

# 1. Commonwealth

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

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 18:</b></p> <p>1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.</p> <p>2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.</p> <p>3. States Parties shall take all appropriate</p>	<p><b>A New Tax System (Family Assistance) Act 1999</b></p> <p><b>Act No. 80 of 1999 as amended</b></p>	Cth	s 11	Childcare assistance agreement services to become approved child care services under section 195 of the Family Assistance Administration Act
			s 20	Approval of organisations providing residential care services to young people
	<p><b>A New Tax System (Family Assistance) (Administration) Act 1999</b></p>	Cth	s 49	Determinations about eligibility for child care benefit by instalment for care provided by approved child care services in normal circumstances
			s 50	Determinations about eligibility for child care benefit for past periods for care provided by approved child care services in normal circumstances
			s 51	Determinations about eligibility for child care benefit for care provided by approved child care services in special circumstances
			Pt 8	Approval of child care services and registered carers for the purposes of the family assistance law.
	<p><b>Child Care Act 1972</b></p>	Cth	s 4A	Defines what a child care centre is
			s 4B	Defines what an eligible child care centre is

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measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.			Parts II-IVA	The minister may make various grants in relation to eligible child care centres, including capital grants (pt II), recurrent grants (pt III), research grants (pt IV) and grants in respect of the development of child care centres (pt IVA).
	<b>Child Support (Assessment) Act 1989</b>	Cth	s 7B	Meaning of eligible carer
			s 25	Persons who may apply for child support—parents
			s 25A	Persons who may apply for child support—non parent carers
			s 26	Requirements of applications where there are joint carers
			Pt 5	Administrative assessment of child support (assessing payments due by parents/carers; liability of parents/carers to make such payments, etc.)
	<b>Family Law Act 1975</b>	Cth	s 111CA	Definitions:  <b>'Child Protection Convention'</b> means the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children signed at The Hague on 19 October 1996, a copy of the English text of which is set out in Schedule 1.  <b>'Parental responsibility'</b> has the same meaning as in the Child Protection Convention.
			Pt III: Children	<b>60B Objects of Part and principles underlying it</b>

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			s 60B	<p>(1) The objects of this Part are to ensure that the best interests of children are met by:</p> <p>(a) ensuring that children have the benefit of both of their parents having a meaningful involvement in their lives, to the maximum extent consistent with the best interests of the child; and</p> <p>(b) protecting children from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence; and</p> <p>(c) ensuring that children receive adequate and proper parenting to help them achieve their full potential; and</p> <p>(d) ensuring that parents fulfil their duties, and meet their responsibilities, concerning the care, welfare and development of their children.</p> <p>(2) The principles underlying these objects are that (except when it is or would be contrary to a child's best interests):</p> <p>(a) children have the right to know and be cared for by both their parents, regardless of whether their parents are married, separated, have never married or have never lived together; and</p> <p>(b) children have a right to spend time on a regular basis with, and communicate on a regular basis with, both their parents and other people significant to their care, welfare and</p>

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				<p>development (such as grandparents and other relatives); and</p> <p>(c) parents jointly share duties and responsibilities concerning the care, welfare and development of their children; and</p> <p>(d) parents should agree about the future parenting of their children; and</p> <p>(e) children have a right to enjoy their culture including the right to enjoy that culture with other people who share that culture).</p>
			<p>Div 2: Parental Responsibility</p> <p>s 61A</p>	<p>This Division deals with the concept of parental responsibility including, in particular:</p> <p>(a) what parental responsibility is; and</p> <p>(b) who has parental responsibility.</p>
			s 61B	<p>Meaning of '<b>Parental Responsibility</b>': In this Part, '<b>parental responsibility</b>', in relation to a child, means all the duties, powers, responsibilities and authority which, by law, parents have in relation to children</p>
			s 61C	<p>Each parent has parental responsibility for a child who is not 18. This is not affected by separation or re-marriage, but it is subject to court orders.</p>
			s 61D	<p>Per subs (1), a parenting order confers parental responsibility for a child on a person, but only to the extent set out in the</p>

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				order. Per subs (2) a parenting order does not diminish any aspect of parental responsibility except to the extent expressly provided for in the order, or necessary to give effect to the order.
			s 61DA	<p><b>Presumption of equal shared parental responsibility when making parenting orders</b></p> <p>(1) When making a parenting order in relation to a child, the court must apply a presumption that it is in the best interests of the child for the child's parents to have equal shared parental responsibility for the child.</p> <p>(2) The presumption does not apply if there are reasonable grounds to believe that a parent of the child (or a person who lives with a parent of the child) has engaged in:</p> <p>(a) abuse of the child or another child who, at the time, was a member of the parent's family (or that other person's family); or</p> <p>(b) family violence.</p> <p>(3) When the court is making an interim order, the presumption applies unless the court considers that it would not be appropriate in the circumstances for the presumption to be applied when making that order.</p> <p>(4) The presumption may be rebutted by evidence that satisfies the court that it would not be in the best interests of the child for the child's parents to have equal shared parental</p>

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				responsibility for the child.
			s 65DAA	<p>Per subs (1), if the court makes an order that the parents are to have equal shared responsibility for the child, the court must consider whether the child spending equal time with each of the parents would be in the best interests of the child. If it is, and it is practicable to do so, the court must consider making an order to provide for the child to spend equal time with each parent.</p> <p>Per subs (2), if the court does not make an order for equal time, however, but does make an order for shared parental responsibility, it must consider whether the child spending '<b>substantial and significant time</b>' with each of the parents is in the best interests of the child. If it is, and it is practicable to do so, the court must consider making such an order.</p>
	<b>Geneva Conventions Act 1957</b>	Cth	Art 50	<p>The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.</p> <p>The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.</p> <p>Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their</p>

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				<p>own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.</p> <p>A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.</p> <p>The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.</p>
	<b>Maternity Leave (Commonwealth Employees) Act 1973</b>	Cth	Act	This Act establishes a maternity leave scheme for Commonwealth Employees.
	<b>Paid Parental Leave Act 2010</b>	Cth	4	<p><b>Overview</b></p> <p>This Act provides for the payment of parental leave pay to a person in the first year after the birth of a child or, for adoption, the placement of a child.</p>
	<b>Sex Discrimination Act 1984</b>	Cth	Schedule— Convention on the	<p>Section 4...</p> <p>Recalling that discrimination against women violates the</p>

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			Elimination of all Forms of Discrimination Against Women	<p>principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity...</p> <p>Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognised, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole...</p> <p>Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women...</p>
			Schedule— Convention on the Elimination of all Forms of Discrimination Against Women	<p>Article 11</p> <p>1. ...</p> <p>2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:</p> <p>(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave</p>



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				<p>and discrimination in dismissals on the basis of marital status;</p> <p>(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;</p> <p>(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities;</p> <p>(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.</p>
	<b>Social Security Act 1991</b>	Cth	Part 2.10	Parenting payment
	<b>Schools Assistance Act 2008</b>	Cth	s 3	<p>Simplified outline of Act</p> <p>(1) This section is a simplified outline of this Act.</p> <p>(2) Financial assistance may be paid to a State for, or in connection with, non-government schools (or approved school systems) in the State for the following:</p> <p>(a) recurrent expenditure (see Part 4); and</p> <p>(b) capital expenditure (see Part 5); and</p>

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				<p>(c) targeted expenditure (see Part 6).</p> <p>(3) Financial assistance may be paid for the 2009 to 2012 program years.</p> <p>(4) Financial assistance for a non-government school, or another non-government body, may only be paid if there is a funding agreement with the relevant authority of the school or body that sets out the requirements that must, under this Act, be included in the agreement.</p> <p>(5) If a non-government school, or another non-government body, breaches a funding agreement, the Minister may (under the agreement) require the school or body to repay an amount to the Commonwealth. The Minister may also reduce or delay the amount of other payments for the school or body under this Act.</p> <p>(6) If a State fails to pass on an amount of financial assistance to a non-government school, or another non-government body, for which financial assistance is granted under this Act, the Minister may require the State to repay an amount to the Commonwealth.</p>
	<b>Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004</b>	Cth	s 3	<p>Simplified outline of Act</p> <p>(1) This section is a simplified outline of this Act.</p> <p>(2) Financial assistance may be paid to the States for both government and non-government schools in the States for the</p>

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				2005 to 2008 calendar years for grants for the following: (a) general recurrent expenditure; and (b) capital expenditure; and (c) expenditure for certain other specific purposes.
	<b>Stronger Futures in the Northern Territory Act 2012</b>	Cth	4 Object of this Act	The object of this Act is to support Aboriginal people in the Northern Territory to live strong, independent lives, where communities, families and children are safe and healthy.
	<b>World Health Organization Act 1947</b>	Cth	First Schedule— Constitution of the World Health Organization  Section 3	Healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development...  Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures.

## 2. New South Wales

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			<p>Part 4</p>	<p>Part 4 facilitates an 'adoption plan', which is a plan agreed to by two or more parties to the adoption in relation to any one or more of the following (per s 46(1)):</p>

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				<p>(i) the child’s medical background or condition; and</p> <p>(ii) the child’s development and important events in the child’s life; and</p> <p>(iii) the means and nature of contact between the parties and the child; and</p> <p>(b) any other matter relating to the adoption of the child.</p> <p>Adoption plans facilitate and assist parents and legal guardians in performing their child-rearing responsibilities with respect to adoption.</p>
	<p><b>Children and Young Persons (Care and Protection) Act 1998</b></p>	NSW	s 8	<p>The objects of this Act are to provide:</p> <p>(a) that children and young person's receive such care and protection as is necessary for their safety, welfare and well-being, having regard to the capacity of their parents or other persons responsible for them; and</p> <p>(b) that all institutions, services and facilities responsible for the care and protection of children and young person's provide an environment for them that is free of violence and exploitation and provide services that foster their health, developmental needs, spirituality, self-respect and dignity; and</p> <p>(c) that appropriate assistance is rendered to parents and other persons responsible for children and young persons in the performance of their child-rearing responsibilities in order</p>

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				to promote a safe and nurturing environment.
			s 38A	Establishes parent responsibility contracts, which are agreements 'between the Director-General and one or more primary care-givers for a child or young person that contains provisions aimed at improving the parenting skills of the primary care-givers and encouraging them to accept greater responsibility for the child or young person.'
			s 38D	A parent responsibility contract can be used as evidence of an attempt to resolve a matter concerning a child's need for care or protection without bringing a care application.
			s 38	Establishes care plans, which allocate parental responsibility (or parts of parental responsibility) to any person other than the parents of a child.
			s 113	<p>Provides at subs (1) that a parent, child or any other person may ask the director-general for assistance:</p> <p>(a) if there is a serious or persistent conflict between the parents and the child or young person of such a nature that the safety, welfare or well-being of the child or young person is in jeopardy; or</p> <p>(b) if the parents are unable to provide adequate supervision for the child or young person to such an extent that the safety, welfare or well-being of the child or young person is in jeopardy.</p> <p>(2): On receiving a request for assistance, the Director-</p>

