) a police officer may assist to enable the test to be conducted, including by doing either or both of the following:

(i) taking the youth to a place where the required sample can be taken;

(ii) assisting a prescribed sampler to obtain the required sample.

(4) In providing the assistance, the police officer may use the force that is reasonably necessary.

Note for subsection (4)

See section 10 in relation to the use of force.

(5) A sample of breath or a bodily substance given or taken for a prescribed alcohol/drug test is the property of the Territory.

(6) Regulations may prescribe one or more of the following:

(a) alcohol/drug tests for use under this Division;

(b) persons who are prescribed samplers for a prescribed alcohol/drug test;

(c) matters in relation to the carrying out of a prescribed alcohol/drug test.

(7) In this section:

alcohol/drug test means a test under which a sample of a person's breath, blood, saliva, urine or another bodily substance is tested or analysed to detect the presence, or ascertain the concentration of, alcohol or a restricted drug.

140AG Tampering with test samples

A person commits an offence if the person tampers with a sample of breath or a bodily substance given or taken for the purposes of a prescribed alcohol/drug test.

Maximum penalty: 200 penalty units or imprisonment for 2 years.

140AH Evidentiary matters in relation to prescribed alcohol/drug tests

(1) This section applies for the purposes of legal proceedings arising out of the operation of this Act in which the carrying out or results of a prescribed alcohol/drug test are relevant.

(2) If a prescribed alcohol/drug test detects:

(a) the presence of alcohol in a sample of a youth's breath; or

(b) the presence of alcohol or a restricted drug in a youth's body;

the youth is taken to have consumed or used alcohol or the drug, unless the contrary is proved.

(3) A certificate signed by a prescribed certifier stating matters relating to a certifiable matter is evidence of the matters stated in the certificate and the facts on which they are based.

(4) In this section:

certifiable matter, for a prescribed certifier, means a matter relating to a prescribed alcohol/drug test that is specified in the regulations as a matter in relation to which the certifier may issue an evidentiary certificate.

prescribed certifier means a person prescribed by regulation as a person who may issue an evidentiary certificate.

Part 7 Reconsideration and review of sentences and appeals

141 Reconsideration of sentence

(1) This section applies if the Court finds a youth guilty of a charge and an order is made in relation to the youth or a responsible adult in respect of the youth.

(2) The Court may reconsider the order on application by:

(a) the youth or a person on behalf of the youth; or

(b) if the order is in relation to a responsible adult – the responsible adult.

(3) An application for reconsideration may be made at any time.

(4) If an application for reconsideration relates to a sentence of detention or imprisonment, the Court may, upon application by or on behalf of the youth, release the youth on bail before it hears the application for reconsideration.

(5) The Court must notify the applicant, and all other parties, of the place, date and time for the hearing of the application.

(6) After the hearing of the application, the Court may:

(a) confirm or vary the order; or

(b) revoke the order and deal with the youth under section 83 as if it had just found him or her guilty of the relevant offence or offences.

(7) An appeal lies to the Supreme Court from any order made by the Youth Justice Court under this section.

(8) The making of an application under this section does not prevent a person making another application under this section.

142 Review of sentencing orders

(1) This section applies if the Court is satisfied, on an application by the youth, a person on behalf of the youth, the appropriate authority or a prosecutor:

(a) that circumstances, including those of the youth, have materially changed and as a result the youth will not be able to continue to comply with an order or a condition or continuing obligation; or

(b) that the youth is no longer complying with, or is no longer willing to comply with, an order or a condition or continuing obligation.

(2) The Court may do any of the following:

(a) discharge the order;

(b) confirm or vary the order;

(c) revoke the order and deal with the youth under section 83 as if it had just found him or her guilty of the relevant offence or offences.

(3) In determining how to deal with the youth under subsection (2), the Court must take into account the extent to which the youth had complied with the order or conditions or continuing obligation before the application was made.

(4) If the order the Court is reviewing is a community work order, the grounds for reviewing such an order include the following:

(a) that the youth is in custody on a charge for another offence;

(b) that the youth's behaviour is such that the carrying out of the terms of the order is impracticable;

(c) that the operation of the order offends other persons.

(5) In dealing with a youth under this section, the Court must not impose on the youth a penalty greater than the maximum penalty it could have imposed on him or her in respect of the original offence.

(6) An appeal lies to the Supreme Court from any order made by the Youth Justice Court under subsection (2).

(7) If an application is made by or on behalf of the youth under this section, the Court must cause notice of the application, and of the time and place fixed for the hearing, to be given to the appropriate authority.

(8) If an application is made by the appropriate authority or a prosecutor under this section, notice of the application must be given to the youth.

(9) If the youth does not attend the hearing of the application, the Court may issue a warrant for the arrest of the youth.

143 Court may re-open proceeding to correct sentencing errors

(1) The Court may re-open proceedings if the Court has:

(a) imposed a sentence on a youth that is not in accordance with the law; or

(b) failed to impose a sentence that the Court legally should have imposed.

(2) If the Court re-opens proceedings:

(a) it must give the parties an opportunity to be heard; and

(b) it may impose a sentence that is in accordance with the law; and

(c) it may amend any relevant conviction or order to the extent necessary to take into account the sentence imposed under paragraph (b).

(3) The Court may re-open proceedings:

(a) on its own initiative at any time; or

(b) on an application by the youth, a person on behalf of the youth, the appropriate authority or a prosecutor made not later than 28 days after the day the sentence was imposed.

(4) An application may be made at any time for leave to apply for a re-opening of proceedings after the expiry of the time referred to in subsection (3)(b).

(5) Subject to subsection (6), this section does not affect any right of appeal.

(6) For the purposes of an appeal under any Act against a sentence imposed under subsection (2)(b), the time within which the appeal must be made starts from the day the sentence is imposed under subsection (2)(b).

(7) This section applies to a sentence imposed, or required to be imposed, whether before or after the commencement of this section.

144 Appeal to Supreme Court

(1) An appeal lies to the Supreme Court from a finding of guilt, conviction, order or adjudication made by the Youth Justice Court under:

(a) this Act; or

(b) any other Act in force in the Territory.

(2) An appeal under this section must be:

(a) made in accordance with the *Supreme Court Rules 1987*; and

(b) heard by a single Supreme Court Judge.

(3) The provisions of the *Local Court (Criminal Procedure) Act 1928* relating to appeals from the Local Court apply, with the necessary changes, to an appeal under subsection (1).

(4) Sections 61, 63 and 123 apply in relation to an appeal under this section as though a reference in those sections to the Court were a reference to the Supreme Court.

145 Appeal operates as stay

An appeal under section 144 operates as a stay of execution or of proceedings under the finding of guilt, conviction, order or adjudication appealed against.

146 Single Judge may refer appeal to Full Court

This Part does not affect the power of a Supreme Court Judge to refer an appeal to be heard by the Full Court of the Supreme Court.

147 Powers of Supreme Court on appeal

If the Supreme Court hears an appeal against a decision of the Youth Justice Court, it may exercise the same powers and make any order that could be exercised or made by the Youth Justice Court under this Act or any other Act in force in the Territory.

Part 8 Youth detention centres

Division 1AA General matters

147A Functions of CEO

The CEO is responsible for the overall control and management of:

(a) detention centres; and

(b) detainees.

147B Powers of CEO

(1) The CEO has the powers necessary to perform the CEO's functions under this Act.

(2) Without limiting subsection (1), the CEO may do anything the CEO considers appropriate in order to maintain the good order and security of detention centres and detainees.

(3) The CEO may also exercise the powers and perform the functions of a superintendent of a detention centre conferred by this Act.

147C Assistance to deal with or prevent emergency or escape

(1) The CEO may request assistance from the Commissioner of Correctional Services, the Commissioner of Police or both under this section if:

(a) the CEO is satisfied that an emergency situation exists or there is a risk of an emergency situation arising; or

(b) a detainee has escaped from lawful detention and the CEO requires assistance to do either of the following:

(i) search for the detainee;

(ii) return the detainee to lawful detention.

(2) The Commissioner of Police may arrange for police officers to assist the CEO if assistance is requested under subsection (1) and, without limiting the powers of police officers under this or any other Act or the common law, those police officers may exercise the powers and perform the functions of a superintendent of a detention centre under section 151(3)(c) in providing that assistance.

(3) The Commissioner of Correctional Services may arrange for correctional officers to assist the CEO if assistance is requested under subsection (1) and, without limiting the powers of correctional officers under this or any other Act or the common law, those correctional officers may exercise the powers and perform the functions of a superintendent of a detention centre under sections 151(3)(c) and 167(1) in providing that assistance.

(4) Despite section 10(1)(b)(iv), a police officer or correctional officer assisting the CEO under this section is not required to hold the qualification mentioned in that provision to use force under this Act.

(5) A correctional officer providing assistance under this section who is a correctional services dog handler may use a correctional services dog in providing that assistance if the handler considers it appropriate to do so.

(6) The handler may permit the dog to use force against a person only if:

(a) the handler could lawfully use force against the person; and

(b) the handler considers the use of force by the dog is reasonably necessary.

(7) In this section:

correctional officer, see section 4 of the *Correctional Services Act 2014.*

correctional services dog, see section 4 of the *Correctional Services Act 2014.*

correctional services dog handler, see section 35(1)(b) of the *Correctional Services Act 2014*.

Division 1 Detention centres

148 Approval of youth detention centres

The Minister may approve an establishment to be a youth detention centre for this Act.

149 Admission to detention centre

(1) A youth must not be admitted to a detention centre except in accordance with this Act.

(2) In subsection (1):

admitted to, in relation to a detention centre, does not include taken in as a visitor, member of staff of the detention centre, worker, contractor or similar.

150 Explanation of rights and responsibilities

(1) As soon as practicable after a youth is admitted to a detention centre, he or she must be given an explanation of the rules of the centre and his or her rights and responsibilities as a detainee.

(2) The explanation must be given in a language and manner the youth is likely to understand, having regard to the youth's age, health, maturity, cultural background and English language skills.

(3) Any action taken is not unlawful only because of a failure to comply with this section.

(4) For subsection (1), an explanation of the rights and responsibilities of a detainee must include:

(a) information about the consequences of breaching the rules of the detention centre; and

(b) information about the procedure for making a complaint.

(5) The superintendent of the detention centre must take all reasonable steps to ensure this section is complied with.

Division 2 Superintendent

151 Superintendent of detention centre

(1) The CEO must appoint a public sector employee to be the superintendent for a detention centre.

(2) The superintendent of a detention centre is responsible, as far as practicable, for the physical, psychological and emotional welfare of detainees in the detention centre.

(3) The superintendent of a detention centre:

(a) must promote programs to assist and organise activities of detainees in the centre to enhance their wellbeing; and

(b) must encourage the social development and improvement of the welfare of detainees in the centre; and

(c) must maintain order and ensure the safe custody and protection of all persons who are within the precincts of the detention centre, whether as detainees or otherwise; and

(d) is responsible for the maintenance and efficient conduct of the detention centre; and

(e) must supervise the health of detainees in the centre, including the provision of medical treatment and, where necessary, authorise the removal of a detainee to a hospital for medical treatment.

152 Powers of superintendent

(1) The superintendent of a detention centre has the powers that are necessary or convenient for the performance of his or her functions.

(2) The superintendent of a detention centre has power to approve the participation of a detainee in the centre in programs conducted in accordance with section 151 in place of consent by a parent or responsible adult in respect of the detainee.

(3) The powers and functions of the superintendent of a detention centre in relation to a detainee are not altered or diminished by the fact that the detainee may be outside the precincts of, or absent from, the detention centre.

153 Prohibited actions

(1) The superintendent of a detention centre:

(a) must not take an action mentioned in subsection (2); and

(b) must take reasonable steps to ensure that a member of staff of the detention centre does not take an action mentioned in subsection (2).

