



New South Wales

Courts and Other Legislation Amendment Bill 2007

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Coroners Act 1980* in relation to the suspension and continuation of inquests and inquiries,
- (b) to amend the *Land and Environment Court Act 1979* in relation to privilege and conciliation conferences,
- (c) to amend the *Legal Profession Act 2004* in relation to a transitional matter,
- (d) to amend the *Young Offenders Act 1997* in relation to miscellaneous matters and to make consequential amendments to certain Regulations.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent, subject to specified exceptions.

Clause 3 is a formal provision that gives effect to the amendments to the Acts and Regulations specified in Schedules 1–5 as set out in those Schedules.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Coroners Act 1980 No 27

Section 19 of the *Coroners Act 1980* requires an inquest or inquiry to be terminated in certain circumstances if a person is charged with an indictable offence or the coroner believes the evidence suggests a person would be convicted of an indictable offence concerning a death or suspected death or fire or explosion. Section 20 provides that an inquest or inquiry may be held notwithstanding that an inquest concerning the same death or suspected death or an inquiry concerning the same fire or explosion was earlier terminated under section 19. **Schedule 1 [4] and [5]** amend section 19 and substitute section 20 to make it clear that section 20 allows a coroner to continue an inquest or inquiry that was earlier terminated under section 19 (in order to overturn the decision of the Supreme Court in *Innes & 2 ors v NSW Senior Deputy State Coroner; Commissioner of Police v NSW Senior Deputy State Coroner* [2007] NSWSC 1209). The proposed changes replace references to the termination of an inquest or inquiry with references to the suspension of an inquest or inquiry and provide that an inquest or inquiry that was suspended, or not commenced, under section 19 may (on the coroner's own motion or on the application of a specified person) subsequently be resumed or commenced (as the case may be) or may be dispensed with. **Schedule 1 [5]** also makes provision for the State Coroner, or a coroner authorised by the State Coroner, to resume or commence, or to dispense with, a suspended inquest or inquiry if the coroner who adjourned, or did not commence, an inquest or inquiry is unavailable. **Schedule 1 [1]–[3] and [7]–[10]** contain consequential amendments.

Schedule 1 [6] substitutes section 22 (Finding of coroner or verdict of jury to be recorded) to clarify the operation of that section and make consequential amendments.

Schedule 1 [11] enables the making of regulations of a savings and transitional nature and **Schedule 1 [12]** contains a transitional provision.

Schedule 2 Amendment of Land and Environment Court Act 1979 No 204

Schedule 2 amends the *Land and Environment Court Act 1979* in order that the same privilege that applies to judicial proceedings with respect to defamation applies in relation to conciliation conferences and documents produced in relation to such conferences.

Schedule 3 Amendment of Legal Profession Act 2004 No 112

Prior to the enactment of the *Legal Profession Act 2004*, persons who had completed the necessary legal studies and training were admitted by the Supreme Court as “legal practitioners” and issued with practising certificates by the Bar Association or Law Society. Since the enactment of that Act, those persons are admitted by the Supreme Court as “lawyers” (in an earlier change in terminology in 1993 those persons were admitted as “barristers” or “solicitors”). Clause 26 of Schedule 9 to the *Legal Profession Act 2004* contains provisions to enable earlier references in other Acts and statutory rules to various terms (such as barrister, solicitor, legal practitioner, lawyer, attorney and counsel) to be read as references to the appropriate new terms in order to preserve the operation of those Acts and rules, including a power to make further provision by regulation for the construction of references either generally or in a particular case.

Schedule 3 [1] inserts provision to allow former references to “legal practitioners” of a specified number of years’ standing to be read as a reference to a period since admission, subject to the ability of the regulations to make different provision in a particular case. **Schedule 3 [2]** extends the regulation-making power that enables earlier references to be construed in a particular case as references to persons holding practising certificates so that the references can be construed instead as references to persons who have been admitted as lawyers.

Schedule 4 Amendment of Young Offenders Act 1997 No 54

Aboriginal and Torres Strait Islander children

Schedule 4 [1] amends section 3 of the *Young Offenders Act 1997* to provide that one of the objects of the Act is to address the over representation of Aboriginal and Torres Strait Islander children in the criminal justice system through the use of youth justice conferences, cautions and warnings. **Schedule 4 [6]** makes a corresponding amendment to section 7 of the *Young Offenders Act 1997* to provide that this is one of the principles that underlies the diversionary scheme created by the Act.