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				<p>General may provide or arrange for the provision of such advice or assistance as is necessary:</p> <p>(a) to help the parents and the child or young person to resolve the conflict between them without recourse to legal proceedings; or</p> <p>(b) to ensure that the child or young person is adequately supervised; or</p> <p>(c) to enable the child or young person and his or her parents to have access to appropriate services.</p>
			ss 120	<p>Any person may report the homelessness of a child to the Director-General, who must conduct an assessment and investigation concerning the child, as the Director-General considers necessary. The Director-General may provide or arrange for the provision of services, including residential accommodation, where appropriate.</p>
			s 151	<p>The Director-General may make a temporary care arrangement in respect of a child or young person if the child or young person is, in the opinion of the Director-General, in need of care and protection.</p> <p>The Director-General has responsibility for the child or young person subject to a temporary care arrangement, and can only delegate that authority to an authorised carer.</p>
	<b>Children (Education and Care Services)</b>	NSW	Part 1 s 3	(1) The objective of this Law is to establish a national education and care services quality framework for the

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	<b>National Law Application) Act 2010</b>			<p>delivery of education and care services to children.</p> <p>(3) The guiding principles of the national education and care services quality framework are as follows:</p> <p>(a) that the rights and best interests of the child are paramount; and</p> <p>(b) that children are successful, competent and capable learners; and</p> <p>(c) that the principles of equity, inclusion and diversity underlie this Law; and</p> <p>(d) that Australia's Aboriginal and Torres Strait Islander cultures are valued; and</p> <p>(e) that the role of parents and families is respected and supported; and</p> <p>(f) that best practice is expected in the provision of education and care services.</p>
			s 4	Applies the Education and Care Services National Law.
	<b>Children (Education and Care Services) National Law (NSW)</b>	NSW	Part 2	Provides a regime for ' <b>provider approval</b> '. This approval is required in order to operate an approved education and care service an associated children's service (see s 18). In order to be approved, an applicant must satisfy the Regulatory Authority that, inter alia, the applicant is a fit and proper



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				person (s 12).
			Part 3	Provides for ' <b>service approval</b> '. This approval is required to provide education and care services. Only an approved provider (see Part 2) can apply for service approval for an education and care service.
			Part 4	Provides for supervisor certificates. This Part sets out the processes and criteria by which a supervisor certificate will be issued. A person who is issued a supervising certificate is eligible to be placed in day to day charge of an approved education and care service.
			Part 5	Provides the processes and details for the assessment and rating of education and care services. The Regulatory Authority that granted the original service approval may at any time assess the service in accordance with the national regulations, to determine whether and at what rating level the service meets the National Quality Standard and the requirements of the national regulations.
			Part 7	Outlines the means by which this law will be enforced, including civil fines and suspension of services that are found not to be in compliance with the law, up to the emergency removal of children thought to be in immediate danger.
			Part 9	Outlines the means by which this law will be monitored and enforced, including imbuing authorised officers with powers of entry for assessing and monitoring approved education and

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				care services.
			Part 11	<p>Established the Australian Children's Education and Care Quality Authority, the functions of which include:</p> <p>(a) to guide the implementation and administration of the National Quality Framework and to monitor and promote consistency in its implementation and administration; and</p> <p>(b) to report to and advise the Ministerial Council on the National Quality Framework; and</p> <p>...</p> <p>(h) to promote and foster continuous quality improvement by approved education and care services; and</p> <p>(i) to publish, monitor and review ratings of approved education and care services; and</p> <p>...</p> <p>(k) in conjunction with the Regulatory Authorities, to educate and inform education and care services and the community about the National Quality Framework; and</p> <p>(l) to publish guides and resources:</p> <p>(i) to support parents and the community in understanding quality in relation to education and care services; and</p>

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				(ii) to support the education and care services sector in understanding the National Quality Framework...
	<b>Children (Education and Care Services) Supplementary Provisions Act 2011</b>	NSW	s 6	<p>Principles underlying the provision of State regulated education and care services</p> <p>The provision of State regulated education and care services should be based on the following principles:</p> <p>(a) the paramount consideration in the provision of State regulated education and care services is the best interests of children; and</p> <p>(b) children should receive services that meet their individual needs (including the needs of children with a disability) and enhance their physical, emotional, cognitive, social and cultural development; and</p> <p>(c) State regulated education and care services should assist the development and education of the children who attend them; and</p> <p>(d) State regulated education and care services should be planned and operated in a manner that recognises the diversity of the children who attend them and of the communities that they serve; and</p> <p>(e) parents have a right to information about the State regulated education and care services which their children attend; and</p>

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				<p>(f) parents have both a right and a responsibility to be involved in the making of decisions by a State regulated education and care service in so far as those decisions affect their children.</p> <p>Note: State regulated education and care services must also be operated in accordance with any relevant provisions of the <i>Anti-Discrimination Act 1977</i>.</p>
			s 17	The National Law applies to state regulated education and care services, with certain modifications as set out in div 2.
	<b>Children (Protection and Parental Responsibility) Act 1997</b>	NSW	s 7	A court that is exercising criminal jurisdiction with respect to a child may require one or more parents of the child to attend.
			s 9	<p>A court that finds a child guilty of an offence may, instead of dealing with the child in any other way permitted by law, release the child on condition that one or more of the parents give an undertaking to do or refrain from doing certain acts. Alternatively:</p> <p>(b) that one or more parents of the child give a supplementary undertaking to the court:</p> <p>(i) to guarantee the child's compliance with any undertaking given under section 8; and</p> <p>(ii) to take specified action to assist the child's development and to guard against the commission by the child of any</p>

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				<p>further offences; and</p> <p>(iii) to report at intervals stated in the supplementary undertaking on the child's progress; or</p> <p>(c) that one or more parents of the child give security (whether by deposit of money or otherwise) for the good behaviour of the child for a period not exceeding 6 months, or in exceptional circumstances 12 months, but in no case extending beyond the child's eighteenth birthday.</p>

### 3. Victoria

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	<p><b>Child Wellbeing and Safety Act 2005</b></p>	<p>VIC</p>	<p>5(1)</p>	<p>The development and provision of services for children and families should be based upon the fundamental principles that:</p> <p>(a) society as a whole shares responsibility for promoting the wellbeing and safety of children; and</p> <p>(b) all children should be given the opportunity to reach their full potential and participate in society irrespective of their family circumstances and background; and</p> <p>(c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and</p>

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				<p>protection of a child's safety, health, development, education and wellbeing; and</p> <p>(d) parents are the primary nurturers of a child and Government intervention into family life should be limited to that necessary to secure the child's safety and wellbeing, however, it is the responsibility of Government to meet the needs of the child when the child's family is unable to provide adequate care and protection; and</p> <p>(e) every child should be able to enrol in a kindergarten program at an early childhood education and care centre.</p>
			5(2)	<p>Services for children and families should be designed and developed:</p> <p>(a) to readily identify harm and damage to the child and to provide for intervention by providers of services to remove or ameliorate the causes of that harm or damage and to strengthen the capacity and efforts of parents, their families and communities to support the child as early as possible in the child's life; and</p> <p>(b) to accord with the needs of each local community with the active involvement of that community's cultural groups, and to be accessible and responsive to the particular cultures, languages and circumstances of the community and to be properly planned and co-ordinated with services provided by other local and regional communities; and</p> <p>(c) to give the highest priority to making appropriate and</p>

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				<p>sufficient levels of assistance available to children and families in communities or population groups that are known to have the greatest need; and</p> <p>(d) to promote continuous improvement in the quality of those services, based on the best available knowledge of the needs of children and their stages of development.</p>
			5(3)	<p>The providers of services to children and families should:</p> <p>(a) protect the rights of children and families and, to the greatest extent possible, encourage their participation in any decision-making that affects their lives; and</p> <p>(b) acknowledge and be respectful of the child's individual identity, circumstances and cultural identity and be responsive to the particular needs of the child; and</p> <p>(c) make decisions about intervention by the providers of services into a child's or family's life and about access by a child or family to those services in a timely manner being mindful of any harmful effects that may be caused to the child by a delay in making decisions or providing services; and</p> <p>(d) ensure that families are made aware of the services available to them and of the benefits these services can provide, especially to those families in most need of assistance; and</p> <p>(e) co-operate with other services or professionals to work in</p>



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				the interests of the child and family.
	<b>Children's Services Act 1996</b>	VIC	26B(1)	<p>The proprietor of a children's service must ensure that there is made available to all children cared for or educated by the children's service an educational or recreational program:</p> <p>(a) that is based on the developmental needs, interests and experiences of each child; and</p> <p>(b) that is designed to take into account the individual differences of those children; and</p> <p>(c) that enhances each child's development.</p>
	<b>Children, Youth and Families Act 2005</b>	VIC	10(1)	<p>For the purposes of this Act the best interests of the child must always be paramount.</p> <p>(2) When determining whether a decision or action is in the best interests of the child, the need to protect the child from harm, to protect his or her rights and to promote his or her development (taking into account his or her age and stage of development) must always be considered.</p> <p>(3) In addition to subsections (1) and (2), in determining what decision to make or action to take in the best interests of the child, consideration must be given to the following, where they are relevant to the decision or action:</p> <p>(a) the need to give the widest possible protection and assistance to the parent and child as the fundamental group unit of society and to ensure that intervention into that</p>

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				<p>relationship is limited to that necessary to secure the safety and wellbeing of the child; and</p> <p>(b) the need to strengthen, preserve and promote positive relationships between the child and the child's parent, family members and persons significant to the child; and</p> <p>...</p> <p>(g) that a child is only to be removed from the care of his or her parent if there is an unacceptable risk of harm to the child; and</p> <p>(h) if the child is to be removed from the care of his or her parent, that consideration is to be given first to the child being placed with an appropriate family member or other appropriate person significant to the child, before any other placement option is considered; and</p> <p>(i) the desirability, when a child is removed from the care of his or her parent, to plan the reunification of the child with his or her parent; and</p> <p>(j) the capacity of each parent or other adult relative or potential care giver to provide for the child's needs and any action taken by the parent to give effect to the goals set out in the case plan relating to the child; and</p> <p>(k) access arrangements between the child and the child's parents, siblings, family members and other persons</p>

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				<p>significant to the child</p> <p>...</p>
			11	<p>In making a decision or taking an action in relation to a child, the Secretary or a community service must also give consideration to the following principles:</p> <p>(a) the child's parent should be assisted and supported in reaching decisions and taking actions to promote the child's safety and wellbeing; and</p> <p>(b) where a child is placed in out of home care, the child's care giver should be consulted as part of the decision-making process and given an opportunity to contribute to the process; and</p> <p>(c) the decision-making process should be fair and transparent; and</p> <p>(d) the views of all persons who are directly involved in the decision should be taken into account; and</p> <p>(e) decisions are to be reached by collaboration and consensus, wherever practicable; and</p> <p>(f) the child and all relevant family members (except if their participation would be detrimental to the safety or wellbeing of the child) should be encouraged and given adequate opportunity to participate fully in the decision-making</p>

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				<p>process; and</p> <p>(g) the decision-making process should be conducted in such a way that the persons involved are able to participate in and understand the process, including any meetings that are held and decisions that are made; and</p> <p>(h) persons involved in the decision-making process should be:</p> <p>(i) provided with sufficient information, in a language and by a method that they can understand, and through an interpreter if necessary, to allow them to participate fully in the process...</p>
			22	<p>The purposes of a community-based child and family service are:</p> <p>(a) to provide a point of entry into an integrated local service network that is readily accessible by families, that allows for early intervention in support of families and that provides child and family services; and</p> <p>(b) to receive referrals about vulnerable children and families where there are significant concerns about their wellbeing; and</p> <p>(c) to undertake assessments of needs and risks in relation to children and families to assist in the provision of services to them and in determining if a child is in need of protection;</p>