(2) Each of the following actions is prohibited in relation to a detainee:

(a) the use of force, except:

(i) under section 154 or another provision of this Act; and

(ii) in accordance with section 10;

(b) the use of a restraint, except a permitted restraint that is used in accordance with section 155;

(c) the use of force or a restraint for the purpose of disciplining a detainee;

(d) the use of any form of physical, verbal or emotional abuse, including the following:

(i) the administering of corporal punishment, that is, any action which inflicts, or is intended to inflict, physical pain or discomfort on the detainee;

(ii) any act or omission intended to degrade or humiliate the detainee;

(iii) excessive control over the detainee's access to basic human needs, including toilet facilities, food and clean drinking water;

(e) the use of any form of psychological pressure intended to intimidate or humiliate the detainee;

(f) any kind of unlawful discriminatory treatment.

154 Use of force

(1) The superintendent of a detention centre or a person authorised by the superintendent may use force if the superintendent or authorised person believes on reasonable grounds that force is necessary to:

(a) prevent a risk of a detainee:

(i) inflicting self-harm; or

(ii) harming another person; or

(iii) damaging property; or

(iv) escaping, or attempting to escape, from lawful detention; or

(b) prevent a detainee from engaging in conduct that would:

(i) endanger the safety of any person who is within the precincts of the detention centre, including the detainee; or

(ii) threaten the good order or security of the detention centre; or

(c) arrest a detainee under section 167(1); or

(d) take a detainee to a detention centre or another place under section 167A; or

(e) escort a detainee to or from a place outside a detention centre.

Notes for subsection (1)

1 See section 10 in relation to the use of force.

2 See section 152(3) in relation to the powers of a superintendent of a detention centre when a detainee is outside the precincts of, or absent from, the detention centre.

3 Other provisions of this Act also provide for the use of force.

(2) If the superintendent or authorised person uses force on a detainee, the superintendent must:

(a) ensure the detainee is given an opportunity to be examined by a medical practitioner, nurse or midwife after the use of force; and

(b) if the detainee requires medical attention after the use of force – ensure the detainee is examined as soon as practicable by a medical practitioner, nurse or midwife; and

(c) keep notes of a medical examination under this subsection.

155 Use of restraint devices

(1) The Regulations may prescribe a device that may be used to restrain a detainee.

(2) The superintendent of a detention centre or a person authorised by the superintendent may appropriately use a permitted restraint on a detainee if the superintendent or authorised person believes on reasonable grounds that restraint is necessary to:

(a) prevent a risk of the detainee:

(i) inflicting self-harm; or

(ii) harming another person; or

(iii) damaging property; or

(iv) escaping, or attempting to escape, from lawful detention; or

(b) prevent the detainee from engaging in conduct that would:

(i) endanger the safety of any person who is within the precincts of the detention centre, including the detainee; or

(ii) threaten the good order or security of the detention centre; or

(c) conduct a search of a detainee under section 161; or

(d) arrest a detainee under section 167(1); or

(e) take a detainee to a detention centre or another place under section 167A.

(2A) The superintendent of a detention centre or a person authorised by the superintendent may also appropriately use a permitted restraint on a detainee when escorting the detainee outside a detention centre.

(2B) The superintendent or person authorised by the superintendent may use the force that is reasonably necessary to appropriately use the permitted restraint.

Note for subsection (2B)

See section 10 in relation to the use of force.

(3) In this section:

appropriately use means using a restraint:

(a) in the least restrictive or invasive way reasonable in the circumstances; and

(b) for the amount of time reasonable in the circumstances; and

(c) in accordance with a determination made by the CEO under the Regulations in relation to the use of permitted restraints.

156 Detainee's right to be heard

(1) The superintendent of a detention centre must ensure that a detainee is given the right to be heard in relation to any actions that are to be taken in respect of the detainee under section 154, 155, 158E or 158F..

(2) The right to be heard may be limited or postponed for reasons of practicality or in emergency situations.

157 Delegation by superintendent

The superintendent of a detention centre may delegate in writing any of the superintendent's powers and functions under this Act to:

(a) a member of staff of the detention centre; or

(b) a person authorised by the CEO for section 165(b).

158 Register of detainees

(1) The superintendent of a detention centre must keep a register containing the following particulars in relation to every detainee in the detention centre to the extent the particulars are reasonably ascertainable by the superintendent:

(a) the name, age, place of birth and religion (if any) of the detainee;

(b) the names and addresses of the responsible adults in respect of the detainee who, immediately before the detention of the detainee in the detention centre, had the custody of the detainee;

(c) the date on which the detainee was admitted to, and the date on which he or she was released or transferred from, the detention centre;

(d) any other particulars prescribed by the Regulations.

(2) If a detainee is absent from the detention centre for a period without being discharged from custody, the register must also contain the following information in relation to him or her:

(a) the time and date the detainee departed the detention centre;

(b) the reason for the absence from the detention centre;

(c) the name and address of the person in whose care and custody the detainee was placed for the period of the absence and that person's relationship (if any) to the detainee;

(d) the time and date the detainee returned to the detention centre;

(e) if different from the person in paragraph (c) – the name and address of the person who delivered the detainee back to the detention centre and that person's relationship (if any) to the detainee.

(3) A register may be kept in any form and on any medium that the CEO considers appropriate.

158A Register of use of permitted restraints

(1) The superintendent of a detention centre must keep a register containing the following particulars in relation to the use of permitted restraints:

(a) the name of the detainee who was restrained;

(b) the particular permitted restraint that was used;

(c) the circumstances in which the permitted restraint was used;

(d) the period for which the permitted restraint was used, including the date and time at which the restraint was applied and the date and time at which the restraint was removed;

(e) if the restraint was used under section 155(2) – details of any assessment made during the period for which the restraint was in use, including:

(i) the time the assessment was made; and

(ii) the outcome of the assessment; and

(iii) the reasons for that outcome;

(f) the name of the person who used the permitted restraint;

(g) any medical attention that was required due to the use of the permitted restraint;

(h) any other particulars prescribed by the Regulations.

(2) A register may be kept in any form and on any medium that the CEO considers appropriate.

(3) In this section:

assessment means an assessment as to whether:

(a) the restraint can be removed; or

(b) the restraint is still necessary.

Division 2A Separation of detainees

158B Separation in accordance with this Division

A detainee may be separated from other detainees in a detention centre only in accordance with this Division.

158C Operational matters

A detainee is not considered to have been separated from other detainees in a detention centre:

(a) when the detainee is securely accommodated:

(i) in the detainee's room overnight; or

(ii) during a reasonable and necessary lockdown period at the detention centre; or

(iii) during an emergency situation; or

(b) when it is, in the opinion of the superintendent of the centre, reasonably required having regard to the age or gender of the detainee; or

(c) when the detainee is attending medical treatment, an educational or work program or a recreational activity; or

(d) when the detainee is being escorted or moved within the detention centre; or

(e) in another circumstance prescribed by regulation.

158D Voluntary separation

(1) The superintendent of a detention centre may authorise the separation of a detainee from other detainees in the detention centre if the detainee requests the separation.

(2) As soon as practicable after a detainee is separated under this section, the detainee must be given an explanation of the detainee's rights during the separation.

(3) If a detainee is separated under this section, members of staff of the detention centre must have contact with the detainee at least once every hour during the separation.

(4) If a detainee who is separated under this section requests to be released from separation, the detainee must be released from separation immediately.

(5) The superintendent may withdraw an authorisation under subsection (1) if the superintendent considers that separation is no longer appropriate.

158E Medical separation

(1) The superintendent of a detention centre may authorise the separation of a detainee from other detainees in the detention centre if:

(a) a medical practitioner advises the superintendent that:

(i) the detainee is suffering from an infectious disease; and

(ii) separation is reasonably necessary to mitigate the risk to the health of other detainees; or

(b) the superintendent believes on reasonable grounds that:

(i) the detainee is suffering from an infectious disease; and

(ii) separation is reasonably necessary to mitigate the risk to the health of other detainees.

(2) The superintendent must report the separation of a detainee under this section to the CEO as soon as reasonably practicable after the separation occurs.

(3) A detainee separated under subsection (1)(b) must be examined by a medical practitioner as soon as practicable after the detainee is separated under that provision.

(4) As soon as practicable after a detainee is separated under this section, the detainee must be given an explanation of the detainee's rights during the separation.

(5) If a detainee is separated under this section:

(a) members of staff of the detention centre must have regular, ongoing contact with the detainee for the purpose of monitoring the physical and mental health and wellbeing of the detainee; and

(b) if it is safe and reasonably practicable to do so, the detainee must be permitted to have contact with the following:

(i) one or more family members;

(ii) a medical practitioner;

(iii) a counsellor or psychologist;

(iv) a case worker;

(v) a legal practitioner;

(vi) an adult nominated by the detainee; and

(c) the detainee must be given access to the following:

(i) basic human necessities including toilets, food, clean drinking water, showers and sunlight;

(ii) if it is safe to do so, education, education materials and appropriate recreation materials, including reading materials; and

(d) if the period of separation exceeds 3 hours and it is safe to do so – the detainee must be given access to outdoor exercise or recreation for at least 15 minutes of every 3 hours between 8 am and 6 pm.

(6) A detainee must be released from separation under this section in the following circumstances:

(a) on the direction of a medical practitioner;

(b) if the superintendent no longer believes separation is reasonably necessary.

Note for section 158E

Under section 174, the superintendent of a detention centre is required to comply with the direction of a medical practitioner in relation to the health of a detainee.

158F Behavioural separation

(1) The superintendent of a detention centre may authorise the separation of a detainee from other detainees in the detention centre if:

(a) the superintendent believes on reasonable grounds that separation is reasonably necessary for the detainee's protection or the protection of another person or property; and

(b) either:

(i) all reasonable behavioural or therapeutic measures to resolve the situation have been attempted and those measures have failed to resolve the situation; or

(ii) an emergency situation exists; and

(c) no other course of action is reasonably practicable.

(2) The superintendent must report the separation of a detainee under this section to the CEO and the Children's Commissioner as soon as reasonably practicable after the separation occurs.

(3) The superintendent must not authorise the separation of a detainee under this section for a period exceeding 12 hours without the CEO's approval and, if the period exceeds 12 hours, the CEO's approval must be given in respect of each successive 12 hour period.

(4) A detainee must not be separated under this section for more than 72 consecutive hours.

(5) As soon as practicable after a detainee is separated under this section, the detainee must be given an explanation of the detainee's rights during the separation.

(6) A detainee must be examined by a medical practitioner within a reasonable time either before or after separation under this section unless it is not safe to do so.

(7) If a detainee is separated under this section:

(a) members of staff of the detention centre must have regular, ongoing contact with the detainee for the purpose of monitoring the physical and mental health and wellbeing of the detainee; and

(b) if it is safe and reasonably practicable to do so, the detainee must be permitted to have contact with the following:

(i) one or more family members;

(ii) a medical practitioner;

(iii) a counsellor or psychologist;

(iv) a case worker;

(v) a legal practitioner;

(vi) an adult nominated by the detainee; and

(c) the detainee must be given access to the following:

(i) basic human necessities including toilets, food, clean drinking water, showers and sunlight;

(ii) if it is safe to do so, education, education materials and appropriate recreation materials, including reading materials; and

(d) if the period of separation exceeds 3 hours and it is safe to do so – the detainee must be given access to outdoor exercise or recreation for at least 15 minutes of every 3 hours between 8 am and 6 pm.

(8) A detainee must be released from separation under this section if the superintendent no longer believes separation is reasonably necessary.

158G Monitoring requirements

The Regulations may prescribe additional requirements for the monitoring of detainees separated under this Division.

