

Passed by both Houses



New South Wales

# Children and Young Persons (Care and Protection) Amendment Bill 2006

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157	2
4 Repeal of Act	2
Schedule 1 Amendments	3

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*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2006*



New South Wales

## **Children and Young Persons (Care and Protection) Amendment Bill 2006**

Act No , 2006

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An Act to amend the *Children and Young Persons (Care and Protection) Act 1998* to make further provision with respect to the care and protection of, and the provision of services to, children and young persons; and for other purposes.

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*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

*Chairman of Committees of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Children and Young Persons (Care and Protection) Amendment Act 2006*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157**

The *Children and Young Persons (Care and Protection) Act 1998* is amended as set out in Schedule 1.

**4 Repeal of Act**

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 3 Definitions

Insert in alphabetical order:

***high level identification information***, in relation to a child or young person who is in the care responsibility of the Director-General (whether under a temporary care arrangement or otherwise) or who is in out-of-home care, means the following:

- (a) the surnames of the authorised carer of the child or young person and of any other person living in the household of the authorised carer,
- (b) the street address and locality of the authorised carer of the child or young person,
- (c) the landline telephone number of the authorised carer of the child or young person,
- (d) details of the employment or activities of the authorised carer of the child or young person that would be sufficient to identify the authorised carer,
- (e) the name of the school that the child or young person is attending,
- (f) any other type of information prescribed by the regulations.

***non-court proceedings*** means any aspect of care proceedings that is not conducted before the Children's Court and includes, but is not limited to, the following:

- (a) any counselling,
- (b) any preliminary conference under section 65,
- (c) any alternative dispute resolution process.

### [2] Section 29 Protection of persons who make reports or provide certain information

Insert "or body" after "any person" in section 29 (1) (f).

**[3] Section 29 (3A)**

Insert after section 29 (3):

- (3A) The protections given by this section to a person who makes a report apply to:
- (a) any person who provided information on the basis of which the report was made, in good faith, to the person, and
  - (b) any person who otherwise was in good faith concerned in making such a report or causing such a report to be made, in the same way as they apply in respect of the person who actually made the report.

**[4] Section 29 (6), definition of “report”**

Omit “and 122”. Insert instead “, 120, 121 and 122”.

**[5] Section 43 Removal of children and young persons without warrant**

Omit “care and protection” from section 43 (5).

Insert instead “care responsibility”.

**[6] Section 45 Prompt application to Children’s Court for care order**

Omit “assumption of care and protection” from section 45 (1).

Insert instead “assumption of care responsibility by the Director-General”.

**[7] Section 45 (4)**

Omit “and 70”. Insert instead “, 70 and 90A”.

**[8] Section 45, note**

Omit “from care and protection”.

Insert instead “from the care responsibility of the Director-General”.

**[9] Section 46 Emergency care and protection orders**

Insert after section 46 (4):

- (5) If an application is made for the extension of an order under this section before the order expires, the order remains in force until the Children’s Court makes a final determination on the application, even if that occurs after the original expiry date.

**[10] Section 47 Order prohibiting action**

Omit the section.

**[11] Chapter 5, Part 1, Division 5**

Omit “care and protection” from the note to the Division.

Insert instead “care responsibility”.

**[12] Section 51 Duty of Director-General to give information to certain persons**

Omit “care and protection” wherever occurring in section 51 (1).

Insert instead “care responsibility”.

**[13] Section 51 (1) (b)**

Omit the paragraph. Insert instead:

- (b) must, in the case of a child, ensure that the child’s parents are kept informed of the whereabouts of the child:
  - (i) if the Director-General has no reason to believe that the disclosure of the child’s whereabouts would be prejudicial to the safety, welfare, well-being or interests of the child—by disclosing the whereabouts of the child, or
  - (ii) if the Director-General has reason to believe that the disclosure of the child’s whereabouts would be prejudicial to the safety, welfare, well-being or interests of the child—by disclosing only information about the whereabouts of the child that is not high level identification information.

**[14] Section 51 (2)**

Omit “whose whereabouts have”.

Insert instead “high level identification information about whom has”.

**[15] Section 51 (2)**

Omit “the whereabouts of”.