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				<p>and</p> <p>(d) to make referrals to other relevant agencies if this is necessary to assist vulnerable children and families; and</p> <p>(e) to promote and facilitate integrated local service networks working collaboratively to co-ordinate services and supports to children and families; and</p> <p>(f) to provide on-going services to support vulnerable children and families.</p>
	<b>Education and Care Services National Law Act 2010</b>	VIC	Part 1, s 1	The purpose of this Act is to create a National Law to regulate education and care services for children.
			Part 2, s 4	<p>The Education and Care Services National Law set out in the Schedule:</p> <p>(a) applies as a law of this jurisdiction; and</p> <p>(b) as so applying may be referred to as the Education and Care Services National Law (Victoria); and</p> <p>(c) as so applying, is part of this Act.</p>
<b>Education and Training Reform Act 2006</b>	VIC	1.2.1	<p>...</p> <p>(b) All Victorians, irrespective of the education and training institution they attend, where they live or their social or economic status, should have access to a high quality</p>	

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				<p>education that:</p> <ul style="list-style-type: none"> <li>(i) realises their learning potential and maximises their education and training achievement; and</li> <li>(ii) promotes enthusiasm for lifelong learning; and</li> <li>(ii) allows parents to take an active part in their child's education and training; and</li> </ul> <p>(c) information concerning the performance of education and training providers should be publicly available; and</p> <p>(d) parents have the right to choose an appropriate education for their child; and</p> <p>(e) a school community has a right to information concerning the performance of its school; and</p> <p>(f) a parent of a student and the student has a right to access information about the student's achievement.</p>

## 4. Queensland

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

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 18:</b></p> <p>(1) States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.</p> <p>(2) For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.</p> <p>(3) States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.</p>	<p><b>Adoption Act 2009</b></p>	<p>QLD</p>	<p>6(2)</p>	<p>Subject to subsection (1), this Act is to be administered under the following principles:</p> <p>(a) the purpose of an adoption is to provide for a child's long-term care, wellbeing and development by creating a permanent parent-child relationship between the child and the adoptive parents; and</p> <p>(b) adoption is an appropriate long-term care option for a child if:</p> <p>(i) the child's parents choose adoption for the child's long-term care; or</p> <p>(ii) the child does not have a parent who is willing and able to protect the child from harm and meet the child's need for long-term stable care; and</p> <p>(c) each of the parties to an adoption or proposed adoption should be given the information he or she reasonably needs to participate effectively in processes under this Act; and</p> <p>(d) a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child's age and ability to understand; and</p> <p>(e) the process for a child's adoption should include</p>

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				<p>considering the views of:</p> <ul style="list-style-type: none"> <li>(i) the child's parents; and</li> <li>(ii) the child, if he or she is able to form and express views about the adoption, having regard to the child's age and ability to understand; and</li> <li>(f) an adopted child of a particular ethnic or other cultural background should have: <ul style="list-style-type: none"> <li>(i) access to information about the child's ethnic or cultural heritage; and</li> <li>(ii) opportunities to develop and maintain a connection with the child's ethnicity or culture; and</li> <li>(iii) opportunities to maintain contact with the child's community or language group; and</li> </ul> </li> <li>(g) a child's adoptive parents have the primary responsibility for the child's upbringing, protection and development; and</li> <li>(h) an adopted child should be cared for in a way that: <ul style="list-style-type: none"> <li>(i) ensures a safe, stable and nurturing family and home life; and</li> <li>(ii) promotes openness and honesty about the child's adoption; and</li> </ul> </li> </ul>



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				<p>(iii) promotes the development of the child's emotional, mental, physical and social wellbeing; and</p> <p>(i) the same protection, support and resources should be available to an adopted person regardless of whether the adoption was a local adoption, intercountry adoption or adoption by a step-parent; and</p> <p>(j) although a final adoption order changes legal relationships, it may be in an adopted child's best interests for:</p> <p>(i) the child's emotional connections with members of the child's birth family to continue; or</p> <p>(ii) the child to have ongoing contact with members of the child's birth family; or</p> <p>(iii) the child or the child's adoptive parents to exchange information with members of the child's birth family.</p>
			12	<p>For this Act, a person who has custody of a child has:</p> <p>(a) the right to have the child's daily care; and</p> <p>(b) the right and responsibility to make decisions about the child's daily care.</p>
			13	<p>For this Act, a person who has guardianship of a child has:</p>

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				<p>(a) the right to have the child's daily care; and</p> <p>(b) the right and responsibility to make decisions about the child's daily care; and</p> <p>(c) all the powers, rights and responsibilities in relation to the child that would otherwise have been vested in the person having parental responsibility for making decisions about the long-term care, wellbeing and development of the child.</p>
			Schedule 1 - The Hague Convention, Article 26	<p>(1) The recognition of an adoption includes recognition of:</p> <p>(a) the legal parent-child relationship between the child and his or her adoptive parents; and</p> <p>(b) parental responsibility of the adoptive parents for the child; and</p> <p>(c) the termination of a pre-existing legal relationship between the child and his or her mother and father, if the adoption has this effect in the Contracting State where it was made.</p>
			165	<p>(1) An adoption plan is a written plan, agreed to by the parties to the plan, about anything relating to the adopted child's wellbeing or interests.</p> <p>(2) An adoption plan may, for example, address any of the following matters:</p> <p>(a) the degree of openness there will be in the adoption,</p>

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				<p>including:</p> <ul style="list-style-type: none"> <li>(i) when a party will communicate with another party; and</li> <li>(ii) how a party will communicate with another party, including whether the communication will be through the mailbox service or in another way that does not identify the first party; and</li> <li>(iii) the matters about which information will be exchanged;</li> </ul> <p>Examples of matters about which information may be exchanged:</p> <ul style="list-style-type: none"> <li>(A) the child's development; and</li> <li>(B) important events in the child's life; and</li> <li>(C) a medical condition of the child; and</li> <li>(D) the medical history of the child's biological family; and</li> <li>(b) the adoptive parents' commitment to telling the child about the adoption and helping the child understand the circumstances of the adoption; and</li> <li>(c) if the child is an Aboriginal or Torres Strait Islander child, how the adoptive parents will: <ul style="list-style-type: none"> <li>(i) help the child to maintain contact with the child's</li> </ul> </li> </ul>

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				<p>community or language group; and</p> <p>(ii) help the child to develop and maintain a connection with the child's Aboriginal tradition or Island custom; and</p> <p>(iii) preserve and enhance the child's sense of Aboriginal or Torres Strait Islander identity; and</p> <p>(d) if the child has a particular ethnic or other cultural background, how the adoptive parents will:</p> <p>(i) help the child to maintain contact with the child's community or language group; and</p> <p>(ii) help the child to develop and maintain a connection with the child's ethnicity or culture; and</p> <p>(iii) preserve and enhance the child's sense of ethnic or cultural identity.</p>
	<b>Child Care Act 2002</b>	QLD	4	<p>Child care is care of a child provided:</p> <p>(a) by someone other than a relative or guardian of the child; and</p> <p>(b) at a place other than the child's home; and</p> <p>(c) for reward; and</p> <p>(d) in the course of a service for regularly providing care of</p>

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				children.
			8	<p>(1) The object of this Act is to protect, and promote the best interests of, children receiving child care.</p> <p>(2) The ways in which the object is to be achieved include:</p> <p>(a) establishing a licensing system for child care services; and</p> <p>(b) regulating the way child care services are conducted; and</p> <p>(c) setting standards for persons who provide child care.</p>
			9	<p>This Act is to be administered, and licensed services are to be conducted, under the following principles:</p> <p>(a) the best interests of a child are the paramount concern;</p> <p>(b) child care should be provided to a child in a way that:</p> <p>(i) protects the child from harm; and</p> <p>(ii) respects the child's dignity and privacy; and</p> <p>(iii) promotes the child's wellbeing; and</p> <p>(iv) provides positive experiences to the child; and</p> <p>(c) licensed child care should be provided to a child in a way that stimulates and develops the child's creative, emotional,</p>

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				<p>intellectual, lingual, physical, recreational and social potential; and</p> <p>(d) parents have the primary responsibility for the upbringing, protection and development of their children, and should be supported in that role; and</p> <p>(e) child care should be planned and provided in a way that:</p> <p>(i) involves parents and other members of the community; and</p> <p>(ii) reflects the multicultural and multilingual nature of the community.</p>
	<b>Child Protection Act 1999</b>	QLD	5B	<p>The following are general principles for ensuring the safety, wellbeing and best interests of a child:</p> <p>...</p> <p>(b) a child's family has the primary responsibility for the child's upbringing, protection and development; and</p> <p>(c) the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family; and</p> <p>(d) if a child does not have a parent who is able and willing to protect the child, the State is responsible for protecting the child; and</p> <p>(e) in protecting a child, the State should only take action</p>

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				<p>that is warranted in the circumstances; and</p> <p>(f) if a child is removed from the child's family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests; and</p> <p>(g) if a child does not have a parent able and willing to give the child ongoing protection in the foreseeable future, the child should have long-term alternative care; and</p> <p>(h) if a child is removed from the child's family, consideration should be given to placing the child, as a first option, in the care of kin; and</p> <p>(i) if a child is removed from the child's family, the child should be placed with the child's siblings, to the extent that is possible; and</p> <p>(j) a child should only be placed in the care of a parent or other person who has the capacity and is willing to care for the child (including a parent or other person with capacity to care for the child with assistance or support); and</p> <p>(k) a child should have stable living arrangements, including arrangements that provide:</p> <p>(i) for a stable connection with the child's family and community, to the extent that is in the child's best interests; and</p>

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				<p>(ii) for the child's developmental, educational, emotional, health, intellectual and physical needs to be met; and</p> <p>(l) a child should be able to maintain relationships with the child's parents and kin, if it is appropriate for the child; and</p> <p>(m) a child should be able to know, explore and maintain the child's identity and values, including their cultural, ethnic and religious identity and values; and</p> <p>(n) a delay in making a decision in relation to a child should be avoided, unless appropriate for the child.</p>
			5D	<p>(1) The following principles are relevant to exercising a power or making a decision under this Act:</p> <p>...</p> <p>(b) to the extent that it is appropriate, the views of relevant persons should be sought and taken into account before a decision is made under this Act; and</p> <p>(c) if a relevant person for a decision under this Act needs help to participate in or understand the decision-making process, or to understand a statutory right relevant to the decision, the relevant person should be given help; and</p> <p>(d) a relevant person for a decision under this Act may obtain their own legal advice, or be represented by a lawyer or supported by another person, in relation to the decision-</p>



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				making process;
				<p>(3) In this section:</p> <p>relevant person, for a decision, means each of the following persons:</p> <p>(a) the child to whom the decision relates; and</p> <p>(b) a person who is a parent or sibling of the child and is affected by the decision; and</p> <p>(c) any long-term guardian of the child.</p>
			12(2)	<p>The chief executive, or other person granted custody of the child, has:</p> <p>(a) the right to have the child's daily care; and</p> <p>(b) the right and responsibility to make decisions about the child's daily care.</p>
			13	<p>If the chief executive or someone else is granted guardianship of a child under a child protection order, the chief executive or other person has:</p> <p>(a) the right to have the child's daily care; and</p> <p>(b) the right and responsibility to make decisions about the child's daily care; and</p>