Division 3 Detainees

159 Sample by buccal swab

(1) The superintendent of a detention centre may direct a youth who is detained for an indictable offence to provide a sample by buccal swab for analysis by the Commissioner of Police.

(2) If the youth does not comply by providing a sample sufficient to enable an analysis of it to be carried out, a person authorised under subsection (3) may take the sample or cause it to be taken.

(3) The CEO may authorise a person for this section.

(4) A person authorised under subsection (3):

(a) may use the force that is reasonably necessary to ensure that a sufficient sample is obtained; and

(b) is not civilly or criminally liable in relation to the use of force or the taking of the sample.

Note for subsection (4)(a)

See section 10 in relation to the use of force.

(5) As soon as practicable after the sample is obtained, the superintendent must deliver the sample to the Commissioner of Police.

160 Detainee may be tested for alcohol or illicit drug

(1) The superintendent of a detention centre may, for the purposes of the management, good order or security of the detention centre, direct that tests be conducted to determine whether there is any alcohol or illicit drug or substance present in the body of a particular detainee or any of the detainees.

(2) The superintendent may only direct that a particular detainee be tested under subsection (1), if the superintendent has a reasonable belief that the detainee has or may have alcohol or an illicit drug or substance present in his or her body.

(3) However, if the test is conducted as part of a random or routine procedure, subsection (2) does not apply.

(4) The CEO may authorise a person to take samples of a detainee's blood, breath or urine for the purpose of determining whether there is present in the detainee's body any alcohol or illicit drug or substance.

(5) For subsection (4), only a medical practitioner, nurse or midwife can be authorised to take a sample of a detainee's blood.

(6) A detainee who is to be tested must provide a sufficient sample of his or her blood, breath or urine to a person authorised under subsection (4) to allow the determination of whether there is present in the detainee's body any alcohol or illicit drug or substance.

(7) A person authorised under subsection (4) and a member of staff of the detention centre who is assisting the person:

(a) may use the force that is reasonably necessary to ensure that a sufficient quantity of the detainee's blood, breath or urine is obtained; and

(b) is not civilly or criminally liable in relation to the use of force or the taking of the sample.

Note for subsection (7)(a)

See section 10 in relation to the use of force.

161 Search of detainees

(1) The superintendent of a detention centre may direct a detainee to submit to a search only as permitted by this section.

(2) The superintendent of a detention centre may direct a detainee to submit to a screening search or a pat down search in the following circumstances:

(a) when the detainee is admitted to the detention centre;

(b) on the detainee temporarily leaving, or returning to, the detention centre;

(c) on the detainee being transferred from the detention centre to a custodial correctional facility or another detention centre;

(d) if the detainee is within the precincts of the detention centre – the superintendent believes on reasonable grounds that:

(i) the search is necessary to ensure the safety of any person who is within the precincts of the detention centre, including the detainee; or

(ii) the search is necessary to ensure the good order or security of the detention centre; or

(iii) the detainee possesses a prohibited thing;

(e) if the detainee is not within the precincts of the detention centre – the superintendent suspects or believes or reasonable grounds that:

(i) the search is necessary to ensure the safety of any person, including the detainee; or

(ii) the detainee possesses a prohibited thing.

Example for subsection (2)(b)

When a detainee is returned to a detention centre after an unlawful absence.

(3) The superintendent of a detention centre may direct a detainee to submit to a personal search if:

(a) the superintendent believes on reasonable grounds that the search is necessary to prevent a risk of harm to the detainee or another person; and

(b) the detainee has already submitted to a pat down search under subsection (2).

(4) A person conducting a search of a detainee under this section may use the force that is reasonably necessary to conduct the search.

Note for subsection (4)

See section 10 in relation to the use of force.

(4A) The superintendent of a detention centre may confiscate a thing found during a search that the superintendent believes on reasonable grounds is:

(a) a prohibited thing; or

(b) connected with an offence against this Act.

(5) A search of a detainee must be conducted in accordance with the Regulations.

(6) In this section:

pat down search means a search of a person for objects concealed in or beneath the person's clothing conducted using one or both of the following means:

(a) feeling clothing from the outside;

(b) lifting the waistband of an item of clothing and feeling both sides of the waistband.

personal search means a search of a person that may include:

(a) requiring the person to remove the person's clothes; and

(b) an examination of the person's body (but not of the person's body cavities) and of those clothes.

prohibited thing means a thing to which one or more of the following applies:

(a) it is offensive, indecent, obscene, threatening or abusive;

(b) it is a mobile communications device;

(c) it might reasonably constitute a threat to national security;

(d) it might reasonably constitute a threat to the safety, good order or security of a detention centre;

(da) it might reasonably constitute a threat to the safety of a detainee or other person;

(db) it might reasonably be used to escape from lawful custody;

(e) possession of it is unlawful under a law of the Territory, the Commonwealth or a State;

(f) it is reasonable to infer from possession of it, an intention to facilitate, incite or use the thing in connection with an unlawful activity;

(g) it may have a detrimental influence or effect on a detainee;

(h) if it is written – it is in a language other than English or in code, and is not readily translatable to English;

(i) it is prescribed as a prohibited thing by the Regulations.

screening search means a search by equipment that is designed to carry out the search without touching the person.

162 At risk detainees

The superintendent of a detention centre must ensure that a detainee who is considered to be at risk of self-harm is dealt with in the manner prescribed in the Regulations.

163 Complaint

(1) A youth who is detained in a detention centre, or a responsible adult in respect of the youth, may complain about a matter that affects the youth.

(2) The complaint procedure is as set out in the Regulations.

(3) This section does not affect or limit the rights of a youth under any other complaint procedure, including a complaint to:

(a) an official visitor; or

(b) the Ombudsman.

Division 4 Miscellaneous matters

164 Detainee who becomes an adult

(1) A detainee who turns 18 years of age while serving a sentence of detention, or on remand in custody, in a detention centre must, within 28 days after turning that age, be transferred to a custodial correctional facility to serve the remainder of the sentence or period of remand.

(2) If a detainee is transferred to a custodial correctional facility under subsection (1), the order of the Court sentencing the youth to a period of detention in a detention centre is taken to be an order sentencing him or her to a term of imprisonment for the period remaining to be served under the order.

(3) The fact that the detainee has turned 18 years of age does not otherwise affect an order made under section 83 in respect of him or her.

(4) The CEO may direct that subsection (1) does not apply in relation to a particular youth:

(a) whose sentence has 6 months or less remaining to be served; or

(b) if the youth is remanded in custody – for a period not exceeding 6 months or for the remainder of the period of remand (whichever is the lesser).

(5) When deciding whether to give a direction under subsection (4), the CEO:

(a) must have regard to the interests of other detainees as well as the interests of the particular youth; and

(b) may have regard to any other matters the CEO considers appropriate.

(6) A direction under subsection (4) is not subject to appeal or review in any court or tribunal.

165 Superintendent may permit absence from centre

The superintendent of a detention centre may, subject to the order of the Court under which the detainee is detained, permit a detainee to be absent from a detention centre:

(a) for a period not exceeding 12 hours for the purposes of receiving educational training or participating in arrangements of a social, recreational or vocational nature; or

(b) for any period for a purpose approved by the superintendent if in the custody and under the supervision of:

(i) a member of staff of the detention centre; or

(ii) a police officer; or

(iii) the sheriff as defined in section 4 of the *Sheriff Act 1962*; or

(iv) a person authorised by the CEO.

166 Early release by superintendent

(1) The superintendent of a detention centre may release a detainee from the detention centre earlier than the detainee is entitled to be released in the following circumstances:

(a) there are genuine compassionate grounds for the early release;

(b) the early release will facilitate the return of the detainee to his or her place of residence or intended residence.

(2) The detainee must not be released more than 48 hours earlier than he or she would be entitled to be released but for this section.

167 Arrest of unlawfully absent detainee

(1) If the superintendent of a detention centre or a member of staff of the centre believes on reasonable grounds that a detainee has escaped or is otherwise unlawfully absent from a detention centre, the superintendent or member of staff may arrest the person without a warrant.

(2) For the purpose of exercising the power under subsection (1), the superintendent or member of staff may exercise the powers, and has the immunities, of a police officer under the *Police Administration Act 1978*.

167A Return to custody

The superintendent of a detention centre or a member of staff of the centre who arrests a detainee under section 167(1) must, as soon as practicable, take the detainee (or arrange for the detainee to be taken) to:

(a) the detention centre; or

(b) another appropriate place.

Examples for section 167A(b)

1 A police station (if it is not practicable to immediately return the detainee to the detention centre).

2 A health care facility (if the detainee is sick or injured).

167B Use of detention centre to accommodate sheriff's detainees

The CEO may, in accordance with an arrangement with the sheriff under section 12A of the *Sheriff Act 1962*, agree to accommodate a youth who is in the custody of the sheriff at a detention centre.

168 Inspection of detention centre

(1) The Minister or a person authorised by the Minister may enter and inspect a detention centre at any reasonable time.

(2) The Minister may, in writing, authorise a person for subsection (1).

(3) On request by the Minister or an authorised person, the superintendent of a detention centre must:

(a) produce for inspection the register kept under section 158; and

(b) give the Minister or authorised person any information in relation to any detainee in the detention centre.

(4) A person must not:

(a) hinder the Minister or an authorised person in the exercise of a power under subsection (1); or

(b) fail to comply with a requirement under subsection (3).

Maximum penalty: If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

If the offender is a body corporate – 2 000 penalty units.

168A Transfer of detainee

The superintendent of a detention centre may determine, as the superintendent considers appropriate, that a detainee held in a detention centre is to be transferred to another detention centre or an intake and transfer facility.

Part 8A Intake and transfer facilities

168B Approval of intake and transfer facility

The Minister may approve an establishment to be an intake and transfer facility.

168C Purpose of intake and transfer facility

The purpose of an intake and transfer facility is to provide a place to temporarily hold detainees.

168D Superintendent of intake and transfer facility

(1) The CEO must appoint a public sector employee to be the superintendent of an intake and transfer facility.

(2) The superintendent of an intake and transfer facility:

(a) is responsible, as far as reasonably practicable, for the physical, psychological and emotional welfare of detainees in the facility; and

(b) must maintain order and ensure the safe custody and protection of all persons who are within the precincts of the facility, whether as detainees or otherwise; and

(c) is responsible for the maintenance and efficient conduct of the facility; and

(d) must supervise the health of detainees in the facility, including the provision of medical treatment and, where necessary, authorise the removal of a detainee to a hospital for medical treatment.

168E Powers of superintendent of intake and transfer facility

(1) The superintendent of an intake and transfer facility has the powers that are necessary or convenient for the performance of the superintendent's functions.

(2) The superintendent of an intake and transfer facility may exercise the superintendent's powers and functions in relation to a detainee of the facility even if the detainee is outside the precincts of the facility.

168F Youth may be held at intake or transfer facility following Court order for detention

(1) This section applies in relation to a youth if the Court orders that the youth be detained or remanded in a detention centre under this Act.

(2) The youth may, instead of being taken to a detention centre, be taken to, and held in, an intake and transfer facility to await transfer to the detention centre.

(3) To avoid doubt, a youth may be taken to an intake and transfer facility under this section even if the youth is first taken to a hospital under section 25 or a police station or watch house under section 25A.

168G Transfer of detainee

The superintendent of an intake and transfer facility may determine, as the superintendent considers appropriate, that a detainee held in the facility is to be transferred to another intake and transfer facility or to a detention centre.

168H Provisions to apply in relation to intake and transfer facilities

(1) The provisions specified in subsection (2) apply in relation to:

(a) an intake and transfer facility as if it were a detention centre; and

(b) a superintendent of an intake and transfer facility as if the superintendent were the superintendent of a detention centre; and

(c) a member of staff of an intake and transfer facility as if the member were a member of staff of a detention centre; and

(d) a detainee in an intake and transfer facility as if the detainee were a detainee in a detention centre.