Insert instead “such of the high level identification information about”.

**[16] Section 51, note**

Insert after section 51 (3):

**Note.** If a child or young person is in the care responsibility of the Director-General, high level identification information about the child or young person may be released only on an order of the Children’s Court under this section (or under section 154, if it is a temporary care arrangement).

**[17] Section 61 Applications for care orders**

Omit section 61 (3). Insert instead:

- (3) The order sought may be varied:
  - (a) without the leave of the Children’s Court at any time before a determination is made under section 72 in relation to the care application concerned, and
  - (b) after such a determination is made—only with the leave of the Children’s Court.

**[18] Section 63 Evidence of prior alternative action**

Omit “care and protection” wherever occurring in section 63 (2) (b).

Insert instead “care responsibility”.

**[19] Section 64 Notification of care applications**

Insert after section 64 (6) before the note:

**(7) Notification not to be given in certain circumstances**

Despite the other provisions of this section, the Children’s Court may:

- (a) order the Director-General:
    - (i) not to notify a child or young person of any application, or
    - (ii) not to serve a copy of an application or any supporting documentary evidence on a particular parent of any child or young person, or
  - (b) order a parent not to show an application or documents, or any particular information in the application or documents, to the parent’s child or young person and not to tell the child or young person about the application or document or any particular information in it.
- (8) The Children’s Court may make an order under subsection (7) only if the Children’s Court is of the opinion that:
- (a) the prejudicial effect of the child’s or young person’s being unaware of the application or information is outweighed by the psychological harm that is likely to be caused to the child or young person if the child or young person is notified or becomes aware of the application, or
  - (b) it would otherwise be detrimental to the safety, welfare or well-being of the child or young person to notify that child or young person of the application.

- (9) Subsection (7) does not limit the power of the Children's Court to make orders under section 256A otherwise than in relation to care applications.

**[20] Section 68**

Omit the section. Insert instead:

**68 Leave to file further documentary evidence**

- (1) A party to proceedings may, with the leave of the Children's Court, file further documentary evidence in connection with a care application.
- (2) In particular, if documentary evidence has been filed in proceedings and the Children's Court subsequently determines under section 93 (3) that the rules of evidence, or specified rules of evidence, are to apply to the proceedings, the party that filed the documentary evidence may, with the leave of the Children's Court and for the purpose of complying with the relevant rules, file further evidence or may withdraw all or part of the evidence filed and file alternative evidence.
- (3) Before granting leave under this section, the Court must be satisfied that the grant of leave will not result in undue delay in the matter being finalised.
- (4) Section 64 applies in respect of any further documentary evidence filed under this section in the same way as it applies to the making of the care application concerned.

**[21] Section 71 Grounds for care orders**

Insert "or primary care-givers" after "parents" in section 71 (1) (d).

**[22] Section 71 (2) (a)**

Insert "or primary care-giver's" after "parent's".

**[23] Section 71 (3)**

Insert after section 71 (2) before the note:

- (3) In this section:
- primary care-giver*, in relation to a child or young person, means the person primarily responsible for the care and control, including the day-to-day care and control, of the child or young person (whether or not that person is the person with parental responsibility or care responsibility for the child or young person).



**[24] Section 72 Determination as to care and protection**

Omit “, on the balance of probabilities,” from section 72 (1).

**[25] Section 75 Order to attend therapeutic or treatment program**

Insert after section 75 (1):

- (1A) An order under this section may be made only in respect of a child who has exhibited sexually abusive behaviour.

**[26] Section 75 (2)**

Omit “the subject of”. Insert instead “convicted in”.

**[27] Section 79 Order allocating parental responsibility**

Insert “or persons” after “person” wherever occurring in section 79 (1) (a) (ii) and (iii).

**[28] Section 90 Rescission and variation of care orders**

Insert after section 90 (1):

- (1A) The Children’s Court may order a person who makes an application under this section to notify those persons whom the Children’s Court specifies of the making of the application.

**Note.** Section 256A sets out the circumstances in which the Children’s Court may dispense with service.

**[29] Section 90 (5) (b)**

Insert “or opposed” after “made”.