Meaning of “victim”

Schedule 4 [5] amends section 5 of the *Young Offenders Act 1997* to expand the definition of *victim* for the purposes of the Act so that it includes people who, as the result of an act, suffer psychological harm (such as fear, humiliation, shame or stress) that does not amount to mental illness or nervous shock and people who suffer financial harm other than property loss. The current definition limits psychological harm to mental illness and nervous shock. It also limits financial loss to situations where the person’s property has been taken, destroyed or damaged.

Application of Young Offenders Act 1997 to persons who are no longer children

Schedule 4 [7] inserts a new section 7A in the *Young Offenders Act 1997* to provide that the Act applies (subject to certain exceptions) in relation to a person who:

- (a) is or was a child when an offence covered by the Act is or was committed or alleged to have been committed, and
- (b) is under the age of 21 years when being dealt with under the Act.

The *Young Offenders Act 1997* currently provides that a person may be dealt with under the Act only if the person was a child when the relevant offence or alleged offence was committed and is still a child when he or she is being dealt with under the Act. Section 4 of the *Young Offenders Act 1997* defines *child* to mean a person who is of or over the age of 10 years and under the age of 18 years.

Period for deciding whether to deal with child under Young Offenders Act 1997

Schedule 4 [8] amends section 9 of the *Young Offenders Act 1997* to confirm that an investigating official has at least 14 days to consider whether a child should be dealt with under Part 3 or 4 of the Act or referred to a specialist youth officer under Part 5 of the Act.

Admission of offences

Schedule 4 [9] amends section 10 of the *Young Offenders Act 1997* to provide that one of the circumstances in which an admission by a child of an offence is an admission for the purposes of the Act is if the child is aged 14 years or over and the admission takes place in the presence of an adult chosen by the child. Currently, section 10 provides that the child needs to be aged 16 years or over for this circumstance to apply.

Warnings

Schedule 4 [10] inserts a new section 16A in the *Young Offenders Act 1997* to enable an investigating official who gives a warning to a child, or a youth liaison officer, to give the parents of the child notice that a warning has been given to the child in respect of an offence committed by the child. However, the official or officer must not disclose that information if the official is of the opinion that the disclosure of the information would pose an unacceptable risk to the safety, welfare or well-being of the child. **Schedule 4 [4]** inserts a definition of *youth liaison officer* in section 4 of the *Young Offenders Act 1997*.

Schedule 4 [11] amends section 17 of the *Young Offenders Act 1997* to require the Commissioner of Police to ensure that a record of a warning made under the Act is destroyed or expunged once the person to whom the record relates reaches the age of 21 years.

Cautions

Schedule 4 [12] inserts a new section 24A in the *Young Offenders Act 1997* to enable a person arranging for a caution to be given to a child:

- (a) to seek a written statement from any victim of the offence concerned that describes the harm occasioned to the victim by the offence, and
- (b) to give guidance to any such victim as to the kind of matters that are appropriate for inclusion in the statement, and
- (c) to provide any such statement received by the person to the person giving the caution to the child.

Schedule 4 [14], among other things, makes a consequential amendment to section 29 of the Act to enable the person giving a warning to read out such a statement (or part of such a statement) if the person considers it appropriate to do so. In addition, **Schedule 4 [15]** amends section 31 of the *Young Offenders Act 1997* to confer a comparable power on a court giving a caution under that section. It also amends section 31 to require a court that gives a caution under that section to dismiss the proceedings for the offence in respect of which the caution is given.

Schedule 4 [13] amends section 28 of the *Young Offenders Act 1997* to enable one student or probationary police officer to be present for training purposes when a caution is given to a child, but only if consent to the officer's presence has been given by the child and an adult who is present with the child.

Schedule 4 [14] also amends section 29 of the *Young Offenders Act 1997* to confirm that a person proposing to give a caution to a child under the Act may defer giving the caution if a person responsible for the child or an adult chosen by the child is not present or if the child's capacity to understand what is occurring is affected by alcohol or another drug.

Schedule 4 [16] inserts a new section 33A in the *Young Offenders Act 1997* to require the Commissioner of Police to ensure that any finger prints or palm prints obtained from, or photographs taken of, a child in connection with an offence are destroyed if a caution has been given under the Act in respect of the offence.