(2) The following provisions are specified for subsection (1):

(a) Part 8, other than sections 148, 149, 151, 152, 164, 167B and 168A;

(b) Part 10;

(c) Part 12, other than section 194;

(d) a provision of the regulations prescribed by regulation.

Part 9 Official visitors

169 Appointment of official visitors

(1) The Minister may appoint a person to be an official visitor for a detention centre.

(2) Not less than 3 official visitors must be appointed for each detention centre.

(3) An official visitor holds office for 3 years and is eligible for re-appointment.

(4) An official visitor may resign his or her office by notice in writing to the Minister.

(5) An official visitor receives remuneration, allowances and expenses as determined by the Minister.

170 Functions of official visitors

(1) An official visitor must inquire into the treatment and behaviour of, and the conditions for, detainees in the detention centre for which the official visitor is appointed.

(2) An official visitor must, as soon as practicable after each visit to a detention centre, report in writing to the Minister.

(3) If the Minister has directed that the official visitor report in relation to a specified matter to the CEO, the official visitor must also report in relation to that matter to the CEO.

(4) The official visitor must have regard to this Act and the Regulations when he or she prepares a report for this section.

171 Frequency of visits

A detention centre must be visited by an official visitor appointed for that detention centre at least once every month.

172 Official visitors not to interfere

An official visitor must not, during or after a visit to a detention centre, interfere with or give instructions to a member of staff of the detention centre regarding the management, discipline or treatment of detainees.

Part 10 Medical treatment for detainees

173 Access to medical practitioner

The superintendent of a detention centre must ensure that a detainee is given access to a medical practitioner, for the purpose of medical consultation and treatment, on request.

174 Direction of medical practitioner

The superintendent of a detention centre must comply with the direction of a medical practitioner in relation to the health of a detainee at the centre.

175 Taking of medical sample

(1) A detainee must submit to the taking of a sample of his or her blood or bodily secretion or excretion by a medical practitioner, nurse or midwife for the purpose of determining the medical condition of the detainee.

(2) A sample under subsection (1):

(a) must be taken as soon as practicable after the detainee is admitted to the detention centre; and

(b) may be taken at any other time the CEO, after consultation with a medical practitioner, directs.

(3) A person taking a sample under subsection (1) and a member of staff of the detention centre who is assisting the person:

(a) may use the force that is reasonably necessary to ensure that a sufficient sample of the detainee's blood or bodily secretion or excretion is obtained; and

(b) is not civilly or criminally liable in relation to the use of that force or the taking of the sample.

Note for subsection (3)(a)

See section 10 in relation to the use of force.

176 Detainee may be required to be examined or treated

(1) This section applies if:

(a) a detainee refuses to undergo a medical examination or to submit to medical treatment; and

(b) a medical practitioner considers that the life or health of the detainee, or any other detainee or person, is likely to be endangered or seriously affected as a result of the refusal.

(2) The CEO may, after consulting with the medical practitioner, order the detainee to undergo a medical examination or treatment that the CEO considers necessary.

(3) The detainee must be given, where practicable, the right to a second medical opinion.

(4) An order by the CEO under subsection (2):

(a) must be in writing; and

(b) is sufficient authority for the examination or treatment without the consent of any person being required.

177 CEO can give consent

(1) Subsection (2) applies if:

(a) the consent of a parent or guardian is required for a detainee to receive counselling or a medical examination or treatment; and

(b) after reasonable efforts the appropriate person cannot be located; and

(c) it would, in the opinion of the CEO on medical advice, be detrimental to the health of the detainee to delay.

(2) The CEO can give the CEO's consent in place of the parent or guardian.

178 Removal to hospital

The superintendent of a detention centre must move a detainee from the detention centre to a hospital, in the event of illness of the detainee, on the order of:

(a) the CEO; or

(b) a medical practitioner; or

(c) the Court.

179 Custody of detainee in hospital

(1) This section applies if a detainee is moved to a hospital under Part 8 or section 178.

(2) The superintendent of the detention centre from which the detainee was moved must make the necessary arrangements with the person in charge of the hospital to ensure the security and good order of the detainee while the detainee is in hospital.

(3) While in the hospital, the detainee remains in lawful detention for this Act.

(4) If the detainee is discharged from the hospital and his or her sentence of detention has not expired, the detainee must be returned to the detention centre to serve the remainder of the sentence.

180 Notification of illness or death

(1) The superintendent of a detention centre must immediately notify the CEO if a detainee at the centre is seriously ill or dies.

(2) If the CEO is notified of a detainee's illness or death, the CEO must, without delay, inform the detainee's next of kin, a close relative or legal representative of the detainee, or any other person the detainee requested to be notified.

(3) The CEO must immediately notify the coroner of the death of a detainee.

Part 11 Interstate transfer of detainees and youths under supervision

181 Definitions

In this Part, unless the contrary intention appears:

corresponding detention centre, means an establishment in a State in which interstate detainees serve a period of detention.

corresponding Minister means the minister of a State responsible for youths in that State who have had imposed on them a sentence of detention.

detainee includes a youth who has been transferred to a detention centre under section 64 of the *Correctional Services Act 2014*, but does not include an interstate detainee or a youth on remand to stand trial for an offence.

interstate detainee means a youth in a State who is 10 years of age or older and who has had a sentence of detention imposed on him or her.

State means a State or another Territory.

superintendent in relation to a corresponding detention centre, means the person in charge of the corresponding detention centre.

transfer order means an order made under section 184(1) to transfer a detainee to a State.

182 Application of Part

This Part applies in relation to:

(a) a detainee, or a youth subject to supervision in the Territory, who wishes to transfer to a State; and

(b) an interstate detainee, or a youth subject to supervision within a State, who wishes to transfer to the Territory.

183 Ministers may agree

The Minister and the corresponding Minister of a State may agree that:

(a) an interstate detainee may transfer from a detention centre in the State in which he or she was sentenced to a detention centre in the Territory; or

(b) a detainee may transfer from a detention centre in the Territory to a detention centre in the State.

184 Transfer from Territory

(1) The Minister may make an order to transfer a detainee if satisfied:

(a) it is appropriate in the circumstances for a detainee to serve his or her detention in a State; and

(b) the corresponding Minister of the relevant State will accept the detainee.

(2) The circumstances to which the Minister may have regard for subsection (1) include:

(a) the place or intended place of residence of responsible adults in respect of, or relatives of, the detainee; and

(b) the present and future education and employment of the detainee; and

(c) the medical and other needs of the detainee.

(3) In deciding whether to make an order under subsection (1) in relation to a detainee, the Minister may request any of the following to give specified information within the period specified in the request:

(a) the detainee;

(b) the parents of the detainee or responsible adults in respect of the detainee.

(4) The Minister must not make a transfer order in relation to a detainee unless the Minister is satisfied:

(a) the detainee has received independent legal advice and consents to the transfer; and

(b) there is no appeal pending under Part 7 in relation to the detainee and that the period for lodging an appeal has expired.

(5) The Minister may make a transfer order in relation to a detainee without the detainee's consent if:

(a) a responsible adult in respect of a detainee requests the Minister to transfer the detainee; and

(b) the Minister is satisfied it is in the best interests of the detainee.

(6) A decision to make, or refuse to make, a transfer order is not subject to appeal or review by a court or tribunal.

185 Transfer from State to Territory

(1) If a corresponding Minister makes a written request to the Minister to accept the transfer of an interstate detainee to the Territory, the Minister may agree if satisfied there are adequate facilities in the Territory for the transferee to be accepted.

(2) The Minister must specify the detention centre to which the transferee is to be delivered.

186 Reports

(1) The Minister may inform himself or herself as he or she considers appropriate for the purpose of deciding whether or not to order the transfer of a detainee to a State or accept the transfer of an interstate detainee to the Territory.

(2) In particular, the Minister may have regard to reports from the superintendent of a detention centre or a corresponding detention centre.

(3) The Minister may provide reports from the superintendent of a detention centre to the corresponding Minister of a State in relation to the transfer of a detainee to that State.

187 Escort for transfer

(1) An escort is any one or more of the following:

(a) a police officer;

(b) a person authorised in writing by the Minister for the purpose.

(2) A transfer order authorises the escort to hold, take and keep custody of the detainee until he or she is delivered to the specified detention centre in the State.

(3) A transfer order is authority for the superintendent of a detention centre to deliver the detainee into the custody of an escort.

(4) An escort who brings an interstate transferee from a State to the Territory is authorised to hold, take and keep custody of the detainee within the Territory for the purpose of delivering him or her to the detention centre specified in the transfer order.

188 Information to be sent to corresponding Minister

If a detainee is transferred to a State, the Minister must send to the corresponding Minister of that State:

(a) a copy of the transfer order; and

(b) a copy of the order under which the detainee was detained in the Territory; and

(c) a report in relation to the transferee, including details of the period of detention served, entitlements to a review of the period of detention to be served and a copy of any record relating to the conduct of the transferee while a detainee in the Territory.

189 Sentence transferred

(1) If a detainee transfers from the Territory to a State, the order under which he or she was detained ceases to have effect in the Territory except in relation to the period of detention served in the Territory.

(2) If an interstate detainee transfers from a State to the Territory, the order under which he or she is detained is taken to have been made by a Territory court.

190 Order revoked if transferee escapes

(1) The Minister may revoke a transfer order if the detainee to whom the order relates escapes or attempts to escape from custody, or commits any other further offence, whether in the Territory or elsewhere, while the detainee is in the process of being transferred.

(2) A decision under subsection (1) is not subject to review or appeal in any court or tribunal.

191 Territory transferee subject to supervision

(1) A youth who is found guilty in the Territory of an offence and whose sentence includes a period of supervision may apply to the Minister to transfer his or her period of supervision to a State.

(2) If the Minister is satisfied that the corresponding Minister of the State will undertake the supervision of the youth on similar terms and conditions to those imposed in the Territory, the Minister may approve the transfer.

(3) The Minister must ensure that the appropriate supervising authority is notified of the transfer.

(4) When the Minister receives notification from the corresponding Minister that the youth is under supervision in the State, the Territory order of supervision relating to the youth ceases to have effect in the Territory.

192 Youth subject to supervision in State

(1) A corresponding Minister of a State may apply to the Minister for agreement to the transfer from the State to the Territory of a youth who is subject to a period of supervision for an offence.

(2) If the Minister agrees to the transfer of the youth, the Minister must advise the corresponding Minister and the appropriate supervising authority in the Territory.

(3) When the youth reports to the Territory supervising authority, the order of supervision from the State is taken to have been imposed by a Territory court and any failure to comply with a term or condition of the order will be dealt with as a breach of a Territory order.

Part 12 Offences

193 Escaping from lawful detention

(1) A detainee must not escape or attempt to escape from lawful detention under this Act.

(2) For subsection (1), escape from lawful detention includes the following:

(a) escaping from a detention centre;

(b) escaping or absconding while being transferred from one detention centre to another detention centre;

(c) escaping or absconding while away from a detention centre for the purpose of appearing in court;

(d) escaping or absconding while absent from a detention centre to attend a hospital under section 151(3)(e) or 178;

(e) escaping or absconding while absent from a detention centre under section 165;

(f) escaping while being transferred to a State in accordance with a transfer order under Part 11.

(3) If a detainee escapes from lawful detention under this Act, the term of detention to be served by the detainee does not run during the period the detainee remains at large.

(4) A person found guilty of an offence against subsection (1) is liable to detention or imprisonment for 6 months in addition to the period of detention originally ordered by the Court.

194 Escape of interstate detainee

(1) An interstate detainee who is being transferred from a State to a detention centre in the Territory must not escape or attempt to escape from custody while in the Territory.