**[30] Section 90 (5)**

Insert “, or of opposition to a fresh application,” after “fresh application”.

**[31] Section 90A**

Insert after section 90:

**90A Order prohibiting action**

The Children’s Court may, at any stage in care proceedings, make an order prohibiting any person, including a parent of a child or young person, in accordance with such terms as are specified in the order, from doing anything that could be done by the parent in carrying out his or her parental responsibility.

**[32] Section 93 General nature of proceedings**

Insert after section 93 (3):

- (4) In any proceedings before the Children’s Court, the standard of proof is proof on the balance of probabilities.
- (5) Without limiting subsection (4), any requirement under this Act that the Children’s Court be satisfied as to a particular matter is a requirement that the Children’s Court be satisfied on the balance of probabilities.

**[33] Section 96 Attendance of child or young person and parents**

Insert after section 96 (2):

- (2A) The fact that a child or young person is presumed by section 99 (3) to have the capacity to instruct his or her legal representative does not of itself mean that the child or young person is required to attend the Children’s Court to give those instructions. Such a child or young person is required to attend only if required under this section.

**[34] Section 98 Right of appearance**

Insert after section 98 (2):

- (2A) If the Children’s Court is of the opinion that a party to the proceedings is incapable of giving proper instructions to a legal representative, the Children’s Court is to appoint a guardian ad litem for the person under section 100 or 101 (as the case may require).

**[35] Section 99 Legal representation**

Omit “10 years” wherever occurring from section 99 (3), (4) and (5).

Insert instead “12 years”.

**[36] Section 99 (4) (a)**

Insert “(if a guardian ad litem has not been appointed for the child or young person)” after “instructions and”.

**[37] Section 99 (5) (a)**

Insert “and there is no declaration in force under subsection (4) (b) in respect of the child” after “age”.

**[38] Section 99 (5)**

Insert “unless a guardian ad litem has been appointed for the child or young person” after “separate representative”.

**[39] Section 100 Guardian ad litem—child or young person**

Insert “or that the child or young person is, for any reason, not capable of giving proper instructions to a legal representative” after “illness” in section 100 (2).

**[40] Sections 104–104C**

Omit section 104. Insert instead:

**104 Exclusion of child or young person from proceedings**

- (1) At any time while the Children’s Court is hearing proceedings with respect to a child or young person, the Children’s Court may direct the child or young person to leave the place where the proceedings are being heard.
- (2) If any non-court proceedings are to be held with respect to a child or young person, the Children’s Court may direct that the child or young person is not to be present at the place where the non-court proceedings are to be held at any particular time during the proceedings.
- (3) The Children’s Court may give a direction under this section only if it is of the opinion that the prejudicial effect of excluding the child or young person is outweighed by the psychological harm that is likely to be caused to the child or young person if the child or young person were to remain or be present.
- (4) If the Children’s Court gives a direction under subsection (1) with respect to a child or young person, and if it is of the opinion that it is in the interests of the child or young person to do so, it must also give a direction with respect to all persons who are engaged in preparing reports of the proceedings for dissemination through a public news medium to leave the place where the proceedings are being heard.

**104A Exclusion of particular persons from proceedings**

- (1) At any time while the Children’s Court is hearing proceedings with respect to a child or young person, the Children’s Court may direct any person (other than the child or young person) to leave the place where the proceedings are being heard.
- (2) If any non-court proceedings are to be held with respect to a child or young person, the Children’s Court may direct any person (other than the child or young person) not to be present at the place where the proceedings are to be held at any time during the proceedings concerned.

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- (3) The Children’s Court may give a direction under this section only if it is of the opinion that it is in the interests of the child or young person that such a direction should be given.
- (4) The powers exercisable by the Children’s Court under this section may be exercised even if the person to whom a direction is given is directly interested in the proceedings concerned.

**104B Exclusion of general public from proceedings**

At any time while the Children’s Court is hearing proceedings with respect to a child or young person, any person who is not directly interested in the proceedings must, unless the Children’s Court otherwise directs, be excluded from the place where the proceedings are being heard.