Youth justice conferences

Schedule 4 [17] amends section 42 of the *Young Offenders Act 1997* to make it clear that a conference administrator's obligation to appoint a conference convenor for a youth justice conference only arises when the administrator is satisfied that a referral for that purpose has been made under Part 5 of the Act.

Schedule 4 [18] substitutes section 43 of the *Young Offenders Act 1997* with a new provision that provides that a youth justice conference must be convened within 28 days following a referral (instead of the current 21 days), unless the conference administrator reasonably considers that it is not practicable to do so.

Schedule 4 [19] amends section 45 to enable a conference administrator to carry out certain notice giving functions in relation to youth justice conferences as well as the conference convenor.

Schedule 4 [20] amends section 47 of the *Young Offenders Act 1997* to enable one police officer to be present during a youth justice conference for training purposes, but only if consent to the officer's presence has been given by the conference convenor, child, any victim and (if present) a person responsible for the child.

Disclosure of records and criminal history

Schedule 4 [24] and [25] amend section 66 of the *Young Offenders Act 1997* to enable records of, or relating to, cautions and conferences under the Act to be divulged to certain authorised officers of the Department of Juvenile Justice.

Schedule 4 [24] also amends section 66 to enable records of warnings to be divulged to youth liaison officers for the purpose of taking action under proposed section 16A.

Schedule 4 [26] amends section 68 of the *Young Offenders Act 1997* so that limitations on the need for a person to disclose warnings, cautions or conferences given or conducted under the Act in relation to the person that are set out in that section do not apply in relation to an application by a person for employment in child-related employment within the meaning of Part 7 of the *Commission for Children and Young People Act 1998*. The amendment will make the provisions of section 68 more consistent with those applying to spent convictions under the *Criminal Records Act 1991*.

Delegation of functions of Director-General

Schedule 4 [23] inserts a new section 62A in the *Young Offenders Act 1997* to enable the Director-General of the Department of Juvenile Justice to delegate his or her functions under the Act or the regulations to any of the following persons:

- (a) a Deputy Director-General of the Department of Juvenile Justice,
- (b) any other person (or person belonging to a class of persons) prescribed by the regulations.

Abolition of Youth Justice Advisory Committee

Schedule 4 [27] repeals section 70 of the *Young Offenders Act 1997*, which provides for the Youth Justice Advisory Committee to be constituted. **Schedule 4 [32]** inserts a provision in Schedule 3 to the *Young Offenders Act 1997* that abolishes the Committee on the day on which section 70 is repealed by the proposed Act.

Amendments in the nature of statute law revision

The proposed Act also makes the following amendments to the *Young Offenders Act 1997* in the nature of statute law revision:

- (a) **Schedule 4 [2]** amends section 4 to update a reference to the Director-General of the Department of Juvenile Justice.
- (b) **Schedule 4 [3]** amends section 4 to update a reference to the Police Service.
- (c) **Schedule 4 [21]** amends section 47 to confirm that a reference in that section to an order is a reference to an order made under section 33 of the *Children*

(Criminal Proceedings) Act 1987 for supervision of a child by the Department of Juvenile Justice,

- (d) **Schedule 4 [22]** amends section 57 to confirm that any dismissal of a charge referred to in that section is being made pursuant to a power conferred by that section rather than under any other law.
- (e) **Schedule 4 [28]** amends Schedule 1 to update a reference to the repealed *Public Sector Management Act 1988*.

Savings and transitional provisions

Schedule 4 [30] amends clause 1 of Schedule 3 to the *Young Offenders Act 1997* to enable the Governor to make regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 4 [32] amends Schedule 3 to the *Young Offenders Act 1997* to insert a new Part that contains provisions of a savings or transitional nature consequent on the enactment of the proposed Act. **Schedule 4 [29] and [31]** make amendments to Schedule 3 that are consequential on the insertion of the new Part.

Schedule 5 Consequential amendment of Regulations

Schedule 5 makes amendments to the *Freedom of Information Regulation 2005* and the *Young Offenders Regulation 2004* that are consequential on the abolition of the Youth Justice Advisory Committee by amendments made to the *Young Offenders Act 1997* in Schedule 4.