(2) A person found guilty of an offence against subsection (1) is liable to detention or imprisonment for 6 months in addition to the period of detention to be served in the Territory.

(3) A person found guilty in another jurisdiction of escaping from custody in contravention of subsection (1) must not be prosecuted in the Territory for the same offence.

195 Aiding or abetting escapee

A person must not:

(a) remove a detainee from a detention centre except in accordance with this Act or another law in force in the Territory; or

(b) knowingly harbour or aid a detainee who has escaped from lawful detention; or

(c) aid a detainee to escape from lawful detention.

Maximum penalty: 800 penalty units or imprisonment for 4 years.

196 Loitering

A person must not:

(a) loiter in the vicinity of a detention centre; or

(b) remain in the vicinity of a detention centre after being requested to leave by the superintendent or a member of staff of the detention centre or by a police officer; or

(c) unlawfully enter or attempt to enter a detention centre.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

197 Contraband

A person must not, without the permission of the superintendent of a detention centre:

(a) convey or deliver, or allow to be conveyed or delivered, to a detainee any alcohol, drugs, money, letter, document, clothing or other article; or

(b) convey or deliver or receive any alcohol, drugs, money, letter, document, clothing or other article out of a detention centre; or

(c) leave any alcohol, drugs, money, letter, document, clothing or other article with the intention of it being received or found by a detainee.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

198 Communication

A person must not, without the permission of the superintendent of a detention centre, communicate or attempt to communicate with a detainee in that detention centre.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

199 Offence to remove youth

A person who, without lawful excuse, removes a youth from the care of a person with whom, or from an establishment (other than a detention centre) at which, the youth has been placed under this Act is guilty of an offence.

Maximum penalty: 800 penalty units or imprisonment for 4 years.

200 Obstructing or hindering detention centre staff and other officers

(1) A person must not hinder, obstruct, assault or threaten with violence any of the following in the exercise of their powers or performance of their functions or duties under this Act:

(a) a superintendent or member of staff of a detention centre;

(b) a police officer;

(c) a community youth justice officer.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) A person must not aid or abet another person in the commission of an offence against subsection (1).

Maximum penalty: 400 penalty units or imprisonment for 2 years.

201 Personation

(1) A person must not falsely represent that the person is a superintendent of a detention centre, authorised person or community youth justice officer.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

(2) In subsection (1):

authorised person means a person authorised in writing by the Minister or CEO to perform a function under this Act.

Part 14 Miscellaneous matters

214 Confidentiality

(1) A person who performs or has performed functions or duties under this Act must not:

(a) record any information obtained by the person in exercising a power or performing a function under this Act; or

(b) disclose such information to a person or body; or

(c) publish all or part of a document obtained by the person in exercising a power or performing a function under this Act.

(2) Subsection (1) does not apply in relation to:

(a) a police officer in the performance of his or her duties; or

(b) any recording, disclosure or production that is part of the exercise of a power or the performance of a function under this Act; or

(c) any recording, disclosure or production in relation to the administration of this Act; or

(ca) any disclosure required or authorised by law; or

(cb) a disclosure to the Australian Institute of Criminology established under the *Criminology Research Act 1971* (Cth) of information that is reasonably required for the purpose of the program monitoring national deaths in custody; or

(d) any disclosure that is made to:

(i) the person to whom the information or document is related; or

(ii) another person with the consent of the person to whom the information or document is related (whether the consent has been given expressly or by implication); or

(iii) a person approved by the Minister, where the Minister has certified in writing that the disclosure is carried out in the public interest; or

(iv) a person approved by the Minister for research to be conducted by the person, where the person has undertaken to preserve the identity of individual persons to whom the information and records relate and the confidentiality of the information; or

(v) a police officer; or

(vi) a person prescribed by the Regulations.

(3) A person who fails to comply with subsection (1) is guilty of an offence.

Maximum penalty: If the offender is a natural person – 200 penalty units or imprisonment for 12 months.

If the offender is a body corporate – 1 000 penalty units.

(4) This section applies to a person who receives the information, record or document (whether directly or indirectly) as if the person obtained the information, record or document in the performance of functions or duties under this Act.

215 Immunity

(1) This section applies to a person who is, or has been, any of the following:

(a) the CEO;

(b) the Commissioner of Correctional Services;

(c) a superintendent of a detention centre or an intake and transfer facility;

(d) a community youth justice officer;

(e) a public sector employee performing functions under this Act;

(f) a police officer performing functions under this Act.

(2) The person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

(3) Subsection (2) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

215A Prosecutions

(1) Proceedings for an offence against this Act may be started only by:

(a) the CEO; or

(b) a person authorised by the Minister.

(2) The proceedings must be started within 6 months after the date on which the CEO first became aware of the commission of the offence.

215B Civil proceedings

(1) Civil proceedings in relation to an act done or omitted to be done by a person under this Act must be started within 3 years after the act was done or omitted to be done (the ***limitation period***).

(1A) However, if a person with a cause of action under subsection (1) is subject to a disability during any part of the limitation period:

(a) the running of the limitation period is suspended for the duration of the disability; and

(b) the limitation period expires 3 years after the earlier of:

(i) the date on which the person ceased to be under a disability; or

(ii) the death of the person.

(1B) For subsection (1A), a person is subject to a disability if:

(a) the person is under the age of 18 years; or

(b) the person is serving a term of detention or imprisonment after being convicted of an offence.

(1C) Subsection (1A) applies to person who is subject to a disability, whether or not the person is subject to the same or another disability at any time during the limitation period.

(1D) Subsection (1A) does not operate to extend a limitation period to more than 30 years from the date when the cause of action arose.

(2) However, subsection (1) does not prevent a court exercising its jurisdiction under section 44 of the *Limitation Act 1981*.

216 Delegation by Minister or CEO

The Minister or CEO may delegate in writing to a person any of the Minister's or CEO's powers and functions under this Act.

216A Annual report

The CEO must, in the report prepared under section 28 of the *Public Sector Employment and Management Act 1993*, include information about the register of persons under section 14.

217 Regulations

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Regulations may provide for any of the following matters:

(a) the construction (including provision for the storage and preparation of food), cleanliness, sanitation, lighting, heating, ventilation and safety of detention centres;

(b) the maintenance of detention centres in a proper state of repair;

(c) the number of youths who may be received in a detention centre, having regard to the available facilities (including medical facilities and other amenities), space and staff of the centre;

(d) the operation and management of detention centres;

(e) the suitability of persons operating detention centres and of the staff of such centres, and fixing the numbers of such staff;

(f) the maintenance of order within a detention centre, including the conduct of searches and the manner of dealing with the misconduct of detainees and any grievances or complaints of detainees;

(g) the health, welfare, safe custody and protection of detainees;

(h) community work orders, including:

(i) prescribing the duties of persons who are subject to community work orders; and

(ii) regulating the conduct of persons who are subject to community work orders; and

(iii) providing for the health and safety of persons who are subject to community work orders; and

(iv) providing for travel and transport arrangements to be made for persons who are subject to community work orders; and

(v) prescribing what effect an injury to, or the illness of, a person who is subject to a community work order has on the order; and

(vi) prescribing the periods to be taken into account when calculating the hours during which work has been carried out under a community work order; and

(vii) prescribing the powers and duties of advisory committees and regulating the holding of their meetings and the procedures they are to observe at those meetings;

(i) alternative detention orders, including regulating the conduct of youths who are subject to the orders;

(j) the criteria for persons to be included in the register of support persons under section 14 and procedures in relation to the maintenance of the register;

(k) procedures for, and other matters in relation to, pre-sentencing conferences under section 84;

(l) penalties not exceeding 100 penalty units or imprisonment for 6 months for offences against the Regulations;

(m) community youth justice officers, including:

(i) prescribing the duties of the officers; and

(ii) providing for the health and safety of the officers.

(3) The Regulations may authorise the CEO or a superintendent of a detention centre to make a determination in relation to:

(a) the management and operation of a detention centre; or

(b) the maintaining of order within a detention centre; or

(c) a grievance or complaint of a detainee; or

(d) the health, welfare, safe custody and protection of a detainee.

Part 15 Repeals and transitional matters for Youth Justice Act 2005

218 Definition

In this Part:

commencement date means the date on which this Act comes into operation.

219 Repeal of Acts

The Acts specified in the Schedule are repealed.

220 Saving of approvals and appointments

(1) An establishment that, immediately before the commencement date, was a detention centre under the repealed Act is taken to be a detention centre approved under section 148.

(2) A person who, immediately before the commencement date, was the superintendent of a detention centre under the repealed Act is taken to be the superintendent of that detention centre appointed under section 151.

(3) A person who, immediately before the commencement date, was an official visitor under the repealed Act is taken to be an official visitor appointed under section 169.

221 Orders of Juvenile Court

(1) An order made by the Juvenile Court:

(a) continues in the same terms until the order is discharged or expires; and

(b) can be reviewed, varied or revoked under this Act as if the order had been made under this Act.

(2) However, an order made by the Juvenile Court will be breached only in the circumstances set out in the repealed Act for an order of that type.

222 Proceedings not completed

Any proceeding before the Juvenile Court that, immediately before the commencement date, had not been completed may be continued before the Youth Justice Court under this Act.

223 Offences committed before commencement of this Act

(1) This Act applies in relation to an offence committed by a youth before the commencement date.

(2) However, a youth is not liable to a greater penalty in respect of an offence committed before the commencement date than he or she would be if the repealed Act were still in force.

Part 16 Provisions for Youth Justice Amendment Act 2010

224 Exercise of jurisdiction under pre-commencement Act

(1) The purpose of this section is to validate the exercise of jurisdiction by the Youth Justice Court under the pre-commencement Act in relation to declared charges, or the purported exercise of such jurisdiction.

(2) The Youth Justice Court is taken to have, and always to have had, jurisdiction under the pre-commencement Act to hear and determine, or decide not to hear, summarily all declared charges.

(3) In addition to subsection (2), an exercise of jurisdiction in relation to a declared charge by the Youth Justice Court under the pre-commencement Act, or the purported exercise of such jurisdiction, is taken to be, and always to have been, valid and effective for all purposes as if exercised after the commencement of this section.

(4) Subsections (2) and (3) do not apply to proceedings in relation to a declared charge allegedly committed by a particular youth if:

(a) before the commencement, the Supreme Court made a decision about the jurisdiction, or want of jurisdiction, of the Youth Justice Court in relation to the declared charge; and

(b) the application of the subsections in relation to the declared charge would be inconsistent with the decision of the Supreme Court.

(5) In this section:

declared charge means a charge in respect of an indictable offence that, if the offence had been committed by an adult:

(a) the offence would not be punishable by imprisonment for life; and

(b) the adult could not consent to the charge being heard and determined summarily.

exercise of jurisdiction, in relation to a declared charge, includes any of the following relating to the declared charge:

(a) instituting, adjourning and continuing a proceeding;

(b) issuing a warrant, summons or other process;

(c) making or giving an order, direction, notice, whether by instrument or otherwise;

(d) making a finding of guilt;

(e) imposing a sentence;

(f) doing any other act or thing under an Act.

pre-commencement Act means this Act as in force at any time before the commencement of this section.

225 Matter before Supreme Court at commencement

(1) This section applies in relation to a matter:

(a) that, on the commencement of this section, is before the Supreme Court; and

(b) that, after the commencement, the Youth Justice Court has jurisdiction to hear and determine summarily.

(2) The Supreme Court must consider whether:

(a) the Supreme Court should continue to deal with the matter; or

(b) the Youth Justice Court should hear and determine the matter summarily.

(3) If the Supreme Court considers the matter should be heard and determined summarily by the Youth Justice Court, and the youth consents, the Supreme Court:

(a) may remit the matter to the Youth Justice Court; and

(b) may give any directions about the matter that the Supreme Court considers appropriate for the remission.