**104C Entitlement of media to hear proceedings**

At any time while the Children’s Court is hearing proceedings with respect to a child or young person, any person who is engaged in preparing a report of the proceedings for dissemination through a public news medium is, unless the Children’s Court otherwise directs, entitled to enter and remain in the place where the proceedings are being heard.

**[41] Section 105 Publication of names and identifying information**

Insert after section 105 (1) (a):

- (a1) who is involved, or is reasonably likely to be involved, in any capacity in any non-court proceedings, or

**[42] Section 105 (1) (c)**

Insert “or in any non-court proceedings” after “Court”.

**[43] Section 105 (1) (d)**

Insert at the end of section 105 (1) (c):

or

- (d) who is the subject of a report under section 24, 25, 27, 120, 121 or 122,

**[44] Section 105 (1)**

Omit “before the proceedings are commenced or after the proceedings have been commenced and before they are disposed of”.

Insert instead “whether the publication or broadcast occurs before any proceedings have commenced, during the proceedings or after they are disposed of”.

**[45] Section 105 (1A)**

Insert after section 105 (1):

- (1A) The prohibition in subsection (1) applies to the publication or broadcast of the name of the child or young person concerned until:
- (a) the child or young person attains the age of 25 years, or
  - (b) the child or young person dies,
- whichever occurs first.

**[46] Section 105 (3) (b) (iv)**

Insert at the end of section 105 (3) (b) (iii):

- , or
- (iv) in any case—if the child or young person has died.

**[47] Section 116 Application for order for alternative parenting plan**

Insert after section 116 (3):

- (4) The Children’s Court may order a person who makes an application under this section to notify those persons whom the Children’s Court specifies of the making of the application.
- Note.** Section 256A sets out the circumstances in which the Children’s Court may dispense with service.

**[48] Section 123 What is “compulsory assistance”?**

Omit “care and protection” from section 123 (a).

Insert instead “care responsibility”.

**[49] Section 142 Application of Part**

Insert “or young person” after “child”.

**[50] Section 149 Order for sole parental responsibility**

Insert after section 149 (4):

- (4A) The Children’s Court may order a person who makes an application under this section to notify those persons whom the Children’s Court specifies of the making of the application.
- Note.** Section 256A sets out the circumstances in which the Children’s Court may dispense with service.

**[51] Section 154 Effect of temporary care arrangements**

Omit section 154 (2) (c). Insert instead:

- (c) must, in the case of a child, ensure that the child's parents are kept informed of the whereabouts of the child:
  - (i) if the Director-General has no reason to believe that the disclosure of the child's whereabouts would be prejudicial to the safety, welfare, well-being or interests of the child—by disclosing the whereabouts of the child, or
  - (ii) if the Director-General has reason to believe that the disclosure of the child's whereabouts would be prejudicial to the safety, welfare, well-being or interests of the child—by disclosing only information about the whereabouts of the child that is not high level identification information.

**[52] Section 154 (3)**

Omit “the whereabouts of”.

Insert instead “high level identification information about”.

**[53] Section 154, note**

Insert after section 154 (3):

**Note.** If a child or young person is in the care responsibility of the Director-General, high level identification information about the child or young person may be released only on an order of the Children's Court under section 51 (or under this section, if it is a temporary care arrangement).

**[54] Section 157 Care responsibility**

Omit “and dental” wherever occurring in section 157 (1) (a) and (b).

**[55] Section 157 (1) (a) and (b)**

Omit “or dentist” wherever occurring.

**[56] Section 157 (1) (b1) and (b2)**

Insert after section 157 (1) (b):

- (b1) to consent to dental treatment (including treatment involving minor dental surgery) that a dentist has advised needs to be carried out for the child or young person,
- (b2) to consent to dental treatment involving dental surgery other than minor dental surgery that a dentist certifies in

writing needs to be carried out as a matter of urgency in the best interests of the child or young person,

**[57] Section 157 (5)**

Insert after section 157 (4):

(5) In this section:

*minor dental surgery* means a tooth extraction, the filling of a decayed tooth, root canal work or a repair to a broken or chipped tooth.

**Note.** Section 177 gives protection to medical and dental practitioners in relation to children in respect of whom consent is given by the authorised carer under this section, but not in relation to young persons in respect of whom such consent is given. In the case of young persons, the young person's consent is also required.