New South Wales

Courts and Other Legislation Amendment Bill 2007

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New South Wales

Courts and Other Legislation Amendment Bill 2007

No. , 2007

A Bill for

An Act to amend certain Acts with respect to coronial inquests and inquiries, court procedure, young offenders and other matters.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Courts and Other Legislation Amendment Act 2007</i> .	3
2 Commencement	4
(1) This Act commences on the date of assent to this Act, except as specified in subsection (2).	5 6
(2) Schedules 2, 4 and 5 commence on a day or days to be appointed by proclamation.	7 8
3 Amendments	9
The Acts and Regulations specified in Schedules 1–5 are amended as set out in those Schedules.	10 11
4 Repeal of Act	12
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	13 14
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	15 16

Schedule 1	Amendment of Coroners Act 1980 No 27	1
	(Section 3)	2
[1]	Section 12A Obligation to report death	3
	Omit “termination” from section 12A (3A). Insert instead “suspension”.	4
[2]	Section 14B General cases in which inquest required to be held	5
	Omit “terminated or continued” from section 14B (1) (d).	6
	Insert instead “suspended or continued”.	7
[3]	Sections 16A (2) and 34 (6)	8
	Omit “terminates” wherever occurring. Insert instead “suspends”.	9
[4]	Section 19 Procedure at inquest or inquiry involving indictable offence	10
	Omit “terminate” wherever occurring in section 19 (1A), (1B) (b) and (1C) (b).	11
	Insert instead “suspend”.	12
[5]	Section 20	13
	Omit the section. Insert instead:	14
	20 Procedure following suspension of inquest or inquiry under section 19	15
	(1) A coroner who has suspended, or not commenced, an inquest or inquiry under section 19 may make an order, subject to subsections (2) and (3):	16
	(a) that the inquest or inquiry is to resume or commence (as the case may be), or	17
	(b) to dispense with the resumption or holding of the inquest or inquiry.	18
	(2) If a person has been charged with an indictable offence in which the question of whether the person caused a death or suspected death or a fire or explosion is in issue, an inquest or inquiry that has been suspended, or that has not commenced, under section 19 may not be resumed or commenced (as the case may be), until the charge is finally determined.	19
	(3) If the coroner has suspended an inquest or inquiry after coming to the opinion referred to in section 19 (1) (b) (and a person has not been charged as referred to in subsection (2) in relation to an indictable offence), the suspended inquest or inquiry may not be	20
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	resumed until the Attorney General or the Director of Public Prosecutions advises that no proceedings will be taken against the known person (as referred to in section 19 (1) (b)) in relation to the indictable offence.	1 2 3 4
(4)	An order under subsection (1) may be made on a coroner’s own motion or on the application of a person who has been granted leave to appear or to be represented at the inquest or inquiry.	5 6 7
(5)	If the coroner who suspended, or did not commence, an inquest or inquiry under section 19 is not available to resume, commence or dispense with the inquest or inquiry for any reason, the State Coroner or a coroner authorised by the State Coroner, may resume, commence or dispense with the inquest or inquiry in accordance with this section.	8 9 10 11 12 13
(6)	For the purposes of subsection (2), a charge is taken to be finally determined if:	14 15
	(a) the person has been discharged from proceedings with respect to the offence to which the charge relates, or	16 17
	(b) no further appeal can be made in proceedings in respect of the charge without an extension of time being granted, or	18 19
	(c) the Attorney General or the Director of Public Prosecutions directs that no further proceedings be taken against the person in respect of the charge.	20 21 22
[6] Section 22		23
	Omit the section. Insert instead:	24
22 Finding of coroner or verdict of jury to be recorded		25
(1)	The coroner holding an inquest concerning the death or suspected death of a person must, at its conclusion or on its suspension, record in writing his or her findings or, if there is a jury, the jury’s verdict, as to whether the person died and, if so:	26 27 28 29
	(a) the person’s identity, and	30
	(b) the date and place of the person’s death, and	31
	(c) in the case of an inquest that is being concluded—the manner and cause of the person’s death.	32 33
(2)	The coroner holding an inquiry concerning a fire or explosion must, at its conclusion or on its suspension, record in writing his or her findings or, in the case of an inquiry held before a jury, the jury’s verdict:	34 35 36 37
	(a) as to the date and place of the fire or explosion, and	38