Part 17 Transitional matters

Division 1 Criminal Code Amendment (Criminal Damage) Act 2011

226 Transitional matters for Criminal Code Amendment (Criminal Damage) Act 2011

The amendment made to regulation 3 of the *Youth Justice Regulations* by the *Criminal Code Amendment (Criminal Damage) Act 2011* does not affect the operation of this Act, on and after the commencement of the amendment, to an offence:

(a) mentioned in regulation 3(a) of the *Youth Justice Regulations* as in force immediately before the commencement of the amendment; and

(b) was committed or is alleged to have been committed before the commencement of the amendment.

Division 2 Justice and Other Legislation Amendment Act 2014

227 Application of section 131 to offences committed before commencement

(1) Section 131, as amended by the *Justice and Other Legislation Amendment Act 2014*, applies only in relation to a sentence for an offence committed before the commencement of this section (***commencement***) if the sentence is imposed in proceedings in which a court starts hearing sentencing submissions after commencement.

(2) Section 131, as in force before commencement, continues to apply in relation to a sentence for an offence committed before commencement if the sentence is or was imposed in proceedings in which a court started hearing sentencing submissions before commencement.

Division 3 Sentencing Legislation Amendment Act 2015

228 Application of amendments

(1) Section 87, as amended by the amending Act, applies if a youth is sentenced by the Court to a further term of detention or imprisonment after the commencement, even if the offence to which the sentence relates was committed before the commencement.

(2) Section 130, as in force immediately before the commencement, continues to apply in relation to a sentence, the service of which was suspended under section 130 before the commencement, as if the amending Act had not commenced.

(3) In this section:

amending Act means the *Sentencing Legislation Amendment Act 2015*.

commencement means the commencement of the amending Act.

Division 4 Transitional matters for Youth Justice Legislation Amendment Act 2017

229 Definitions

In this Division:

amending Act means the *Youth Justice Legislation Amendment Act 2017*.

commencement means the commencement of Part 2 of the amending Act.

probation and parole officer means a probation and parole officer as defined in section 5(1) of this Act as in force immediately before the commencement.

the Board means the Parole Board of the Northern Territory as defined in section 3(1) of the *Parole Act 1971*.

230 Immunity continues

Despite the amendments made to section 215 by the amending Act, that section continues to apply to a person who is or has been a probation and parole officer, as if the amending Act had not commenced.

231 Prosecutions may be made by Commissioner of Correctional Services

(1) Despite section 215A, proceedings for an offence against this Act may be started by the Commissioner of Correctional Services.

(2) The proceedings must be started:

(a) within 6 months after the date on which the Commissioner of Correctional Services first became aware of the commission of the offence; and

(b) within 6 months after the commencement.

232 Superseded references to certain offices

(1) A reference to a probation and parole officer in an order:

(a) of the Board or of any Court in relation to a youth under this or any other Act; and

(b) that is in effect immediately before the commencement,

is taken, on and after the commencement, to be a reference to a community youth justice officer.

(2) A reference to the Commissioner of Correctional Services in an order:

(a) of any Court in relation to a youth under this or any other Act; and

(b) that is in effect immediately before the commencement,

is taken, on and after the commencement, to be a reference to the CEO, unless the Commissioner of Correctional Services is the appropriate authority.

Division 5 Transitional matters for Youth Justice Legislation Amendment Act 2018

233 Definitions

In this Division:

amending Act means the *Youth Justice Legislation Amendment Act 2018*.

commencement means the commencement of Part 2 of the amending Act.

234 Isolated detainees

A detainee who, immediately before the commencement, is isolated from other detainees under section 153(5) as in force immediately before the commencement is, after the commencement, taken to be separated from other detainees under section 155A as in force after the commencement.

235 Restrained detainees

A detainee who, immediately before the commencement, is restrained under section 152(1A) as in force immediately before the commencement is, after the commencement, taken to be restrained under section 155(1) as in force after the commencement.

Division 6 Transitional matters for Youth Justice and Related Legislation Amendment Act 2019

236 Definitions

In this Division:

amending Act means the *Youth Justice and Related Legislation Amendment Act 2019*.

commencement means the commencement of section 41 of the amending Act.

237 Application of section 215B after commencement

(1) Section 215B, as amended by the amending Act, applies in relation to any act done or omitted to be done after the commencement.

(2) For subsection (1), the act done or omitted to be done is taken to have been done or omitted to have been done after the commencement if:

(a) for an act – all of the conduct constituting the act occurred after the commencement; or

(b) for an act that has omitted to be done – the act has omitted to be done after the commencement, irrespective of whether the omission began before or after the commencement.

238 Application of section 215B before commencement

(1) Section 215B, as in force immediately before the commencement, applies in relation to acts done or omitted to be done before the commencement.

(2) For subsection (1), the act done or omitted to be done is taken to have been done or omitted to have been done before the commencement if:

(a) for an act – any of the conduct constituting the act occurred before the commencement; or

(b) for an act that has omitted to be done – the act has omitted to be done before the commencement.

Division 7 Transitional matters for Sexual Offences (Evidence and Procedure) Amendment Act 2020

239 Publications allowed under section 50(2)

(1) Section 50(2), as amended by the *Sexual Offences (Evidence and Procedure) Amendment Act 2020*, applies only in relation to a report or information published after the commencement of section 8 of that Act (the ***commencement***).

(2) For section 50(2)(c), consent must be given after the commencement.

Division 9 Transitional matters for Sentencing Legislation Amendment Act 2023

241 Application of Part 5, Division 4

(1) Part 5, Division 4, as inserted by the *Sentencing Legislation Amendment Act 2023*, applies in relation to the sentencing of a youth for an offence committed after the commencement.

(2) For subsection (1), if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

(3) In this section:

commencement means the commencement of Part 3 of the *Sentencing Legislation Amendment Act 2023*.

Division 10 Transitional matters for Youth Justice Legislation Amendment Act 2025

242 Definitions

In this Division:

amending Act means the *Youth Justice Legislation Amendment Act 2025*.

commencement means the day on which section 3 of the Act commences.

243 Register of appropriate support persons

On the commencement, the register maintained by the Youth Justice Advisory Committee under section 14, as in force before the commencement, becomes the register maintained by the CEO under section 14.

244 Amendments to section 81: sentencing principles and considerations

Section 81, as amended by section 11 of the amending Act, applies in relation to the sentencing of a youth for an offence after the commencement even if the offence was committed before the commencement.

245 Amendments to section 122: offences during adjournment

Section 122, as amended by section 12 of the amending Act, applies in relation to a youth who after the commencement is found guilty of an offence mentioned in section 122(1)(b), regardless of when the youth committed the offence mentioned in section 122(1)(a).

Schedule Repealed Acts

section 219

Juvenile Justice Act 1983	Act No. 77 of 1983
Juvenile Justice Amendment Act 1987	Act No. 58 of 1987
Juvenile Justice Amendment Act 1990	Act No. 24 of 1990
Juvenile Justice Amendment Act 1991	Act No. 43 of 1991
Juvenile Justice Amendment Act 1992	Act No. 74 of 1992
Juvenile Justice Amendment Act 1993	Act No. 45 of 1993
Juvenile Justice Amendment Act 1995	Act No. 18 of 1995
Juvenile Justice Amendment Act 1996	Act No. 23 of 1996
Juvenile Justice Amendment Act (No. 2) 1996	Act No. 61 of 1996
Juvenile Justice Amendment Act (No. 3) 1996	Act No. 62 of 1996
Juvenile Justice Amendment Act 1998	Act No. 12 of 1998
Juvenile Justice Amendment Act (No. 2) 1998	Act No. 81 of 1998
Juvenile Justice Amendment Act (No. 3) 1998	Act No. 86 of 1998
Juvenile Justice Amendment Act 1999	Act No. 12 of 1999
Juvenile Justice Amendment Act (No. 2) 1999	Act No. 34 of 1999
Juvenile Justice Amendment Act 2000	Act No. 6 of 2000
Juvenile Justice Amendment Act 2001	Act No. 28 of 2001
Juvenile Justice Amendment Act (No. 2) 2001	Act No. 53 of 2001
Juvenile Justice Amendment Act 2002	Act No. 5 of 2002

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Youth Justice Act 2005* (Act No. 32, 2005)**
Assent date 22 September 2005
Commenced 1 August 2006 (*Gaz* G30, 26 July 2006, p 3)

***Criminal Reform Amendment Act (No. 2) 2006* (Act No. 34, 2006)**
Assent date 3 November 2006
Commenced 20 December 2006 (*Gaz* G51, 20 December 2006, p 2)

***Justice Legislation Amendment Act (No. 2) 2006* (Act No. 35, 2006)**
Assent date 3 November 2006
Commenced 3 November 2006

***Statute Law Revision Act 2007* (Act No. 4, 2007)**
Assent date 8 March 2007
Commenced 8 March 2007

***Care and Protection of Children Act 2007* (Act No. 37, 2007)**
Assent date 12 December 2007
Commenced Ch 1 and pts 3.3 and 5.1: 7 May 2008 (*Gaz* G18, 7 May 2008, p 4); Ch 2 (exc pt 2.1, div 6 and s 127), Ch 3, pts 3.1 and 3.2 (exc s 187) and Ch 5, pts 5.2 to 5.6: 8 December 2008 (*Gaz* G47, 26 November 2008, p 6); Ch 4: 9 June 2009 (*Gaz* S27, 1 June 2009); Ch 2, pt 2.1, div 6: 18 August 2010 (*Gaz* S43, 18 August 2010); s 187: 1 July 2011 (*Gaz* S32, 20 June 2011); s 127: nc

***Youth Justice Amendment (Family Responsibility) Act 2008* (Act No. 14, 2008)**
Assent date 23 May 2008
Commenced ss 3 and 4: 30 May 2008; rem: 1 July 2008 (*Gaz* S24, 30 May 2008)

Cross-border Justice Act 2009 **(Act No. 1, 2009)**

Assent date	12 March 2009
Commenced	ss 67(b), 68(2)(e), 106, 108, 114, 116 and pt 15, div 6: 1 December 2009; rem: 1 November 2009 (*Gaz* S59, 29 October 2009)

Ombudsman Act 2009 **(Act No. 5, 2009)**

Assent date	12 March 2009
Commenced	1 July 2009 (*Gaz* G21, 27 May 2009, p 5)

Health Practitioner (National Uniform Legislation) Implementation Act 2010 **(Act No. 18, 2010)**

Assent date	20 May 2010
Commenced	1 July 2010 (s 2)

Youth Justice Amendment Act 2010 **(Act No. 26, 2010)**

Assent date	24 August 2010
Commenced	24 August 2010

Justice Legislation Amendment (Committals Reform) Act 2010 **(Act No. 31, 2010)**

Assent date	9 September 2010
Commenced	1 April 2011 (*Gaz* G13, 30 March 2011, p 8)

Criminal Code Amendment (Criminal Damage) Act 2011 **(Act No. 5, 2011)**

Assent date	16 March 2011
Commenced	1 June 2011 (*Gaz* S19,4 May 2011)

Justice (Corrections) and Other Legislation Amendment Act 2011 **(Act No. 24, 2011)**

Assent date	31 August 2011
Commenced	ss 3, 9 to 11, 15 to 17, 19, 20, 24, 33, 42, schs 1 and 2, sch 4, pt 1 and sch 5: 31 August 2011 (s 2); rem: 27 February 2012 (*Gaz* S9, 21 February 2012)

Penalties Amendment (Children and Families, Health and Primary Industry, Fisheries and Resources) Act 2011 **(Act No. 28, 2011)**

Assent date	31 August 2011
Commenced	21 September 2011 (*Gaz* G38, 21 September 2011, p 4)