**[58] Section 161 Financial assistance for children and young persons in out-of-home care**

Omit "care and protection" from section 161 (2) (c) (i).

Insert instead "care responsibility".

**[59] Section 164 Responsibility of Minister to accommodate certain children and young persons**

Omit "parental responsibility".

Insert instead "sole parental responsibility or parental responsibility in relation to residence".

**[60] Section 165 Provision of assistance after leaving out-of-home care**

Insert after the note to section 165 (3):

(4) The Minister may cause to be published guidelines specifying the circumstances in which assistance may be granted under this section.

**[61] Section 168 Access to personal information**

Insert at the end of section 168 (1) (b):

, or

(c) the Director-General, if the child or young person was under the parental responsibility of the Minister and the Department was not the designated agency that had supervisory responsibility for the child or young person.

**[62] Section 168 (3)**

Insert after section 168 (2):

- (3) Information under this section is to be provided orally or in writing, as the child or young person concerned elects.

**[63] Section 169 Entitlement to certain documents**

Omit “or his or her authorised carer”.

Insert “, by his or her authorised carer or by the Director-General, if the child or young person was under the parental responsibility of the Minister,”.

**[64] Section 170 Retention of records**

Insert after section 170 (2):

- (2A) The Director-General must ensure that the designated agency that was responsible for supervising a child or young person in out-of-home care is given access to the records of that child or young person:

- (a) that have been delivered to the Director-General, or
- (b) that have been authorised by the Director-General to be deposited in the records repository nominated by the Director-General,

if the designated agency requests the records in order to comply with a request under section 168 or 169.

**[65] Section 170A**

Insert after section 170:

**170A Application of State Records Act 1998**

- (1) This Part has effect despite the provisions of the *State Records Act 1998*.
- (2) Accordingly, the provision of information or documents in accordance with this Part does not constitute an offence under that Act.

**[66] Section 177 Ordinary medical and dental treatment**

Omit “or young person” wherever occurring in section 177 (1) and (2).

**[67] Section 208 Licences**

Omit “one person as an authorised supervisor” from section 208 (4).

Insert instead “two persons as authorised supervisors”.



**[68] Section 208 (4)**

Insert “However, if a licence specifies two persons, the licence must provide that, on any given day or at any given time, one authorised supervisor is to have overall responsibility for the service.” after “relates.”

**[69] Section 220 Regulations**

Insert after section 220 (a):

- (a1) the probity checks that may be made on all persons over the age of 14 years who, or who are proposed to, reside at the home of a person who provides a family day care children’s service or a home based children’s service,

**[70] Chapter 12A**

Insert after section 220:

## **Chapter 12A Out of school hours care services**

### **220A Meaning of “out of school hours care service”**

- (1) In this Chapter:

*children who are at school* means children who ordinarily attend school and includes children enrolled at a school but not yet attending the school by reason of the fact that the first term of the school year has not commenced.

*out of school hours care service* means a service that provides, outside school hours on school days, or at any time during school vacations, care to children who are at school.

*school* means a government school established under, or a non-government school registered under, the *Education Act 1990*.

- (2) However, *out of school hours care service* does not include any of the following:
  - (a) a service provided by a designated agency,
  - (b) a babysitting, playgroup or child-minding service that is organised informally by the parents of the children concerned,
  - (c) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised to the general public,

- (d) a regular child-minding service:
    - (i) that is provided in connection with a hospital, health service or a recreational or commercial facility (such as a gymnasium or a casino), and
    - (ii) that is provided by or on behalf of the person conducting the hospital, health service or facility, and
    - (iii) that is provided to care for children only:
      - (A) while the children are being treated at the hospital or health service, or
      - (B) while the children's parents or authorised carers are visiting or being treated at the hospital or health service or are using the recreational or commercial facility,
  - (e) a service that is concerned primarily with the provision of:
    - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
    - (ii) private tutoring,
  - (f) a service under which formal education in accordance with the school curriculum set out in Part 3 of the *Education Act 1990* is provided by a government school or a registered non-government school within the meaning of that Act,
  - (g) a service provided at exempt premises.
- (3) In this section, *exempt premises* means:
- (a) any premises belonging to a class of premises prescribed by the regulations for the purposes of this section, or
  - (b) in relation to any provision of this Act or the regulations, any premises declared to be exempt premises for the purposes of that provision by an order of the Minister published in the Gazette, being an order that is in force.
- (4) The Minister may make orders of the kind referred to in subsection (3) (b).