(b)	in the case of an inquiry that is being concluded—as to the circumstances of the fire or explosion.	1 2
(3)	Any record made under subsection (1) or (2) must not indicate or in any way suggest that an offence has been committed by any person.	3 4 5
[7]	Section 23A Duty to hold fresh inquest or inquiry—new facts or evidence	6
	Insert “or suspension” after “termination” in section 23A (5).	7
[8]	Section 47 Powers of Supreme Court to order inquest or inquiry	8
	Insert “or suspended” after “terminated” in section 47 (1).	9
[9]	Section 53 Warrant for exhumation of body	10
	Omit “terminated under section 19 or 21” from section 53 (1) (b) (i).	11
	Insert instead “suspended under section 19 or terminated under section 21”.	12
[10]	Section 53 (2)	13
	Omit the subsection. Insert instead:	14
(2)	Where an inquest concerning the death or suspected death of a person has been suspended under section 19 or terminated under section 21, a coroner is not to exercise his or her powers under subsection (1) with respect to the remains of that person unless an inquest or a fresh inquest concerning the death of that person may be resumed or held as referred to in section 20, 23 or 23A or pursuant to section 47.	15 16 17 18 19 20 21
[11]	Schedule 3 Savings and transitional provisions	22
	Insert at the end of clause 1A (1):	23
	<i>Courts and Other Legislation Amendment Act 2007</i> , but only to the extent that it amends this Act	24 25
[12]	Schedule 3, clause 16	26
	Insert at the end of the Schedule:	27
	16 Courts and Other Legislation Amendment Act 2007	28
	The amendments made to this Act by the <i>Courts and Other Legislation Amendment Act 2007</i> extend to an inquest or inquiry that has been commenced, but not completed, before the commencement of those amendments.	29 30 31 32

Schedule 2	Amendment of Land and Environment Court Act 1979 No 204	1
		2
	(Section 3)	3
Section 34 Conciliation conferences (as substituted by Courts Legislation Amendment Act 2007)		4
		5
Insert after section 34 (10):		6
(10A)	The same privilege with respect to defamation as exists with respect to judicial proceedings and a document produced in judicial proceedings exists with respect to:	7
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	(a) a conciliation conference, and	10
	(b) a document or other material sent to or produced to a Commissioner, or sent to or produced at the Court or the registry of the Court, for the purpose of enabling a conciliation conference to be arranged.	11
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(10B)	The privilege conferred by subsection (10A) extends only to a publication made:	15
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	(a) at a conciliation conference, or	17
	(b) in a document or other material sent to or produced to a Commissioner, or sent to or produced at the Court or the registry of the Court, for the purpose of enabling a conciliation conference to be arranged.	18
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Schedule 3	Amendment of Legal Profession Act	1
	2004 No 112	2
	(Section 3)	3
[1] Schedule 9 Savings, transitional and other provisions		4
Insert at the end of clause 26 (1) (c):		5
and		6
(d) a legal practitioner (where the term is not so expressed) of		7
a specified period of standing is to be read as a reference to		8
an Australian lawyer of that period of standing,		9
[2] Schedule 9, clause 26 (2)		10
Insert “or Australian lawyer” after “Australian legal practitioner” wherever		11
occurring.		12

Schedule 4	Amendment of Young Offenders Act	1
	1997 No 54	2
	(Section 3)	3
[1] Section 3 Objects of Act		4
Insert at the end of section 3 (c):		5
	, and	6
	(d) to address the over representation of Aboriginal and Torres Strait Islander children in the criminal justice system through the use of youth justice conferences, cautions and warnings.	7 8 9 10
[2] Section 4 Definitions		11
Insert “the Department of” after “of” in the definition of <i>Director-General</i> .		12
[3] Section 4, definition of “specialist youth officer”		13
Omit “Police Service”. Insert instead “NSW Police Force”.		14
[4] Section 4, definition of “youth liaison officer”		15
Insert in alphabetical order:		16
	<i>youth liaison officer</i> means a member of the NSW Police Force appointed as a youth liaison officer for the purposes of this Act by the Commissioner of Police.	17 18 19
[5] Section 5 Meaning of “victim”		20
Omit section 5 (2). Insert instead:		21
	(2) A person suffers harm if, as a result of such an act:	22
	(a) the person suffers physical harm or suffers mental illness, nervous shock or other psychological harm (including fear, humiliation, shame or stress), or	23 24 25
	(b) the person’s property is deliberately taken, destroyed or damaged or the person suffers financial loss.	26 27
[6] Section 7 Principles of scheme		28
Insert after section 7 (g):		29
	(h) The principle that the over representation of Aboriginal and Torres Strait Islander children in the criminal justice system should be addressed by the use of youth justice conferences, cautions and warnings.	30 31 32 33