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				(c) all the powers, rights and responsibilities in relation to the child that would otherwise have been vested in the person having parental responsibility for making decisions about the long-term care, wellbeing and development of the child.
			Schedule 1 - Charter of Rights for a Child in Care	<p>The Parliament recognises the State has responsibilities for a child in need of protection who is in the custody or under the guardianship of the chief executive under this Act, this Act establishes the following rights for the child:</p> <p>...</p> <p>(b) to be placed in care that best meets the child's needs and is most culturally appropriate; and</p> <p>(c) to maintain relationships with the child's family and community; and</p> <p>(d) to be consulted about, and to take part in making, decisions affecting the child's life (having regard to the child's age or ability to understand), particularly decisions about where the child is living, contact with the child's family and the child's health and schooling; and</p> <p>...</p> <p>(g) if the child is under the long-term guardianship of the chief executive, to regular review of the child's care arrangements; and</p>

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	<p><b>Child Protection (International Measures) Act 2003</b></p>	QLD	Schedule 1, Child Protection Convention, Article 1	<p>...</p> <p>The objects of the present Convention are:</p> <p>(a) to determine the State whose authorities have jurisdiction to take measures directed to the protection of the person or property of the child; and</p> <p>(b) to determine which law is to be applied by such authorities in exercising their jurisdiction; and</p> <p>(c) to determine the law applicable to parental responsibility; and</p> <p>(d) to provide for the recognition and enforcement of such measures of protection in all Contracting States; and</p> <p>(e) to establish such co-operation between the authorities of the Contracting States as may be necessary in order to achieve the purposes of this Convention.</p>
			Schedule 1, Child Protection Convention, Article 3	<p>The measures referred to in Article 1 may deal in particular with:</p> <p>(a) the attribution, exercise, termination or restriction of parental responsibility, as well as its delegation; and</p> <p>(b) rights of custody, including rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence, as well as rights of access including the right to take a child for a limited period</p>

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				<p>of time to a place other than the child's habitual residence; and</p> <p>(c) guardianship, curatorship and analogous institutions; and</p> <p>(d) the designation and functions of any person or body having charge of the child's person or property, representing or assisting the child; and</p> <p>(e) the placement of the child in a foster family or in institutional care, or the provision of care by kafala or an analogous institution; and</p> <p>(f) the supervision by a public authority of the care of a child by any person having charge of the child; and</p> <p>(g) the administration, conservation or disposal of the child's property.</p>
	<p><b>Commission for Children and Young People and Child Guardian Act 2000</b></p>	<p>QLD</p>	<p>6</p>	<p>(1) This Act is to be administered under the principle that the welfare and best interests of a child are paramount.</p> <p>(2) Subject to subsection (1), this Act is also to be administered under the following principles:</p> <p>...</p> <p>(d) the family has the primary responsibility for the upbringing and development of its children, and should be supported in that role.</p>

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	<b>Criminal Code</b>	QLD	286	<p>(1) It is the duty of every person who has care of a child under 16 years to:</p> <p>(a) provide the necessaries of life for the child; and</p> <p>(b) take the precautions that are reasonable in all the circumstances to avoid danger to the child's life, health or safety; and</p> <p>(c) take the action that is reasonable in all the circumstances to remove the child from any such danger;</p> <p>and he or she is held to have caused any consequences that result to the life and health of the child because of any omission to perform that duty, whether the child is helpless or not.</p> <p>(2) In this section:</p> <p>person who has care of a child includes a parent, foster parent, step parent, guardian or other adult in charge of the child, whether or not the person has lawful custody of the child.</p>
	<b>Education (General Provisions) Act 2006</b>	QLD	5	<p>(1) The objects of this Act are:</p> <p>(a) to make available to each Queensland child or young person a high-quality education that will:</p> <p>(i) help maximise his or her educational potential; and</p>

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				<ul style="list-style-type: none"> <li>(ii) enable him or her to become an effective and informed member of the community; and</li> <li>(b) to provide universal access to high quality State education; and</li> <li>(c) for chapter 10: <ul style="list-style-type: none"> <li>(i) to implement initiatives to ensure young people participate in a period of education or training after they turn 16 years or complete year 10; and</li> <li>(ii) to outline a range of education and training options for them during this period.</li> </ul> </li> <li>(2) The objects are to be achieved mainly by: <ul style="list-style-type: none"> <li>(a) placing responsibilities on parents and the State in relation to the education of children and young people; and</li> <li>(b) providing for the establishment of State educational institutions, and facilitating their operation as safe and supportive learning environments; and</li> <li>(c) ensuring education programs are responsive to the individual needs of children and young people; and</li> <li>(d) encouraging a parent's involvement in his or her child's education; and</li> <li>(e) encouraging parental and community involvement in the</li> </ul> </li> </ul>

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				<p>operation of State educational institutions by enabling:</p> <ul style="list-style-type: none"> <li>(i) the establishment of school councils for State schools; and</li> <li>(ii) the formation of parents and citizens associations for State instructional institutions.</li> </ul>
			6	<p>To achieve the objects mentioned in section 5(1)(c), the chief executive may:</p> <ul style="list-style-type: none"> <li>(a) carry on the following activities (planning activities): <ul style="list-style-type: none"> <li>(i) monitoring the operation and effectiveness of chapter 10; and</li> <li>(ii) carrying out planning relating to the matters dealt with under chapter 10; and</li> <li>(iii) developing strategies to better achieve the objects of chapter 10; and</li> </ul> </li> <li>(b) carry on the following activities (re-engagement activities): <ul style="list-style-type: none"> <li>(i) identifying young persons in the compulsory participation phase who are not participating full-time in an eligible option; and</li> <li>(ii) giving them information about the options available to</li> </ul> </li> </ul>

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				<p>them; and</p> <p>(iii) encouraging them to participate in a way that achieves the best learning outcomes for them; and</p> <p>(iv) encouraging and helping their parents to play a role in the matters stated in subparagraphs (i) to (iii).</p>
			7	<p>The principles intended to guide the achievement of this Act's objects are the following:</p> <p>(a) parents have the responsibility of choosing a suitable education environment for their children; and</p> <p>(b) education should be provided to a child or young person in a way that:</p> <p>(i) provides positive learning experiences; and</p> <p>(ii) promotes a safe and supportive learning environment; and</p> <p>(iii) recognises his or her educational needs; and</p> <p>(c) children and young people should be actively involved in decisions affecting them to the extent that is appropriate having regard to their age and ability to understand; and</p> <p>(d) the State, parents, teachers, school communities and non-government entities should work collaboratively to foster a commitment to achieving the best educational outcomes for</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>children and young people; and</p> <p>(e) for chapter 10:</p> <p>(i) the State should develop practical ways to improve the social, educational and employment outcomes of young people, including, in particular, those who are at risk of disengaging from education and training; and</p> <p>(ii) the State should foster a community commitment to young people by involving members of the community and community organisations in:</p> <p>(A) developing education and training opportunities for young people; and</p> <p>(B) re-engaging young people in education and training; and</p> <p>(C) developing ways to improve the social outcomes of young people; and</p> <p>(iii) the State should work with parents to achieve the best outcomes for young people; and</p> <p>(iv) the State should work in consultation with non-government entities to achieve the objects of chapter 10.</p>
			10	<p>(1) A parent, of a child, is any of the following persons:</p> <p>(a) the child's mother; or</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) the child's father; or</p> <p>(c) a person who exercises parental responsibility for the child.</p> <p>(2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.</p> <p>(3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.</p> <p>(4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.</p> <p>(5) Despite subsections (1), (3) and (4), if:</p> <p>(a) a person is granted guardianship of a child under the Child Protection Act 1999; or</p> <p>(b) a person otherwise exercises parental responsibility for a child under a decision or order of a federal court or a court of a State;</p> <p>then a reference in this Act to a parent of a child is a reference only to a person mentioned in paragraph (a) or (b).</p>
	<b>Family Services Act 1987</b>	QLD	3	Without limiting the operation of this Act, the objects of this Act include:

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				<p>(a) the promotion and support of the welfare of families as the basis of community wellbeing; and</p> <p>(b) the establishment of services and the encouragement of the development of services that promote, support and protect the wellbeing of families; and</p> <p>(c) the encouragement of the development of coordinated social welfare services and programs that promote and strengthen local, neighbourhood and community interests; and</p> <p>(d) the promotion of the wellbeing of the community by assisting individuals and families to overcome social problems with which they are confronted.</p>
	<b>Surrogacy Act 2010</b>	QLD	6	<p>(1) This Act is to be administered according to the principle that the wellbeing and best interests of a child born as a result of a surrogacy arrangement, both through childhood and for the rest of his or her life, are paramount.</p> <p>(2) Subject to subsection (1), this Act is to be administered according to the following principles:</p> <p>(a) a child born as a result of a surrogacy arrangement should be cared for in a way that:</p> <p>(i) ensures a safe, stable and nurturing family and home life; and</p> <p>(ii) promotes openness and honesty about the child's birth</p>

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				<p>parentage; and</p> <p>(ii) promotes the development of the child's emotional, mental, physical and social wellbeing; and</p> <p>(b) the same status, protection and support should be available to a child born as a result of a surrogacy arrangement regardless of:</p> <p>(i) how the child was conceived under the arrangement; or</p> <p>(ii) whether there is a genetic relationship between the child and any of the parties to the arrangement; or</p> <p>(iii) the relationship status of the persons who become the child's parents as a result of a transfer of parentage; and</p> <p>(c) the long-term health and wellbeing of parties to a surrogacy arrangement and their families should be promoted; and</p> <p>(d) the autonomy of consenting adults in their private lives should be respected.</p>
	<b>Youth Justice Act 1992</b>	QLD	2	<p>The principal objectives of this Act are:</p> <p>...</p> <p>(e) to recognise the importance of families of children and communities, in particular Aboriginal and Torres Strait Islander communities, in the provision of services designed</p>

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				<p>to:</p> <ul style="list-style-type: none"> <li>(i) rehabilitate children who commit offences; and</li> <li>(ii) reintegrate children who commit offences into the community.</li> </ul>