**220B Regulations for or with respect to out of school hours care services**

Without limiting section 264 (Regulations), the regulations may make provision for or with respect to the following:

**Standards for out of school hours care services**

- (a) imposing standards for out of school hours care services, creating the offence of failure to meet those standards and creating defences to that offence,
- (b) the evidence that may be required to be provided to prove compliance with any such standard,

**Registration of out of school hours care services**

- (c) imposing a prohibition on the provision of an out of school hours care service unless the service is registered, and creating the offence of breaching that prohibition,

**Applications for registration**

- (d) the persons who may apply for registration,
- (e) the manner in which, and the time within which, an application may be made,
- (f) fees payable for an application and the waiver, reduction, deferral and refund of such fees,
- (g) requiring that supporting documents and information in relation to an application be lodged (before or after the time of registration),
- (h) the consideration and determination of applications, including (but not limited to) the following:
  - (i) the time within which an application (or a particular stage of an application) is to be dealt with,
  - (ii) the grounds on which an application (or a particular stage of an application) may be rejected,
  - (iii) the grounds on which an application may be refused,
  - (iv) the way in which the rejection or determination of the application (or a particular stage of an application) is to be communicated to the applicant,

**Probity checks**

- (i) the probity checks that may be made on all persons who are, or who are proposed to be, managing an out of school hours care service (or proposed out of school hours care service) or who will have unsupervised direct access to children,
- (j) the fees that may be charged for carrying out such checks,

**Registration**

- (k) the duration of registration,
- (l) providing for the imposition of conditions on out of school hours care services, including the following conditions:
  - (i) conditions regulating the premises from which the service is to be provided,
  - (ii) conditions regulating the times during which the service is to be available,
  - (iii) conditions regulating the number of children, and the age groups of the children, for whom the service may be provided,
  - (iv) conditions requiring the provision of information to parents or authorised carers,
- (m) creating penalties for breach of a condition,

**Variation, suspension and revocation of registration**

- (n) the grounds on which registration may be suspended, varied (including by the imposition, amendment or withdrawal of conditions) or revoked,
- (o) requiring the giving of notice of an intention to suspend, vary or revoke registration,
- (p) allowing a registered out of school hours care service provider time to make submissions in relation to any such intention,
- (q) the effect of a suspension, variation or revocation of registration,
- (r) the restoration of registration that has been suspended or revoked,
- (s) the fees payable for the variation of registration,

**Registered providers**

- (t) the functions of the registered out of school hours care service provider under registration,

- (u) the carrying out of self-assessments by registered out of school hours care service providers,
- (v) the supervision of volunteers who assist registered out of school hours care service providers,

**Records**

- (w) the records that are to be maintained in relation to an out of school hours care service that a person is registered to provide, including (but not limited to) the following:
  - (i) the information that the records are to contain,
  - (ii) the format in which they are to be made,
  - (iii) the person responsible for making and maintaining them,
  - (iv) the persons who may inspect them,
  - (v) the period for which they are to be retained,
  - (vi) creating penalties for failure to maintain records,

**Investigation**

- (x) the investigative power of the authority responsible for issuing registration, including the power to inspect premises, require the production of documents or information and to require questions to be answered or required,

**OSHCS co-ordinator**

- (y) requiring the appointment of a person to act as the Out of School Hours Care Service co-ordinator of the provider of out of school hours care service the subject of registration,
- (z) the qualifications and experience of the person to be so appointed,

**Registration authority**

- (za) the person or body that will issue registrations and give effect to the regulations,

**Applying other provisions**

- (zb) applying provisions of Chapter 12, or the regulations made under Chapter 12, to out of school hours care services.