[7] Section 7A	1
Insert after section 7:	2
7A Persons in relation to whom Act applies	3
(1) This Act applies in relation to a person who:	4
(a) is or was a child when an offence covered by this Act is or was committed or alleged to have been committed, and	5 6
(b) is under the age of 21 years when being dealt with under this Act.	7 8
(2) Subject to subsection (3), if a person in relation to whom this Act applies is no longer a child when he or she is being dealt with under this Act, a reference to a child in another provision of this Act concerning how a child is to be, or may be, dealt with is to be read as including, where appropriate, a reference to an individual who is of or under the person's age.	9 10 11 12 13 14
(3) The following provisions of this Act do not apply to a person in relation to whom this Act applies if the person is no longer a child:	15 16 17
(a) section 10 (which relates to who is to be present with a child when he or she makes admissions for the purposes of this Act),	18 19 20
(b) section 22 (2) (which relates to who is to be present with a child when an explanation concerning a caution is given),	21 22
(c) section 29 (3) (which relates to who is to be present with a child when a caution is given),	23 24
(d) section 39 (2) (which relates to who is to be present with a child when an explanation concerning a conference is given),	25 26 27
(e) any other provision that requires the presence or consent of, or consultation with, a person responsible for a child,	28 29
(f) any provision (or any provision belonging to a class of provisions) prescribed by the regulations.	30 31
[8] Section 9 Procedures under scheme	32
Insert after section 9 (2A):	33
(2B) In determining whether a child should be dealt with under Part 3 or 4 or referred to a specialist youth officer under Part 5, an investigating official is (if the official considers it practicable) to make that determination within the period of 14 days after the official becomes aware of the offence or alleged offence.	34 35 36 37 38

(2C)	A failure of an investigating official to comply with subsection (2B):	1
	(a) does not prevent action being taken under this Act, or	2
	(b) invalidate any action taken under this Act.	3
[9]	Section 10 Admission of offences	5
	Omit “16 years” from section 10 (c). Insert instead “14 years”.	6
[10]	Section 16A	7
	Insert after section 16:	8
16A	Parents of child may be notified of warning	9
(1)	An investigating official who gives a warning to a child, or a youth liaison officer, may notify the parents of the child (whether in writing, verbally or in person) that a warning has been given to the child in respect of an offence committed by the child.	10
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(2)	However, an investigating official or youth liaison officer may not notify a parent of a child under subsection (1) if the official or officer is of the opinion that the disclosure of the giving of the warning would pose an unacceptable risk to the safety, welfare or well-being of the child.	14
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[11]	Section 17 Records of warnings	19
	Insert after section 17 (2):	20
(3)	Despite anything to the contrary in the <i>State Records Act 1998</i> or any other law, the Commissioner of Police is to ensure that any record made under this section of a warning is destroyed or expunged (as the case requires) as soon as is reasonably practicable after the person to whom the record relates reaches the age of 21 years.	21
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	Note. The Commissioner of Police may delegate this function. See section 31 of the <i>Police Act 1990</i> .	27
		28
[12]	Section 24A	29
	Insert after section 24:	30
24A	Written statements from victims	31
(1)	Before a caution is given to a child, the person arranging for the caution to be given may:	32
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(a)	seek a written statement from any victim of the offence concerned that describes the harm occasioned to the victim by the offence, and	34
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(b)	give guidance to any such victim as to the kind of matters that are appropriate for inclusion in the statement, and	1 2
(c)	provide any such statement received by the person to the person giving the caution to the child.	3 4
(2)	The regulations may make provision for or with respect to the content and form of written statements under subsection (1).	5 6
[13]	Section 28 Persons who may accompany child	7
	Insert after section 28 (j):	8
(k)	if the child and (if present) a person of the kind referred to in paragraph (b)–(d) who is an adult consent, one student or probationary police officer for the purpose of training the officer.	9 10 11 12
[14]	Section 29 Giving of cautions	13
	Insert after section 29 (2):	14
(2A)	A person proposing to give a caution to a child may defer giving the caution:	15 16
(a)	if a person responsible for the child or the adult chosen by the child is not present—until a person responsible for the child or an adult chosen by the child is present, or	17 18 19
(b)	if it appears to the person that the child is so affected by alcohol or another drug (or a combination of drugs) that the child’s capacity to understand the purpose, nature or effect of the caution is impaired—until the person considers that the child has regained that capacity.	20 21 22 23 24
(2B)	A person who gives a caution to a child may, if the person considers it appropriate, read out some or all of a written statement from a victim that is provided to the person under section 24A when giving the caution.	25 26 27 28
[15]	Section 31 Cautions by courts	29
	Insert after section 31 (1):	30
(1A)	If a court gives a caution under this section, the court must dismiss the proceedings for the offence in respect of which the caution is given.	31 32 33
(1B)	A court giving a caution may:	34
(a)	allow any victim of the offence concerned to prepare a written statement that describes the harm occasioned to the victim by the offence, and	35 36 37