**5. South Australia**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 18: TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 18:</b></p> <p>1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.</p> <p>2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.</p> <p>3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.</p>	<p><b>Children's Protection Act 1993</b></p>	<p>SA</p>	<p>4(3)</p>	<p>Fundamental principles - In the exercise of powers under this Act, the above principles and the child's wellbeing and best interests are to be the paramount considerations.</p>
			<p>27, 28</p>	<p>If the Minister is of the opinion that a child is at risk and that arrangements should be made to secure the child's care and protection, the Minister should cause a family care meeting to be convened in respect of the child.</p> <p>The purpose of a family care meeting is to provide a proper opportunity for a child's family, in conjunction with a Care and Protection Co-ordinator to make informed decisions as to the arrangements for best securing the care and protection of the child, and to review those arrangements from time to time.</p>
	<p><b>Family and Community Services Act 1972</b></p>	<p>SA</p>	<p>36(1)(b)</p>	<p>The Minister will establish such residential care facilities and other facilities and programmes as the Minister thinks necessary or desirable for children who are in need of care and protection.</p>
	<p><b>Guardianship of Infants Act 1940</b></p>	<p>SA</p>	<p>4</p>	<p>Subject to this Act, and any other enactment, the mother and father of an infant shall jointly have the guardianship and custody of the infant, and each parent shall have equal powers, authority, rights and responsibilities with regard to the infant.</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			6	<p>The court may, upon the application of a person who has a proper interest in the welfare of an infant, make such orders for the custody of, and access to, the infant as it thinks fit.</p> <p>The court may upon the application of a person who has the guardianship of an infant jointly with some other person (whether or not one or both are parents of the infant) make an order that it thinks proper in relation to a matter in dispute between those guardians affecting the upbringing or welfare of the infant.</p> <p>In exercising its powers, the court shall have regard to the conduct of the parents and any person who is a party to the application.</p> <p>The court may vary or discharge an order made above.</p> <p>The fact that a person who seeks an order for the custody of an infant under this section is resident outside this State, or contemplates leaving this State, shall not of itself constitute a ground for denying custody of the infant to that person.</p> <p>The court may make such orders for costs in relation to proceedings under this section as it thinks fit.</p> <p>For the purposes of this section a person has a proper interest in the welfare of an infant if that person is a parent or guardian of the infant, or is a person who, in the opinion of the court, has in the circumstances a proper interest in the welfare of the infant.</p>

# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			9	If at the time of the application for an order for the production of the infant, the infant is being brought up by a person who is not the parent, the court to which the application is made may, if it orders the infant to be given up to the parent, further order that the parent shall pay to such person the expenses properly incurred in bringing up the infant or such portion thereof as seems just and reasonable having regard to all the circumstances of the case.
			10	Where a parent has abandoned his infant, or allowed his infant to be brought up by another person at that or some other person's expense for such length of time and in such circumstances as to satisfy a court that the parent was unmindful of his parental duties, the court shall not make an order for the delivery of the infant to the parent unless the parent has satisfied the court that having regard to the welfare of the infant he is a fit person to have the custody of the infant, and that it is in the interests of the infant that he should be delivered to the parent.
			11	In any proceeding for the custody or upbringing of an infant, or the administration of any property belonging to or held in trust for an infant, the court in deciding that question shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim of the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is superior to that of the father.



# CLAYTON UTZ

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			20A	Where the court has ordered the payment of any sum towards the maintenance of an infant under this Act that order may be enforced in the same manner as a maintenance order under the <i>Community Welfare Act 1972</i> in all respects as if it were a maintenance order made under that Act.
	<b>Education and Early Childhood Services (Registration and Standards) Act 2011</b>	SA	9	<p>The objects of the Act include:</p> <ul style="list-style-type: none"> <li>(a) providing for the regulation of the provision of education; and</li> <li>(b) early childhood services in a manner that maintains high standards of competence and conduct by providers; and</li> <li>(c) recognises that all children should have access to high quality education and early childhood facilities and services</li> <li>(d) provides for a diverse range of services and recognises the rights of parents to access a diverse range of service providers; and</li> <li>(e) enhances public confidence in the operation of education and early childhood services providers.</li> </ul> <p>The following principles should be taken into account in the administration of this Act:</p> <ul style="list-style-type: none"> <li>(a) parents and guardians should have the right to choose the best services for their family; and</li> <li>(b) parents and guardians and school communities, should have access to relevant information concerning the regulation</li> </ul>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>of their child’s school; and</p> <p>(c) the welfare and best interests of children is the primary consideration; and</p> <p>(d) any person who works with children is obliged to protect them, respect their dignity and privacy and safeguard and promote their well-being; and</p> <p>(e) cooperation between the Minister, the Board and the school education sectors contributes to achieving the effective provision of services; and</p> <p>(f) successful learning is built on a foundation of rich, engaging environments and interactions in which children’s voices are listened to and acted on.</p> <p><b>Note</b>— The <i>Education and Care Services National Law (South Australia)</i> may contain further objects and principles in respect of services to which that Law applies.</p>
			4	<p>In this Act, '<b>early childhood services</b>' means in-home care services, occasional care services, rural and mobile care services, family day care services that are not education and care services within the meaning of the <i>Education and Care Services National Law (South Australia)</i>, and any other service declared by the regulations to be included.</p>

**6. Western Australia**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 18: TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 18:</b></p> <p>1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.</p> <p>2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.</p> <p>3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.</p>	<p><b>Child Care Services Act 2007</b></p>	<p>WA</p>	<p>5</p>	<p>The object of this Act is to protect, and promote the best interests of, children who receive child care services.</p>
			<p>6</p>	<p>A person or body with functions under this Act must, in the performance of those functions, regard the best interests of children as the paramount consideration.</p>
			<p>7</p>	<p>In the administration of this Act the following principles must be observed:</p> <p>(a) that child care services should be provided in a way that protects the child from harm, respects the child’s dignity and privacy, safeguards and promotes the child’s wellbeing, and provides positive experiences for the child; and</p> <p>(b) that child care services should be provided in a way that involves parents of the children and other members of the community, reflects best practice and the diverse nature of the community.</p>
			<p>5B</p>	<p>This section sets out when this Act applies and does not apply to child care services.</p>
			<p>9</p>	<p>A person must not provide a child care service at a place except under and in accordance with a licence authorising the provision of the service at that place [Penalty imposed].</p>

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CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
			13	The CEO may grant a licence to a person authorising the person to provide a specified type of child care service at a specified place. Limits on licences.
			14	<p>The CEO must not grant a licence if there are reasonable grounds for believing that the provision of the child care service would constitute an unacceptable risk to the wellbeing of children to whom the service will be provided, or the licence applicant is disqualified under the Act.</p> <p>The CEO must not grant a licence unless the CEO is satisfied that the licence applicant is capable of, and has sufficient resources to, provide the child care service in accordance with this Act and its licence, and the place for the service is suitable for that purpose.</p>
	<b>Child Support (Adoption of Laws) Act 1900</b>	WA	5	The State of WA adopts the <i>Child Support (Registration and Collection) Act 1988</i> , and the <i>Child Support (Assessment) Act 1989</i> , of the Commonwealth insofar as those Acts apply to or in relation to the maintenance of children and do not otherwise extend to WA.
	<b>Children and Community Services Act 2004</b>	WA	6	<p>The objects of this Act are:</p> <p>(a) to promote the wellbeing of children, other individuals, families and communities; and</p> <p>(b) to acknowledge the primary role of parents, families and communities in safeguarding and promoting the wellbeing of children; and</p> <p>(c) to encourage and support parents, families and</p>

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				<p>communities in carrying out that role; and</p> <p>(d) to provide for the protection and care of children in circumstances where their parents have not given, or are unlikely or unable to give, that protection and care; and</p> <p>(e) to protect children from exploitation in employment.</p>
			7	The best interests of the child is the paramount consideration in performing a function or exercising a power under the Act.
			8	<p>Without limiting the matters to be considered, in determining what is in a child's best interests the following matters must be taken into account:</p> <p>(a) the need to protect the child from harm; and</p> <p>(b) the capacity of the child's parents to protect the child from harm; and</p> <p>(c) the capacity of the child's parents, or of any other person, to provide for the child's needs; and</p> <p>(d) the nature of the child's relationship with the child's parents, siblings and other relatives and with any other people who are significant in the child's life; and</p> <p>(e) the attitude to the child, and to parental responsibility, demonstrated by the child's parents; and</p> <p>(f) any wishes or views expressed by the child, having regard to the child's age and level of understanding in determining</p>

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				<p>the weight to be given to those wishes or views; and</p> <p>(g) the importance of continuity and stability in the child's living arrangements and the likely effect on the child of disruption of those living arrangements, including separation from the child's parents, siblings and other relatives and with any other people who are significant in the child's life; and</p> <p>(h) the need for the child to maintain contact with the child's parents, siblings and other relatives and with any other people who are significant in the child's life; and</p> <p>(i) the child's age, maturity, sex, sexuality, background and language; and</p> <p>(j) the child's cultural, ethnic or religious identity; and</p> <p>(k) the child's physical, emotional, intellectual, spiritual, developmental and educational needs; and</p> <p>(l) the likely effect on the child of any change in the child's circumstances.</p>
			9	<p>In the administration of this Act the following principles must be observed:</p> <p>(a) that the parents, family and community of a child have the primary role in safeguarding and promoting the child's wellbeing; and</p> <p>(b) that the preferred approach is to support the child's</p>

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				<p>parents, family and community in the care of the child; and</p> <p>(c) that every child should be protected from harm; and</p> <p>(d) that every child should live in an environment free from violence; and</p> <p>(e) that every child should have stable, secure and safe relationships and living arrangements; and</p> <p>(f) that intervention action should be taken only in circumstances where there is no other reasonable way to safeguard and promote wellbeing; and</p> <p>(g) that if a child is removed from the child's family, so far as is consistent with the child's best interests, planning for the child's care should occur as soon as possible in order to ensure long-term stability for the child and the child should be encouraged in maintaining contact with the child's parents, siblings and other relatives and with any other people who are significant in the child's life; and</p> <p>(h) that decisions about a child should be made promptly having regard to the age, characteristics, circumstances and needs of the child; and</p> <p>(i) that decisions about a child should be consistent with cultural, ethnic and religious values and traditions relevant to the child; and</p> <p>(j) that a child's parents/other people significant in the child's life should be given an opportunity and assistance to</p>

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				<p>participate in decision-making processes that are likely to have a significant impact on the child's life; and</p> <p>(k) that a child's parents/other people significant in the child's life should be given adequate information, in a manner and language that they can understand, about decision making processes under the Act, the outcome of any decision about the child, and any relevant complaint or review procedures.</p>
			31	<p>If the CEO receives information that raises concerns about a child's wellbeing, it may cause any inquiries to be made that the CEO considers reasonably necessary for the purpose of determining whether action should be taken to safeguard or promote the child's wellbeing.</p>
			32	<p>If the CEO determines that action should be taken to safeguard or promote a child's wellbeing, the CEO must do one or more of the following:</p> <p>(a) arrange for or provide social services to the child and a parent or other relative of the child; and</p> <p>(b) arrange or facilitate a meeting between an officer and any one or more of a parent or other relative of the child, a person significant in the child's life, a representative of a service provider and a representative of a public authority to develop a plan to address the ongoing needs of the child in a way that ensures the best outcome for the child; and</p> <p>(c) enter into a negotiated placement agreement in respect of</p>



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				<p>the child; and</p> <p>(d) cause an investigation to be conducted by an authorised officer for the purpose of ascertaining whether the child may be in need of protection; and</p> <p>(e) take intervention action in respect of the child; and</p> <p>(f) take any other action in respect of the child that the CEO considers reasonably necessary.</p> <p><b>'intervention action'</b> means action that involves making an application for a warrant (provisional protection and care), or taking the child into provisional protection and care, or making a protection application.</p>
			45	<p>If, on a protection application, the Court finds that the child is in need of protection the Court may make a protection order in respect of the child.</p>
	<p><b>Commissioner for Children and Young People Act 2006</b></p>	WA	3	<p>In performing a function under the Act the Commissioner or any other person must regard the best interests of children and young people as the paramount consideration.</p>
			4	<p>In the administration of the Act the following principles must be observed:</p> <p>(a) children and young people are entitled to live in a caring and nurturing environment and to be protected from harm and exploitation; and</p> <p>(b) the contributions made by children and young people to</p>