Justice and Other Legislation Amendment Act 2014 **(Act No. 11, 2014)**

Assent date	16 April 2014
Commenced	1 July 2014 (*Gaz* S54, 1 July 2014)

Correctional Services (Related and Consequential Amendments) Act 2014 **(Act No. 27, 2014)**

Assent date	4 September 2014
Commenced	9 September 2014 (*Gaz* S80, 9 September 2014, p 2)

Justice Legislation Amendment (Summary Procedure) Act 2015 **(Act No. 20, 2015)**

Assent date	6 July 2015
Commenced	21 September 2015 (*Gaz* S92, 16 September 2015)

Sentencing Legislation Amendment Act 2015 **(Act No. 22, 2015)**

Assent date	6 July 2015
Commenced	29 July 2015 (*Gaz* G30, 29 July 2015, p 1)

Local Court (Related Amendments) Act 2016 **(Act No. 8, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (s 2, s 2 *Local Court (Repeals and Related Amendments) Act 2016* (Act No. 9, 2016) and *Gaz* S34, 29 April 2016)

Local Court (Repeals and Related Amendments) Act 2016 **(Act No. 9, 2016)**

Assent date	6 April 2016
Commenced	1 May 2016 (*Gaz* S34, 29 April 2016)

Justice and Other Legislation Amendment (Records of Depositions and Other Matters) Act 2016 **(Act No. 16, 2016)**

Assent date	8 June 2016
Commenced	1 July 2016 (*Gaz* S59, 1 July 2016)

Youth Justice Amendment Act 2016 **(Act No. 21, 2016)**

Assent date	8 June 2016
Commenced	1 August 2016 (*Gaz* S75, 27 July 2016)

Youth Justice Legislation Amendment Act 2016 **(Act No. 36, 2016)**

Assent date	20 December 2016
Commenced	1 March 2017 (*Gaz* G9, 1 March 2017, p 15)

Statute Law Revision Act 2017 **(Act No. 4, 2017)**

Assent date	10 March 2017
Commenced	12 April 2017 (*Gaz* G15, 12 April 2017, p 3)

Parole Amendment Act 2017 **(Act No. 17, 2017)**

Assent date	30 August 2017
Commenced	13 September 2017 (*Gaz* G37, 13 September 2017, p 3)

Youth Justice Legislation Amendment Act 2017 **(Act No. 19, 2017)**

Assent date	30 October 2017
Commenced	5 January 2018 (*Gaz* G51, 20 December 2017, p 4)

Youth Justice Legislation Amendment Act 2018 **(Act No. 12, 2018)**

Assent date	23 May 2018
Commenced	24 May 2018 (s 2)

Health Practitioner Regulation (National Uniform Legislation) and Other Legislation Amendment Act 2018 **(Act No. 28, 2018)**

Assent date	30 November 2018
Commenced	1 December 2018 (s 2)

Youth Justice Amendment Act 2019 **(Act No. 7, 2019)**

Assent date	28 March 2019
Commenced	24 May 2018 (s 2)

Youth Justice and Related Legislation Amendment Act 2019 **(Act No. 32, 2019)**

Assent date	9 October 2019
Commenced	2 March 2020 (*Gaz* G5, 5 February 2020, p 2)

Sexual Offences (Evidence and Procedure) Amendment Act 2020 **(Act No. 22, 2020)**

Assent date	1 July 2020
Commenced	29 July 2020 (*Gaz* G28, 15 July 2020, p 2)

Statute Law Revision Act 2020 **(Act No. 26, 2020)**

Assent date	19 November 2020
Commenced	20 November 2020 (s 2)

Youth Justice Legislation Amendment Act 2021 **(Act No. 9, 2021)**

Assent date	14 May 2021
Commenced	15 May 2021 (s 2)

Territory Families Legislation Amendment Act 2021 **(Act No. 25, 2021)**

Assent date	15 December 2021
Commenced	pt 4: 13 January 2022 (*Gaz* S2, 13 January 2022); rem: 1 February 2022 (*Gaz* S3, 31 February 2022)

Criminal Code Amendment (Age of Criminal Responsibility) Act 2022 **(Act No. 30, 2022)**

Assent date	16 December 2022
Commenced	1 August 2023 (*Gaz* S50, 27 July 2023)

Sentencing Legislation Amendment Act 2023 **(Act No. 11, 2023)**

Assent date	26 May 2023
Commenced	1 December 2023 (*Gaz* S81, 30 November 2023)

Justice and Other Legislation Amendment Act 2024 **(Act No. 4, 2024)**

Assent date	14 March 2024
Commenced	pt 5, div 1: 30 October 2023 (s 2(2)); pt 3, div 2: 25 March 2024 (s 2(3), s 2 *Sentencing and Other Legislation Amendment Act 2022* (Act No. 28, 2022) and *Gaz* S19, 22 March 2024); pt 4: 25 March 2024 (s 2(4), s 2 *Criminal Justice Legislation Amendment (Sexual Offences) Act 2023* (Act No. 20, 2023) and *Gaz* S20, 22 March 2024); rem: 15 March 2024 (s 2(1))

Justice and Other Legislation Further Amendment Act 2024 **(Act No. 9, 2024)**

Assent date	24 May 2024
Commenced	pt 4: 1 July 2024 (s 2(2)), s 2 *Health Care Decision Making Act 2023* (Act No. 19, 2023) and *Gaz* G13, 20 June 2024, p 2); pts 9 and 10: 1 July 2024 (s 2(3)); pt 8: nc; rem: 25 May 2024 (s 2(1))

Bail Legislation Amendment Act 2024 **(Act No. 16, 2024)**

Assent date	29 October 2024
Commenced	6 January 2025 (*Gaz* S111, 23 December 2024)

Criminal Code Amendment Act 2024 **(Act No. 18, 2024)**

Assent date	29 October 2024
Commenced	30 October 2024 (s 2)

Bail and Youth Justice Legislation Amendment Act 2025 **(Act No. 9, 2025)**

Assent date	30 April 2025
Commenced	7 May 2025 (s 2)

Youth Justice Legislation Amendment Act 2025 **(Act No. 21, 2025)**

Assent date	11 August 2025
Commenced	4 September 2025 (*Gaz* S53, 28 August 2025)

Youth Justice and Criminal Code Amendment Act 2026 **(Act No. 19, 2026)**

Assent date	12 August 2026
Commenced	12 October 2026 (*Gaz* G20, 8 October 2026, p 1)

Care and Protection of Children Legislation Amendment (Every Child Matters) Act 2026 **(Act No. 22, 2026)**

Assent date	13 August 2026
Commenced	pts 3 and 4: nc; rem: 31 August 2026 (*Gaz* S70, 25 August 2026)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22 of 2018) to: ss 1, 5, 16, 18, 25, 38, 41, 46, 51, 53, 55, 56B, 82, 83, 88, 89, 92, 125, 128, 131, 133, 134, 140AA, 144, 165, 167, 167B, 181, 215B and 229.

4 LIST OF AMENDMENTS

s 3	amd No. 21, 2025, s 4
s 4	amd No. 9, 2025, s 10
s 5	amd No. 35, 2006, s 45; No. 18, 2010, s 89; No. 26, 2010, s 3; No. 31, 2010, s 25; No. 27, 2014, s 56; No. 22, 2015, s 10; No. 9, 2016, s 154; No. 21, 2016, s 4; No. 19, 2017, s 4; No. 12, 2018, s 4; No. 28, 2018, s 21, No. 7, 2019, s 4; No. 32, 2019, s 24; No. 9, 2021, s 14; No. 11, 2023, s 4; No. 9, 2024, s 39; No. 21, 2025, s 5; No. 22, 2026, s 31; No. 19, 2026, s 4
s 5A	ins No. 19, 2026, s 5
s 9	amd No. 19, 2026, s 14
pt 1	
div 3 hdg	sub No. 27, 2014, s 48 rep No. 19, 2017, s 5 ins No. 12, 2018, s 5
s 10	sub No. 27, 2014, s 48 rep No. 19, 2017, s 5 ins No. 12, 2018, s 5 amd No. 7, 2019, s 5; No. 26, 2020, s 3; No. 21, 2025, s 6
s 11	rep No. 27, 2014, s 48
s 14	amd No. 27, 2014, s 56; No. 19, 2017, s 11; No. 21, 2025, s 7; No. 19, 2026, s 14
s 15	amd No. 32, 2019, s 25
ss 17A – 17B	ins No. 19, 2026, s 6
s 18	amd No. 32, 2019, s 26; No. 9, 2021, s 15; No. 21, 2025, s 8; No. 19, 2026, s 7
s 22	amd No. 9, 2021, s 16; No. 16, 2024, s 22
s 24	amd No. 9, 2016, s 159
s 25	amd No. 26, 2020, s 3
s 25A	ins No. 19, 2026, s 8
s 27	sub No. 32, 2019, s 27
s 30	amd No. 18, 2010, s 89; No. 9, 2016, s 159; No. 12, 2018, s 6
s 31	amd No. 9, 2016, s 159; No. 12, 2018, s 7
s 32	amd No. 9, 2016, s 159
s 33	amd No. 9, 2016, s 159; No. 12, 2018, s 8
s 35	amd No. 27, 2014, s 56; No. 19, 2017, s 11 No. 19, 2026, s 14
s 38	amd No. 32, 2019, s 28
s 38A	ins No. 32, 2019, s 29
s 39	amd No. 4, 2007, s 2; No. 14, 2008, s 4; No. 32, 2019, s 30; No. 9, 2021, s 17
s 40	sub No. 21, 2025, s 9
s 42A	ins No. 32, 2019, s 31

s 43	amd No. 28, 2011, s 3; No. 32, 2019, s 32
s 45	amd No. 9, 2016, s 155
s 46	sub No. 9, 2016, s 156
s 46A	ins No. 9, 2016, s 156
s 47	amd No. 1, 2009, s 158; No. 9, 2016, s 159
s 48	amd No. 1, 2009, s 159
s 49	amd No. 28, 2011, s 3; No. 9, 2016, s 159
	sub No. 32, 2019, s 33
s 50	amd No. 28, 2011, s 3
	sub No. 32, 2019, s 33
	amd No. 22, 2020, s 8 No. 19, 2026, s 14
s 51	sub No. 37, 2007, s 335
	amd No. 9, 2021, s 18; No. 22, 2026, s 32
s 52	amd No. 26, 2010, s 4
s 53	amd No. 26, 2010, s 5; No. 20, 2015, s 15
	sub No. 9, 2016, s 157
	amd No. 16, 2016, s 10; No. 32, 2019, s 34
s 54	sub No. 26, 2010, s 6
s 54A	ins No. 26, 2010, s 6
s 55	sub No. 26, 2010, s 6
	amd No. 9, 2016, s 159
s 56	sub No. 26, 2010, s 6
s 56A	ins No. 26, 2010, s 6
s 56B	ins No. 31, 2010, s 26
	amd No. 9, 2016, s 158
s 57	amd No. 26, 2010, s 7
s 58	amd No. 26, 2010, s 8; No. 9, 2016, s 159
s 61	amd No. 32, 2019, s 35
s 64	sub No. 32, 2019, s 36
	amd No. 9, 2021, s 19; No. 21, 2025, s 10
s 64A	ins No. 32, 2019, s 36
	amd No. 9, 2021, s 20
s 64B	ins No. 9, 2021, s 21
	rep No. 22, 2026, s 33
s 65	amd No. 35, 2006, s 46; No. 27, 2014, s 56
pt 5	
div 4 hdg	ins No. 11, 2023, s 10
s 80A	ins No. 11, 2023, s 10
	amd No. 9, 2024, s 40
ss 80B – 80C	ins No. 11, 2023, s 10
s 80D	ins No. 11, 2023, s 10
	amd No. 9, 2024, s 41
ss 80E – 80F	ins No. 11, 2023, s 10
s 81	amd No. 21, 2025, s 11
s 82	amd No. 34, 2006, s 24
s 83	amd No. 24, 2011, s 41; No. 9, 2021, s 22; No. 4, 2024, s 56
s 85	amd No. 22, 2015, s 11
s 86	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 87	amd No. 22, 2015, s 12
s 89A	ins No. 9, 2021, s 23
	rep No. 22, 2026, s 33
s 91	amd No. 27, 2014, s 56; No. 19, 2017, s 11
ss 94 – 97	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 98A	ins No. 35, 2006, s 47
	amd No. 27, 2014, s 56; No. 19, 2017, s 11
ss 101 – 103	amd No. 27, 2014, s 56; No. 19, 2017, s 11
ss 105 – 108	amd No. 27, 2014, s 56
	rep No. 19, 2017, s 5