	(b) if it considers it appropriate to do so, may permit all or part of the statement to be read to the child when giving the caution.	1 2 3
	(1C) The regulations may make provision for or with respect to the content and form of written statements under subsection (1B).	4 5
[16]	Section 33A	6
	Insert after section 33:	7
	33A Destruction of finger prints, palm prints and photographs	8
	(1) If a child is given a caution under this Part, the Commissioner of Police is to ensure that any finger prints or palm prints obtained from, or photographs taken of, the child in connection with the offence for which the caution is given (and any copies of them) are destroyed.	9 10 11 12 13
	Note. The Commissioner of Police may delegate this function. See section 31 of the <i>Police Act 1990</i> .	14 15
	(2) This section applies despite anything to the contrary in the <i>State Records Act 1998</i> or any other law.	16 17
[17]	Section 42 Appointment of conference convenor	18
	Omit “On referral of a matter for a conference under this Part,” from section 42 (1).	19 20
	Insert instead “If a conference administrator is satisfied that a matter has been referred for a conference under this Part,”.	21 22
[18]	Section 43	23
	Omit the section. Insert instead:	24
	43 Time limit for holding conferences	25
	A conference should be held not later than 28 days after the referral for the conference is received by the conference administrator and not less than 10 days after notice is given to a child under section 45, unless the administrator reasonably considers that it is not practicable to do so.	26 27 28 29 30
[19]	Section 45 Preparation for conferences	31
	Insert “or conference administrator” after “conference convenor” where firstly occurring in section 45 (3).	32 33

[20] Section 47 Participants in conferences	1
Insert after section 47 (1) (j):	2
(k) if the conference convenor, child, any victim and (if present) a person responsible for the child all consent, one police officer for the purpose of training the officer.	3 4 5
[21] Section 47 (2) (e)	6
Omit the paragraph. Insert instead:	7
(e) if the child is subject to the supervision of the Department of Juvenile Justice pursuant to an order made under section 33 of the <i>Children (Criminal Proceedings) Act 1987</i> , the child's supervising officer,	8 9 10 11
[22] Section 57 Additional provisions relating to completion and non-completion of outcome plans	12 13
Insert "under this subsection" after "dismiss" in section 57 (2).	14
[23] Section 62A	15
Insert after section 62:	16
62A Delegation of Director-General's functions	17
The Director-General may delegate the exercise of any function of the Director-General under this Act or the regulations (other than this power of delegation) to any of the following persons:	18 19 20
(a) a Deputy Director-General of the Department of Juvenile Justice,	21 22
(b) any other person (or person belonging to a class of persons) prescribed by the regulations.	23 24
[24] Section 66 Disclosure of records	25
Insert after section 66 (2) (c):	26
(d) records of, or relating to, warnings under this Act may be divulged to a youth liaison officer for the purpose of taking action under section 16A,	27 28 29
(e) records of, or relating to, cautions and conferences under this Act may (subject to any regulations made for the purposes of subsection (3)) be divulged to an authorised officer of the Department of Juvenile Justice.	30 31 32 33