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- [71] **Section 229 Unauthorised removal of children and young persons subject to NSW Act**  
Insert “or care responsibility” after “protection” in section 229 (1) (a).
- [72] **Section 232 Persons under the parental responsibility of the Minister leaving or being removed from care**  
Omit “care and protection” wherever occurring.  
Insert instead “care responsibility”.
- [73] **Section 234 Reasons for removal and other information to be given to certain persons**  
Omit “care and protection” where secondly occurring in section 234 (1).  
Insert instead “care responsibility”.
- [74] **Section 246 Separation of children and young persons from offenders**  
Omit “care and protection of the Director-General or the Minister”.  
Insert instead “care responsibility of the Director-General or in the parental responsibility of the Minister”.
- [75] **Section 256 Service of notices**  
Insert after section 256 (1) (b):  
    (b1) if a notice of address for service has been filed in accordance with the rules of the Children’s Court—delivered, or sent by pre-paid post, to that address, or
- [76] **Section 256 (2) (a)**  
Insert “or (b1)” after “(b)”.
- [77] **Section 256A**  
Insert after section 256:
- 256A Children’s Court may dispense with service**
- (1) If the Children’s Court is satisfied that an unacceptable threat to the physical safety, welfare or well-being of a child or young person or a party to any proceedings would arise if any notice or other instrument required or authorised by this Act was given to, or any document served on, a particular person, the Children’s Court may make an order dispensing with the giving of notice or instrument to, or service on, the person concerned.

- (2) An order under this section excuses every other person from the requirement to comply with any provision of this Act that requires notification to, or service on, that person.

**[78] Section 259 Proceedings for offences**

Omit “100 penalty units” from section 259 (3).

Insert instead “200 penalty units”.

**[79] Schedule 3 Savings, transitional and other provisions**

Insert before clause 1:

**Part 1 Regulations**

**[80] Schedule 3, clause 1 (1)**

Insert at the end of the subclause:

*Children and Young Persons (Care and Protection) Amendment Act 2006*

**[81] Schedule 3, Part 2, heading**

Insert before clause 2:

**Part 2 Provision consequent on enactment of Children and Young Persons (Care and Protection) Amendment Act 2005**

**[82] Schedule 3, Part 3**

Insert after clause 2:

**Part 3 Provisions consequent on enactment of Children and Young Persons (Care and Protection) Amendment Act 2006**

**3 Definition**

In this Part:

*amending Act* means the *Children and Young Persons (Care and Protection) Amendment Act 2006*.

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**4 Protection of persons who make reports or provide certain information**

- (1) The amendment made to section 29 (1) (f) by the amending Act extends to any information disclosed to a body before the commencement of the amendment.
- (2) Section 29 (3A) extends to reports made, actions taken or information provided before the commencement of the subsection.
- (3) Section 29 extends to any report made under section 120 or 121 before the amendment of section 29 (6) by the amending Act.

**5 Emergency care and protection orders**

Section 46 (5) extends to an application made before the commencement of the subsection.

**6 Variation of care orders**

Section 61 (3), as repealed and re-enacted by the amending Act, extends to any order sought before that repeal and re-enactment.

**7 Notification of care applications**

Section 64 (7) and (8) extend to any application made before the commencement of the subsections.

**8 Leave to file further documentary evidence or amend application**

Section 68 (2) extends to documentary evidence filed before the commencement of the subsection.

**9 Care proceedings**

The amendments made to sections 71, 75, 79 and 90 by the amending Act extend to care proceedings not finally determined when the respective amendments commence.

**10 Court procedure**

- (1) The amendments made to sections 93, 96 and 99, and section 104 as repealed and re-enacted, by the amending Act extend to proceedings not finally determined when the respective amendments and section 104 as re-enacted commence.
- (2) The amendments made to section 105 by the amending Act extend to proceedings conducted before the commencement of the amendments.



**11 Application for order for alternative parenting plan**

Section 116 (4) extends to any application made before the commencement of the subsection.

**12 Order for sole parental responsibility**

Section 149 (4A) extends to any application made before the commencement of the subsection.

**13 Regulations concerning probity checks**

A regulation for or with respect to probity checks referred to in section 220 (a1) may apply so as to require probity checks on persons residing at a certain home immediately before the regulation commences.