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				<p>the community should be recognised for their value and merit; and</p> <p>(c) the views of children and young people on all matters affecting them should be given serious consideration and taken into account; and</p> <p>(d) parents, families and communities have the primary role in safeguarding and promoting the wellbeing of their children and young people and should be supported in carrying out their role.</p>
			6	An office called the Commissioner for Children and Young People is established.
			19	<p>The Commissioner has the following functions:</p> <p>(a) to advocate for children and young people; and</p> <p>(b) to promote the participation of children and young people in the making of decisions that affect their lives; and</p> <p>(c) to promote and monitor the wellbeing of children and young people generally; and</p> <p>(d) to monitor the way in which a government agency investigates or otherwise deals with a complaint made by a child or young person and the outcome of the complaint, and monitor the trends; and</p> <p>(e) to initiate and conduct inquiries into any matter, including any written law or any practice, procedure or</p>

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				<p>service, affecting the wellbeing of children and young people; and</p> <p>(f) to monitor and review written laws, draft laws, policies, practices and services affecting the wellbeing of children and young people; and</p> <p>(g) to promote public awareness and understanding of matters relating to the wellbeing of children; and</p> <p>(h) to advise the Minister on any matter relating to the wellbeing of children and young people; and</p> <p>(i) to consult with children and young people.</p>
			20	<p>In performing the Commissioner’s functions, the Commissioner must:</p> <p>(a) give priority to, and have special regard to, the interests and needs of Aboriginal and Torres Strait Islander children and young people and children and young people who are vulnerable or disadvantaged for any reason; and</p> <p>(b) have regard to the United Nations Convention on the Rights of the Child; and</p> <p>(c) develop means of consulting with children and young people that are appropriate to their age and maturity; and</p> <p>(d) develop guidelines for government agencies and non-government agencies regarding the participation by children</p>

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				<p>and young people in decisions which affect them; and</p> <p>(e) work in cooperation with, and consult with, other government and non-government agencies.</p>
	<p><b>Parental Support and Responsibility Act 2008</b></p>	<p>WA</p>	<p>5</p>	<p>The objects of this Act are:</p> <p>(a) to acknowledge and support the primary role of parents in safeguarding and promoting the wellbeing of children; and</p> <p>(b) to support and reinforce the role and responsibility of parents to exercise appropriate control over the behaviour of their children.</p>
			<p>6</p>	<p>In performing a function or exercising a power under this Act in relation to a child, a person or a court must regard the best interests of the child as the paramount consideration.</p>
			<p>7</p>	<p>In sharing information, and in providing assistance to parents and children, government agencies must work together cooperatively and effectively so as to give parents the best chance to:</p> <p>(a) safeguard and promote the wellbeing of their children; and</p> <p>(b) exercise appropriate control over the behaviour of their children; and</p> <p>(c) comply with any responsible parenting agreement they may enter into or any responsible parenting order directed</p>

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				towards them.
			8	In performing a function or exercising a power under this Act in relation to a family, a person or a court must endeavour to do so in a way that is culturally and religiously appropriate for the family.
			9	In performing a function or exercising a power under this Act in relation to a child, a person or a court must have regard to the shared responsibility that parents, family and the community have for the wellbeing of the child.
			11	<p>An authorised officer may enter into a '<b>responsible parenting agreement</b>' with a parent in respect of a child of the parent.</p> <p>A responsible parenting agreement is an agreement about one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) the parent attending parenting guidance counselling, a parenting support group or any other relevant personal development course; and</li> <li>(b) the parent ensuring or taking all reasonable steps to ensure that the child attends school; and</li> <li>(c) the parent ensuring or taking all reasonable steps to ensure that the child avoids contact with a particular person or particular persons; and</li> <li>(d) the parent ensuring or taking all reasonable steps to ensure that the child avoids a particular place or particular</li> </ul>

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				<p>places; and</p> <p>(e) other matters relating to the effective parenting of the child; and</p> <p>(f) the assistance to be given to the parent or child by a government agency to help the parent to comply with the agreement.</p> <p>A responsible parenting agreement must be in writing, must specify the period covered and be signed by the parent(s) and authorised officer.</p> <p>A responsible parenting agreement does not create obligations that are enforceable and may be in respect of more than one child of the parent or parents.</p>
			14	<p>The Court may, on application, make a responsible parenting order directed towards a parent.</p> <p>A responsible parenting order is an order that requires the parent to do one or more of the following:</p> <p>(a) attend parenting guidance counselling, support group, or any other personal development course; and</p> <p>(b) take all reasonable steps to ensure that the child attends school; and</p> <p>(c) take all reasonable steps to ensure that the child avoids contact with a specified person(s) or specified place(s); and</p>

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				<p>(d) comply with any other requirements set out in the order relating to the effective parenting.</p> <p><i>The Court cannot make an order after the fifth anniversary of the day on which this section came into operation and an order in force on or after that anniversary ceases to have effect at the end of the 6 months immediately following that anniversary, if it does not otherwise cease before that time.</i></p>
			15	<p>The Court may, on application, in the course of proceedings for a responsible parenting order make an interim responsible parenting order that requires the parent to do one or more of the following:</p> <p>(a) take all reasonable steps to ensure that the child attends school; and</p> <p>(b) take all reasonable steps to ensure that the child avoids contact with a specified person(s) or specified place(s);</p> <p>The Court must not make an interim responsible parenting order unless satisfied that the parent has received notice of the application for the interim order.</p> <p>The order commences on the day on which it is served on the parent and remains in force for the period specified in it. It may be made in the absence of a parent and may be revoked.</p> <p>An interim responsible parenting order ceases to be in force before the end of the period specified in it if, during that period it is revoked, the child reaches 15 years of age or the child becomes the subject of a protection order under the</p>

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				<i>Children and Community Services Act 2004 .</i>
			16	The Court must not make a responsible parenting order or an interim responsible parenting order in respect of a child unless satisfied that making the order would be better for the child than making no order at all.
			17	<p>An application for a responsible parenting order or an interim responsible parenting order must be accompanied by a statement setting out:</p> <p>(a) whether the necessary facilities, counselling, groups or courses will be available for the parent to comply with the order; and</p> <p>(b) what assistance the relevant government agency or agencies will provide to assist the parent to comply with the order.</p> <p>If the Court makes a responsible parenting order or an interim order, the CEO must give the parent a copy of the statement.</p>
			18	<p>The Court must not make a responsible parenting order unless satisfied that:</p> <p>(a) the child has been found guilty of an offence; and</p> <p>(b) in respect of an offence allegedly committed by the child, the matter has been referred to a juvenile justice team under the <i>Young Offenders Act 1994</i>; and</p> <p>(c) the child is engaging in, or has engaged in, behaviour</p>



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				<p>likely to cause harm to the child or any other person, to harass or intimidate other persons, or to cause damage to property, and that behaviour is part of a pattern of behaviour or is sufficiently serious to justify the Court making an order; and</p> <p>(d) a School Attendance Panel, School Discipline Advisory Panel or a Disability Advisory Panel has recommended that an application be made.</p>
			19	<p>The Court must not make a responsible parenting order unless satisfied that:</p> <p>(a) it is in the best interests of the child; and</p> <p>(b) the parent has refused to enter into a responsible parenting agreement or has not made a reasonable attempt to comply with an agreement; and</p> <p>(c) no protection order is in force/protection proceedings pending under the <i>Children and Community Services Act 2004</i>; and</p> <p>(d) the parent understands the effect of the proposed order, the consequences for non-compliance and that it may be varied by the Court; and</p> <p>(e) it is desirable in the interests of preventing the child repeating the behaviour, committing an offence and ensuring the child attends school.</p> <p>In deciding whether to make a responsible parenting order</p>

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				<p>and the content of it, the Court must take into account:</p> <p>(a) the circumstances of the child’s family and the likely effect on those circumstances; and</p> <p>(b) the family income to the extent that income is derived from income support and the effect of the order on that income; and</p> <p>(c) whether the child's behaviour is the result of a disability or a mental, medical or psychological condition of the child or of a parent of the child; and</p> <p>(d) the extent to which the parent has made efforts to manage the behaviour of the child; and</p> <p>(e) whether the parent has unreasonably refused to enter into a responsible parenting agreement; and</p> <p>(f) the extent to which the parent has attempted to comply with a responsible parenting agreement; and</p> <p>(g) whether the relevant government agencies have made reasonable efforts to assist and encourage the parent to manage the child's behaviour and improve parenting skills; and</p> <p>(h) whether the necessary facilities, counselling, groups or courses will be available for the parent to comply with the order.</p>

**7. Northern Territory**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 18: TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 18:</b></p> <p>1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.</p>	<p><b>Care and Protection of Children Act 2007</b></p>	<p>NT</p>	<p>4</p>	<p>The objects of this Act are:</p> <p>(a) to promote the wellbeing of children, including to protect children from harm and exploitation and to maximise the opportunities for children to realise their full potential; and</p> <p>(b) to assist families to achieve the above object; and</p> <p>(c) to ensure anyone having responsibilities for children has regard to the above objects in fulfilling those responsibilities.</p>
<p>2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.</p> <p>3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.</p>			<p>5</p>	<p>To achieve those objects, this Act provides for the following:</p> <p>(a) measures for safeguarding the wellbeing of children, in particular:</p> <p>(i) mandatory reporting requirements for children at risk of harm or exploitation; and</p> <p>(ii) the powers of the Minister, the CEO and other officers to take actions for the wellbeing of children; and</p> <p>(iii) the powers of the Court to make orders for the wellbeing of children;</p> <p>(b) measures for the prevention of harm and exploitation of</p>

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				<p>children, in particular:</p> <ul style="list-style-type: none"> <li>(i) screening for child-related employment;</li> <li>(ii) restriction of child employment; and</li> <li>(iii) prevention of child deaths; and</li> </ul> <p>(c) the establishment of the office of Children's Commissioner, a framework for sharing information about children, review teams and other administrative measures.</p>
			7	<p>The NT Government has responsibility for promoting and safeguarding the wellbeing of children and supporting families in fulfilling their role in relation to children.</p>
			8	<p>The family of a child has the primary responsibility for the care, upbringing and development of the child.</p> <p>In fulfilling that responsibility, the family should be able to bring up the child in any language or tradition and foster in the child any cultural, ethnic or religious values.</p> <p>A child may be removed from the child's family only if there is no other reasonable way to safeguard their wellbeing.</p> <p>As far as practicable, if a child is removed from the child's family, contact between the child and family should be encouraged and the child should eventually return to the family.</p>

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			9	<p>Each child is a valued member of society and is entitled to be treated in a way that respects the child's dignity and privacy.</p> <p>Decisions involving a child should be made:</p> <ul style="list-style-type: none"> <li>(a) promptly having regard to the child's circumstances; and</li> <li>(b) in a way that is consistent with the relevant cultural, ethnic and religious values and traditions;</li> <li>(c) with the informed participation of the child, the child's family and other significant people in the child's life.</li> </ul>
			10	<p>When a decision involving a child is made, the best interests of the child are the paramount concern. In determining the best interests, consideration should be given to:</p> <ul style="list-style-type: none"> <li>(a) the need to protect from harm and exploitation; and</li> <li>(b) the capacity and willingness of the child's parents or other family members to care for the child; and</li> <li>(c) the nature of the relationship with the family and other persons who are significant in the their life; and</li> <li>(d) the wishes and views of the child, having regard to the maturity and understanding of the child; and</li> <li>(e) the need for permanency in living arrangements; and</li> <li>(f) the need for stable and nurturing relationships; and</li> </ul>