[25] Section 66 (3) and (4)	1
Insert after section 66 (2):	2
(3) The regulations may make for provision for or with respect to the divulging of records in the circumstance referred to in subsection (2) (e).	3 4 5
(4) In this section:	6
<i>authorised officer of the Department of Juvenile Justice</i> means any of the following officers of the Department:	7 8
(a) the Director-General,	9
(b) a Deputy Director-General,	10
(c) a juvenile justice officer,	11
(d) such other member of staff (or member of staff belonging to a class of members of staff) of the Department as may be prescribed by the regulations.	12 13 14
[26] Section 68 Interventions not to be disclosed as criminal history	15
Insert at the end of section 68 (2) (c):	16
, or	17
(d) an application by a person for employment in child-related employment within the meaning of Part 7 of the <i>Commission for Children and Young People Act 1998</i> .	18 19 20
[27] Section 70 Youth Justice Advisory Committee	21
Omit the section.	22
[28] Schedule 1 Conference convenors	23
Omit “Part 2 of the <i>Public Sector Management Act 1988</i> ” from clause 4 (1).	24
Insert instead “Chapter 2 of the <i>Public Sector Employment and Management Act 2002</i> ”.	25 26
[29] Schedule 3 Savings and transitional provisions	27
Insert before clause 1:	28
Part 1 General	29

[30] Schedule 3, clause 1	1
Insert at the end of clause 1 (1):	2
<i>Courts and Other Legislation Amendment Act 2007</i> , to the extent	3
that it amends this Act and the Regulations set out in Schedule 5	4
to the 2007 Act	5
[31] Schedule 3, Part 2, heading	6
Insert after clause 1:	7
Part 2 Provisions consequent on enactment of this Act	8
	9
[32] Schedule 3, Part 3	10
Insert after clause 3:	11
Part 3 Provisions consequent on enactment of Courts and Other Legislation Amendment Act 2007	12
	13
	14
4 Definition	15
In this Part:	16
<i>amending Act</i> means the <i>Courts and Other Legislation Amendment Act 2007</i> .	17
	18
5 Application of amendments	19
(1) Any amendment made to this Act by the amending Act relating	20
to the conduct of youth justice conferences or the giving of	21
cautions extends to any child:	22
(a) who committed or is alleged to have committed an offence	23
covered by this Act before the commencement of the	24
amendment, and	25
(b) in respect of whom it has been decided (whether before or	26
after the commencement of the amendment) that the child	27
should be dealt with under this Act by means of a youth	28
justice conference or caution, but that conference or	29
caution has not yet been conducted or given.	30

- (2) Section 7A (as inserted by the amending Act) and, accordingly, this Act extends in relation to any person:
- (a) who committed or is alleged to have committed an offence covered by this Act before the commencement of that section, and
 - (b) was a child when the offence was committed or was alleged to have been committed, and
 - (c) who has not been previously dealt with under this Act in respect of the offence or alleged offence, and
 - (d) who is under the age of 21 years.
- (3) The amendment made to section 10 by the amending Act applies to admissions made on or after the commencement of the amendment.
- 6 Abolition of Youth Justice Advisory Committee**
- (1) The Youth Justice Advisory Committee established by section 70 of this Act is abolished on the day on which that section is repealed by the amending Act (the *abolition day*).
- (2) A person who, immediately before the abolition day, held office as a member of the Youth Justice Advisory Committee:
- (a) ceases to hold office on that day, and
 - (b) is not entitled to be paid any remuneration or compensation because of ceasing to hold that office.
- (3) Nothing in the clause prevents the Minister from convening one or more committees (including committees constituted with former members of the Youth Justice Advisory Committee) to advise the Minister in relation to matters arising under this Act.

Schedule 5	Consequential amendment of Regulations	1
		2
	(Section 3)	3
5.1	Freedom of Information Regulation 2005	4
	Schedule 3 Public authorities	5
	Omit the matter relating to the Youth Justice Advisory Committee from Part 3.	6
5.2	Young Offenders Regulation 2004	7
[1]	Clause 3 Definitions and notes	8
	Omit the definitions of <i>appointed member</i> , <i>Committee</i> , <i>member</i> and <i>nominated member</i> from clause 3 (1).	9
		10
[2]	Part 2 Youth Justice Advisory Committee	11
	Omit the Part.	12