s 109	rep No. 19, 2017, s 5
s 110	amd No. 27, 2014, s 56; No. 19, 2017, s 11
ss 112 – 115	amd No. 27, 2014, s 56; No. 19, 2017, s 11
ss 116 – 118	amd No. 19, 2017, s 11
ss 119 – 120	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 121	amd No. 27, 2014, s 56; No. 9, 2016, s 159; No. 19, 2017, s 11
s 122	amd No. 21, 2025, s 12
s 123	amd No. 27, 2014, s 56; No. 19, 2017, s 11; No. 32, 2019, s 37
s 130	amd No. 22, 2015, s 13
s 131	sub No. 11, 2014, s 15
	amd No. 27, 2014, s 56; No. 17, 2017 s 15
s 132	amd No. 27, 2014, s 56; No. 9, 2016, s 159; No. 17, 2017 s 15
	rep No. 19, 2017, s 5
s 133	amd No. 19, 2026, s 14
s 134	amd No. 8, 2016, s 45; No. 4, 2017, s 34
s 136	sub No. 35, 2006, s 48
	rep No. 21, 2025, s 13
s 137	amd No. 27, 2014, s 56
s 138	amd No. 9, 2016, s 159
pt 6AA hdg	ins No. 19, 2017, s 6
pt 6AA	
div 1 hdg	ins No. 19, 2017, s 6
s 140AA	ins No. 19, 2017, s 6
pt 6AA	
div 2 hdg	ins No. 19, 2017, s 6
ss 140AB –	
140AE	ins No. 19, 2017, s 6
pt 6AA	
div 3 hdg	ins No. 19, 2017, s 6
s 140AF	ins No. 19, 2017, s 6
	amd No. 12, 2018, s 9
ss 140AG –	
140AH	ins No. 19, 2017, s 6
pt 6A hdg	ins No. 14, 2008, s 5
	rep No. 22, 2026, s 33
pt 6A	
div 1 hdg	ins No. 14, 2008, s 5
	rep No. 22, 2026, s 33
s 140A	ins No. 14, 2008, s 5
	amd No. 9, 2021, s 24
	rep No. 22, 2026, s 33
s 140B	ins No. 14, 2008, s 5
	amd No. 9, 2021, s 25
	rep No. 22, 2026, s 33
s 140C	ins No. 14, 2008, s 5
	amd No. 9, 2021, s 26
	rep No. 22, 2026, s 33
s 140CA	ins No. 9, 2021, s 27
	rep No. 22, 2026, s 33
pt 6A	
div 2 hdg	ins No. 14, 2008, s 5
	rep No. 22, 2026, s 33
s 140D	ins No. 14, 2008, s 5
	rep No. 22, 2026, s 33
s 140E	ins No. 14, 2008, s 5
	amd No. 9, 2021, s 28
	rep No. 22, 2026, s 33

s 140F	ins No. 14, 2008, s 5 amd No. 9, 2021, s 29 rep No. 22, 2026, s 33
pt 6A	
div 3 hdg	ins No. 14, 2008, s 5 amd No. 9, 2021, s 30 rep No. 22, 2026, s 33
s 140G	ins No. 14, 2008, s 5 amd No. 9, 2016, s 159 rep No. 22, 2026, s 33
s 140H	ins No. 14, 2008, s 5 amd No. 9, 2021, s 31 rep No. 22, 2026, s 33
ss 140J – 140K	ins No. 14, 2008, s 5 rep No. 9, 2021, s 32
s 140L	ins No. 14, 2008, s 5 amd No. 32, 2019, s 38 rep No. 9, 2021, s 32
s 140M	ins No. 14, 2008, s 5 rep No. 9, 2021, s 32
pt 6A	
div 4 hdg	ins No. 14, 2008, s 5 rep No. 9, 2021, s 32
ss 140N – 140R	ins No. 14, 2008, s 5 rep No. 9, 2021, s 32
ss 142 – 143	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 144	amd No. 9, 2016, s 159
s 146	amd No. 9, 2016, s 159
pt 8	
div 1AA hdg	ins No. 21, 2025, s 14
ss 147A – 147C	ins No. 21, 2025, s 14
s 149	amd No. 19, 2026, s 14
s 150	amd No. 32, 2019, s 39
s 151AA	ins No. 21, 2016, s 5 amd No. 36, 2016, s 4; No. 19, 2017, s 11 rep No. 12, 2018, s 10
ss 151AB	ins No. 21, 2016, s 5 sub No. 36, 2016, s 5 amd No. 12, 2018, s 11 rep No. 21, 2025, s 15
s 151	amd No. 27, 2014, s 56; No. 19, 2017, s 11; No. 19, 2026, s 14
s 152	amd No. 21, 2016, s 6; No. 12, 2018, s 12; No. 19, 2026, s 14
s 153	amd No. 27, 2014, s 56; No. 21, 2016, s 7; No. 19, 2017, s 11, sub No. 12, 2018, s 13 amd No. 7, 2019, s 6; No. 21, 2025, s 16; No. 19, 2026, s 14
s 154	sub No. 27, 2014, s 49 amd No. 9, 2016, s 159 rep No. 19, 2017, s 7 ins No. 12, 2018, s 13 amd No. 28, 2018, s 22, No. 7, 2019, s 7; No. 21, 2025, s 17; No. 19, 2026, s 9
s 155	sub No. 21, 2016, s 8; No. 12, 2018, s 13 amd No. 7, 2019, s 8; No. 21, 2025, s 18

s 155A	ins No. 12, 2018, s 13 amd No. 7, 2019, s 9 rep No. 21, 2025, s 19
s 155B	ins No. 12, 2018, s 13 rep No. 21, 2025, s 19
s 156	amd No. 12, 2018, s 14; No. 21, 2025, s 20
s 157	amd No. 27, 2014, s 50; No. 19, 2017, s 11; No. 19, 2026, s 14
s 157A	ins No. 27, 2014, s 51 amd No. 21, 2016, s 9; No. 19, 2017, s 11 rep No. 21, 2025, s 21
s 157B	ins No. 27, 2014, s 51 amd No. 21, 2016, s 10 rep No. 19, 2017, s 7
s 158	amd No. 27, 2014, s 56; No. 21, 2016, s 11; No. 19, 2017, s 11
s 158A	ins No. 21, 2016, s 12 amd No. 36, 2016, s 6; No. 19, 2017, s 11; No. 21, 2025, s 22
pt 8	
div 2A hdg	ins No. 21, 2025, s 23
s 158B	ins No. 21, 2025, s 23
s 158C	ins No. 21, 2025, s 23 amd No. 19, 2026, s 14
s 158D	ins No. 21, 2025, s 23
s 158E – 158F	ins No. 21, 2025, s 23 amd No. 19, 2026, s 14
s 158G	ins No. 21, 2025, s 23
s 159	amd No. 27, 2014, s 56; No. 9, 2016, s 159; No. 19, 2017, s 11; No. 12, 2018, s 15
s 160	amd No. 27, 2014, s 56; No. 19, 2017, s 11; No. 12, 2018, s 16; No. 28, 2018, s 23; No. 19, 2026, s 14
s 161	sub No. 12, 2018, s 17 amd No. 7, 2019, s 10; No. 32, 2019, s 40; No. 21, 2025, s 24; No. 19, 2026, s 10
s 163	amd No. 5, 2009, s 179
s 164	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 165	amd No. 27, 2014, s 56; No. 19, 2017, s 11; No. 19, 2026, s 14
s 167	amd No. 27, 2014, s 52 sub No. 21, 2025, s 25 amd No. 19, 2026, s 14
s 167A	ins No. 27, 2014, s 53
s 167B	ins No. 19, 2017, s 8 amd No. 19, 2026, s 14
s 168	amd No. 28, 2011, s 3
s 168A	ins No. 7, 2019, s 11 amd No. 19, 2026, s 11
pt 8A hdg	ins No. 19, 2026, s 12
ss 168B – 168H	ins No. 19, 2026, s 12
s 170	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 172	amd No. 19, 2026, s 14
s 175	amd No. 27, 2014, s 56; No. 19, 2017, s 11; No. 12, 2018, s 18; No. 28, 2018, s 24; No. 19, 2026, s 14
ss 176 – 178	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 179	amd No. 19, 2026, s 14
s 180	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 181	amd No. 27, 2014, s 56; No. 30, 2022, s 16; No. 18, 2024, s 20
s 193	amd No. 21, 2025, s 26
s 195	amd No. 28, 2011, s 3

s 196	amd No. 28, 2011, s 3; No. 19, 2026, s 14
ss 197 – 199	amd No. 28, 2011, s 3
s 200	amd No. 28, 2011, s 3; No. 27, 2014, s 56; No. 19, 2017, s 11; No. 19, 2026, s 14
s 201	amd No. 28, 2011, s 3; No. 27, 2014, s 56; No. 19, 2017, s 11
pt 13 hdg	rep No. 21, 2025, s 27
ss 202 – 205	rep No. 21, 2025, s 27
s 206	amd No. 27, 2014, s 56; No. 19, 2017, s 11 rep No. 21, 2025, s 27
ss 207 – 213	rep No. 21, 2025, s 27
s 214	amd No. 28, 2011, s 3; No. 25, 2021, s 28
s 215	amd No. 27, 2014, s 54; No. 19, 2017, s 9; No. 19, 2026, s 13
s 215A	ins No. 27, 2014, s 55 amd No. 19, 2017, s 11
s 215B	ins No. 27, 2014, s 55 amd No. 32, 2019, s 41
s 216	amd No. 27, 2014, s 56; No. 19, 2017, s 11
s 216A	ins No. 21, 2025, s 28
s 217	amd No. 27, 2014, s 56; No. 19, 2017, s 11
pt 16 hdg	ins No. 26, 2010, s 9
ss 224 – 225	ins No. 26, 2010, s 9
pt 17 hdg	ins No. 5, 2011, s 9 sub No. 11, 2014, s 16
pt 17 div 1 hdg	ins No. 11, 2014, s 16
s 226	ins No. 5, 2011, s 9
pt 17 div 2 hdg	ins No. 11, 2014, s 17
s 227	ins No. 11, 2014, s 17
pt 17 div 3 hdg	ins No. 22, 2015, s 14
s 228	ins No. 22, 2015, s 14
pt 17 div 4 hdg	ins No. 19, 2017, s 10
ss 229 – 232	ins No. 19, 2017, s 10
pt 17 div 5 hdg	ins No. 12, 2018, s 19
ss 233 – 235	ins No. 12, 2018, s 19
pt 17 div 6 hdg	ins No. 32, 2019, s 42
ss 236 – 238	ins No. 32, 2019, s 42
pt 17 div 7 hdg	ins No. 22, 2020, s 9
s 239	ins No. 22, 2020, s 9
pt 17 div 9 hdg	ins No. 11, 2023, s 11
s 241	ins No. 11, 2023, s 11
pt 17 div 10 hdg	ins No. 21, 2025, s 29
ss 242 – 245	rep No. 21, 2025, s 29