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				<p>(g) the physical, emotional, intellectual, spiritual, developmental and educational needs of the child; and</p> <p>(h) the child's age, maturity, gender, sexuality and cultural, ethnic and religious backgrounds; and</p> <p>(i) other special characteristics of the child; and</p> <p>(j) the likely effect on the child of any changes in the child's circumstances.</p>
			<p>Part 2.1  (objects outlined in section 24)</p>	<p>The objects of this Part are:</p> <p>(a) to oblige members of the public to report cases of children at risk of harm or exploitation; and</p> <p>(b) to ensure the Minister, the CEO and authorised officers have the power to take appropriate actions to protect children who are in need of protection, promote the wellbeing of children generally, and promote the wellbeing of young persons who have left the CEO's care.</p>
			25	<p>The Minister may do anything for the adoption of a cooperative approach between families, Agencies and any other public authorities and any other entities in relation to the care and protection of children.</p> <p>The Minister may make policy guidelines, or may give the CEO a direction, for the exercise of a power or performance of a function by the CEO under the Act.</p>

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			Division 7 (object outlined in section 50)	The object of this Division is to ensure the CEO has the power to take urgent action for children who might be in need of protection.
			Part 2.2 - Children in CEO's care	The object of this Part is to safeguard the wellbeing of each child who is in the CEO's care and each young person who has left the CEO's care.
	<b>Guardianship of Infants Act</b>	NT	7	<p>The mother of an infant shall have the guardianship and custody of the infant while an infant, jointly with the father and each parent shall have equal authority, rights and responsibilities with regard to the infant.</p> <p>Where an infant's parents were not married at the time of its conception and have not since married each other and no person is recognized as the father under the Act, the mother of the infant shall have the guardianship and custody of the infant while an infant.</p>
			9	<p>The court may, upon the application of the parent of any infant, make such order as it may think fit regarding custody, and the right of access, having regard to the welfare of the infant, the conduct and wishes of the parents.</p> <p>The fact that a parent of an infant contemplates leaving the Territory shall not of itself be regarded as a reason for denying that parent the custody if the court is satisfied that the welfare of the infant will best be served by allowing that parent to have or retain such custody.</p>
			10	The power of the court to make the above custody and access order may be exercised notwithstanding that the parents of

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				<p>the infant are then residing together.</p> <p>Where the court makes an order giving the custody to one parent, then, whether or not the parents are residing together, the court may further order that the other parent shall pay to the parent having the custody of the infant such weekly or other periodical sums towards the maintenance as the court may think reasonable.</p> <p>No order providing for custody or maintenance of an infant shall be enforceable and no liability shall accrue while the parents are residing together, and any such order shall cease to have effect if, for a period of 3 months after it is made, the parents continue to reside together.</p> <p>Any custody order may, on the application either parent, be varied or discharged by a subsequent order.</p>
			12	<p>If, at the time of the application for an order, the infant is being brought up by another person or institution, the court may, if it orders the infant to be given up to the parent or any other person liable to maintain the infant, further order that the person to whom the infant is to be given up shall pay to that person or institution the expenses properly incurred in bringing up the infant or such portion thereof as seems reasonable having regard to the circumstances.</p>
			13	<p>Where a parent, or any other person liable to maintain an infant, has abandoned or deserted the infant, or allowed the infant to be brought up by another person or an institution at that or another person's or institution's expense for such length of time and in such circumstances as to satisfy the</p>



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				<p>court that the parent or person liable, was unmindful of his duties towards the infant, the court shall <u>not</u> make an order for the delivery of the infant to the person who was so unmindful of his duties <u>unless</u> the court is satisfied that the person is fit to have custody and it is in the interests of the infant.</p>
			14	<p>Where in any proceeding before the court the custody or upbringing of an infant, or the administration of any property belonging to or held in trust for an infant, or the application of the income thereof, is in question, the court in deciding that question shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is superior to that of the father.</p>
			17	<p>Where 2 or more persons are the joint guardians of an infant and they are unable to agree on any question affecting the welfare of the infant, either may apply to the court for its direction, and the court may give such directions on the application as it may think proper.</p> <p>The power of the court shall, where one of the joint guardians is the parents of the infant, include power:</p> <p>(a) to make such order relating to custody and access as; and having regard to the welfare of the infant, the court may think fit; and</p>

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				<p>(b) to order the mother or father to pay towards the maintenance of the infant such weekly or other sum as, having regard to the means of the mother or father, the court may consider reasonable; and</p> <p>to vary or discharge any order previously made.</p>
			20	<p>Where any guardian, trustee, executor, or person acting in a fiduciary capacity is, under any will, gift or settlement, or otherwise by law, possessed of any fund for the maintenance of any infant, or any fund a portion of which may by law be applied to such maintenance and the court orders the infant to be delivered to, or to remain in the custody of one parent, the court may also order any such guardian, trustee, executor, curator or person acting in a fiduciary capacity to pay to such parent from time to time during the continuance of such custody, for the purpose of the maintenance of the infant, such portion of such fund, not exceeding the portion lawfully applicable to such maintenance as the court may deem proper.</p>
			21	<p>No agreement contained in any separation deed made between the parents of an infant shall be held to be invalid by reason only of its providing that either parent of the infant shall give up the custody and control to the other parent, but no such agreement shall be enforced if the court is of the opinion that it will not be for the benefit of the infant.</p>

**8. Tasmania**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 18: TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 18:</b></p> <p>1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.</p> <p>2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.</p> <p>3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.</p>	<p><b>Child Care Act 2001</b></p>	<p>TAS</p>	<p>5</p>	<p>The objects of this Act are:</p> <p>(a) to provide for a system of licensing child care services; and</p> <p>(b) to provide for the establishment and maintenance of standards for the provision of quality child care, child care that is a safe, nurturing and educational experience, and child care programs that promote the emotional, intellectual, social and physical development of children.</p>
			<p>6</p>	<p>The interests of children are to be regarded as the paramount consideration in the interpretation, enforcement and administration of the Act, the regulations and Standards.</p>
			<p>8</p>	<p>PART 2 - Child Care to be Licensed - a person must not operate or provide child care or a child care service except as authorised by a licence or registration</p>
			<p>9</p>	<p>The following licences may be granted:</p> <p>(a) approved registration body licence; and</p> <p>(b) centre-based child care licence; and</p> <p>(c) home-based child care licence.</p>

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			15A	Criteria for grant of, or holding, licence
			29	<p>PART 4 - Duties and Offences - the holder of a licence, responsible person, person-in-charge and person employed by the holder of a licence to care for a child, registered carer, must ensure that, at all times during which a child is provided with child care under the licence:</p> <p>(a) the child is provided with a safe environment and proper and appropriate care and supervision; and</p> <p>(b) every reasonable precaution is taken to protect the child from a hazard likely to cause injury.</p> <p><b>'Penalty':</b> Different levels of fines depending on licence and first or subsequent offence.</p> <p>The Standards may specify the measures, practices and procedures that a holder of a licence, responsible person, person-in-charge, person employed by the holder of a licence to care for a child or registered carer must take, follow or use to ensure that the requirements above are followed.</p>
			47	<p>The Secretary must issue the Child Care Standards.</p> <p>The Standards may provide for any matter relating or incidental to the provision of child care and the operation or provision of child care services, being consistent with the Act, the regulations and the public interest. This includes:</p> <p>(a) the regulation of child care/child care services, the persons operating or providing child care, the persons</p>

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				<p>employed by the operators or providers of child care, and responsible persons; and</p> <p>(b) the internal administration of operators or providers of child care and child care services; and</p> <p>(c) the physical specifications of premises and all matters connected with the safety and wellbeing of children being provided with child care or a child care service; and</p> <p>(d) the assessment of the operators or providers, persons employed by the operators or providers, or employed in the operation or provision, of child care; and</p> <p>(e) all matters relating to the classes of licences; approval and registration of, and the placing of children with, persons as child carers by an approved registration body, the taking of disciplinary action and dispute resolution; and</p> <p>The Standards may provide that a contravention of any of the Standards is an offence provide for the imposition of a fine.</p>
	<p><b>Child, Young Persons and Their Families Act 1997</b></p>	TAS	7	<p>The object of the Act is to provide for the care and protection of children in a manner that maximises a child's opportunity to grow up in a safe and stable environment and to reach their full potential.</p> <p>The Minister must seek to do all things to further the object of the Act and should endeavour to provide, provide and assist in:</p> <p>(a) the development of a partnership between government,</p>

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				<p>non-Government agencies and families in taking responsibility for and dealing with child abuse and neglect; and</p> <p>(b) the development of coordinated strategies for dealing with child abuse and neglect; and</p> <p>(c) services for dealing with child abuse and neglect and for the care and protection of children; and</p> <p>(d) services directed at strengthening and supporting families and reducing the incidence of child abuse and neglect; and</p> <p>(e) to assist recognised Aboriginal organisations to establish and provide services directed towards strengthening and supporting families and reducing the incidence of child abuse and neglect within the Aboriginal community; and</p> <p>(f) information or education services for guardians, and other members of the community in relation to the developmental, social and safety requirements of children; and</p> <p>(g) education to persons who are required to notify the Secretary if they know or reasonably believe or suspect that a child is being, or is likely to be, abused or neglected; and</p> <p>(h) services to help persons who have been under the guardianship or in the custody of the Secretary during childhood to make a successful transition to adulthood; and</p> <p>(i) to collect and publish relevant data or statistics or to assist</p>

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				<p>in their collection or publication; and</p> <p>(j) to promote, encourage and undertake research into child abuse and neglect; and</p> <p>(k) to encourage the provision, by educational institutions, of courses offering instruction about child abuse and neglect and its prevention and treatment.</p>
			8	<p>The administration of the Act is to be founded on the following principles:</p> <p>(a) the primary responsibility for a child's care and protection lies with the child's family; and</p> <p>(b) a high priority is to be given to supporting and assisting the family to carry out that primary responsibility in preference to commencing proceedings; and</p> <p>(c) if a family is not able to meet its responsibilities to the child and the child is at risk, the Secretary may accept those responsibilities.</p> <p>In any exercise of powers under this Act the best interests of the child must be the paramount consideration, and serious consideration must be given to the desirability of:</p> <p>(a) keeping the child within their family; and</p> <p>(b) preserving and strengthening family relationships, whether or not the child is to reside within his or her family;</p>

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				<p>and</p> <p>(c) not withdrawing the child unnecessarily from the child's familiar environment, culture or neighbourhood; and</p> <p>(d) not interrupting unnecessarily the child's education or employment; and</p> <p>(e) preserving and enhancing the child's sense of ethnic, religious or cultural identity, and making decisions and orders that are consistent with ethnic traditions or religious or cultural values; and</p> <p>(f) preserving the child's name; and</p> <p>(g) not subjecting the child to unnecessary, intrusive or repeated assessments; and</p> <p>In any exercise of powers under this Act in relation to a child, if a child is able to form and express views, those views must be sought and given serious consideration, taking into account the child's age and maturity.</p> <p>Generally, in any proceeding under this Act that may lead to any separation of a child from their family, the interested parties must be given the opportunity to present their views, and be given sufficient information to enable them to participate fully in the proceeding.</p>
			42  PART 5 -	On the application of the Secretary, the Court may make a care and protection order if:



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			Children in need of care and protection	<p>(a) the Court is satisfied that a child is at risk, and that an order should be made to secure the care and protection of the child; or</p> <p>(b) the Court is satisfied that proper arrangements exist for the care and protection of a child and the child would be likely to suffer psychological harm if the arrangements were to be disturbed, and it would be in the best interests of the child for the arrangements to be incorporated in a care and protection order.</p> <p>A care and protection order may contain one or more of the following orders:</p> <p>(a) an order requiring the child or a guardian, for a specified period not exceeding 12 months, to do any specified thing or to refrain from doing any specified thing; and</p> <p>(b) an order granting custody of the child, for a specified period not exceeding 12 months, to a guardian, a family member, the CEO of a relevant non-government organisation, the Secretary, or any other appropriate person:</p> <p>(i) an order placing the child, until the child attains 18 years of age, under the guardianship of the Secretary; or one or 2 other persons; and</p> <p>(ii) an order providing for access to the child; and</p> <p>(c) an order providing for the way in which a person who has custody or guardianship of the child under an order of the Court is to deal with matters relating to the care, protection,</p>

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				<p>health, welfare or education of the child; and</p> <p>(d) any other order the Court considers appropriate.</p> <p>A care and protection order may include conditions to be observed by the child, a guardian, a person with whom the child is living/being supervised by, the Secretary etc.</p> <p>The Court may not make an order unless satisfied that:</p> <p>(a) all reasonable steps have been taken to provide the services required to enable the child's protection and care needs to be met within the home of a parent or other existing guardian of the child; and</p> <p>(b) the person proposed as guardian is suitable, having regard to any prescribed matters and willing; and</p> <p>(c) the wishes of the child have been duly considered, having regard to age, understanding and maturity; and</p> <p>(d) the wishes of the parents in respect of any prescribed matters; and</p> <p>(e) no other order, apart from the order considered, would be in the best interests of the child.</p>
			69	<p>PART 7 - Children under guardianship or in custody of secretary</p> <p>The Secretary may provide for the care of a child who is</p>

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				<p>under the guardianship of the Secretary by:</p> <ul style="list-style-type: none"> <li>(a) placing the child, or permitting the child to remain, in the care of a guardian or a family member; or</li> <li>(b) placing the child in the care of any person or anybody of persons the Secretary considers suitable; or</li> <li>(c) giving such directions as to the care of the child in the place in which the child resides as the Secretary considers appropriate; or</li> <li>(d) making arrangements for the education of the child; or</li> <li>(e) making arrangements for the medical or dental examination or treatment of the child or for such other professional examination or treatment as may be necessary or desirable; or</li> <li>(f) by making such other provision for the care of the child (including financial assistance) as the Secretary considers appropriate.</li> </ul> <p>In making provision for the care of a child, the Secretary must:</p> <ul style="list-style-type: none"> <li>(a) consider the best interests of the child to be the paramount consideration; and</li> <li>(b) make provision for the physical, intellectual, psychological and emotional development; and</li> </ul>

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				<p>(c) have regard to the desirability of securing settled and permanent living arrangements for the child.</p> <p>Unless the Secretary considers that it would not be in the best interests of a child to do so, the Secretary must notify the guardians about where the child is placed as soon as reasonably practicable and keep the guardians informed about how the child is being cared for.</p>
			77, 77A	PART 8 - Interstate transfers of child protection order Division 2 - Transfer of child protection orders
	<b>Commonwealth Powers (Family Law) Act 1987</b>	TAS	3	<p>The following matters, to the extent to which they are not otherwise included in the legislative powers of the Commonwealth Parliament, are referred to the Commonwealth Parliament for a specified period:</p> <p>(a) the maintenance of children and the payment of expenses in relation to children or child bearing; and</p> <p>(b) the custody and guardianship of, and access to, children; and</p> <p>(c) the determination of a child's parentage for the purposes of the law of the Commonwealth.</p> <p>These matters do not include, the matter of the adoption of children or the authorising of taking related action that would prevent or interfere with Minister of the Crown or officer of the State; the jurisdiction of the Supreme Court to make orders in respect of children; or the jurisdiction of a court of</p>

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				<p>the State to make orders in respect of children.</p> <p>The matters include the matters excepted above if the persons responsible for the administration of the relevant matter consents, in writing, to the taking of such action by way of instituting, or continuing, proceedings under the Family Law Act 1975 of the Commonwealth, as amended and in force for the time being, in a court having jurisdiction under that Act.</p>
	<p><b>Guardianship and Custody of Infants Act 1934</b></p>	<p>TAS</p>	<p>7</p>	<p>In the event of guardians being unable to agree upon a question affecting the welfare of an infant, any of them may apply to the Court for its direction, and the Court may make such order or orders regarding the matter as it shall think proper.</p>
			<p>8</p>	<p>A guardian under this Act shall have, in relation to the person and estate of the infant concerned, power to:</p> <ul style="list-style-type: none"> <li>(a) institute and maintain proceedings against any person wrongfully detaining the infant from the guardian's custody or control, and to recover damages in respect thereof to the use of the infant; and</li> <li>(b) take into his custody and control the profits of all lands of the infant; the custody and tuition of the infant; and</li> <li>(c) the management of his goods, chattels, and personal estate; and</li> <li>(d) institute and maintain such actions and proceedings in relation to the property of the infant as may be necessary for</li> </ul>

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				effectually carrying out any of the powers aforesaid.
			9	The Court may remove any guardian appointed or acting by virtue of this Act and may appoint another guardian in the place of the guardian so removed.
			10	The Court may, upon the application of the mother or father of any infant (who may apply without next friend), make such order as it thinks fit regarding the custody of such infant and the right of access of either parent, having regard to the welfare of the infant and to the conduct and wishes of the parents, and may alter, vary or discharge such order on the application of either parent, or, after the death of either parent, of any guardian under this Act.
			11	In any case where a decree for judicial separation, or a decree either nisi or absolute for divorce, shall be pronounced, the Court pronouncing such decree may thereby declare the parent, by reason of whose misconduct such decree is made, to be a person unfit to have the custody of the children, if any, of the marriage; and, in such case, the parent so declared to be unfit shall not, upon the death of the other parent, be entitled as of right to the custody or guardianship of such children.
			13	If, at the time of the application for an order for the production of a child, the child is being brought up by another person, the Court, in its discretion, if it orders the child to be given up to the parent, may further order that the parent shall pay to such other person the whole of the costs properly incurred in bringing up the child, or such portion

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				thereof as shall seem to the Court to be just and reasonable, having regard to all the circumstances of the case
			14	Where a parent has abandoned or deserted his child or allowed his child to be brought up by another person at that person's expense for such a length of time and under such circumstances as to satisfy the Court that the parent was unmindful of his parental duties – the Court shall <u>not</u> make an order for the delivery of the child to the parent unless the parent has satisfied the Court that, having regard to the welfare of the child, he is fit to have the custody of the child.
	<b>Tasmanian Early Years Foundation Act 2005</b>	TAS	4	The Tasmanian Early Years Foundation is established.
			5	The object of the Foundation is to support and promote the wellbeing, development and learning of Tasmanian children up to the age of 6 years.
			6	<p>The Foundation has the following functions:</p> <ul style="list-style-type: none"> <li>(a) to provide grants for evidence-based early childhood projects and initiatives; and</li> <li>(b) to promote awareness of the importance of early years of childhood; and</li> <li>(c) to promote research in relation to the wellbeing, development and learning of Tasmanian children up to the age of 6 years; and</li> </ul>

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				<p>(d) such other functions as may be prescribed.</p> <p>Other than employing staff, the Foundation has power to do all things necessary or convenient to be done in connection with the performance of its functions.</p>



**9. Australian Capital Territory**

**CONVENTION ON THE RIGHTS OF THE CHILD (CRC) ARTICLE 18: TABLE OF RELEVANT AUSTRALIAN LEGISLATION**

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
<p><b>ARTICLE 18:</b></p> <p>1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.</p> <p>2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.</p> <p>3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.</p>	<p><b>Children and Young People Act 2008</b></p>	<p>ACT</p>	<p>7</p>	<p>The objects of this Act include:</p> <p>(a) providing for, and promoting, the wellbeing, care and protection of children and young people in a way that recognises their right to grow in a safe and stable environment, and takes into account the responsibilities of parents, families, the community and the whole of government; and</p> <p>(b) ensuring that children and young people are provided with a safe and nurturing environment by organisations and people who, directly or indirectly, provide for their wellbeing, care and protection; and</p> <p>(c) preventing abuse and neglect of children and young people by providing whole of government assistance to children and young people, their parents and families, the community, and others who have responsibility for them; and</p> <p>(d) ensuring that Aboriginal and Torres Strait Islander people are included and participate in providing for, and promoting, the wellbeing, care and protection of, preventing the abuse and neglect, and rehabilitating and reintegrating, Aboriginal and Torres Strait Islander children/young people; and</p> <p>(e) ensuring services provided by, or for, government for the wellbeing, care and protection of children and young people</p>

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				<p>are centred on the needs of children and young people, are informed by processes which engage children and take their views and wishes into account, promote the health, education, developmental needs, spirituality, self-respect, self-reliance and dignity of children and young people, and respect the individual race, ethnicity, religion, disability, sexuality and culture of children and young people; and</p> <p>(f) ensuring young offenders receive positive support and opportunities to become rehabilitated and share the responsibility for rehabilitation and reintegration with their parents and families, the community and the government; and</p> <p>(g) imposing standards that must be complied with for the delivery of services to children; and</p> <p>(h) ensuring the protection of children and young people in employment.</p>
			8	<p>In making a decision under the Act, the decision-maker must regard the best interests of the child or young person as the paramount consideration.</p> <p><i>Note: there are further provisions about how a decision-maker decides what is in the best interests of a child or young person, for the criminal matters chapters and the care and protection chapters.</i></p>
			9	<p>In making a decision under the Act, a decision-maker must have regard to the following principles where relevant, except when it would be contrary to the best interests of a child:</p>

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				<p>(a) the child's sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced; or</p> <p>(b) the child's education, training or lawful employment should be encouraged and continued without unnecessary interruption; or</p> <p>(c) the child's age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered; or</p> <p>(d) delay in decision-making processes under the Act should be avoided.</p>
			16	Each parent of a child or young person has parental responsibility for the child or young person.
			17	<p>Parental responsibility may be transferred under:</p> <p>(a) a family group conference agreement; or</p> <p>(b) an appraisal order including a temporary parental responsibility provision; or</p> <p>(c) emergency action; or</p> <p>(d) a care and protection order including a parental responsibility provision; or</p> <p>(e) a safe custody warrant; or</p> <p>(f) a court order (under this Act or another law in force in the</p>

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				<p>Territory - e.g. <i>Family Law Act 1975</i>); or</p> <p>(g) a provision of another law in force in the Territory.</p> <p>If parental responsibility is transferred - only the aspect of parental responsibility expressly stated to be transferred is transferred and no-one else's parental responsibility, or aspect of parental responsibility, for the child or young person is diminished except to the extent expressly stated or necessary to give effect to the transfer.</p>
			18	<p>Parental responsibility may be shared between 2 or more people under:</p> <p>(a) a family group conference agreement; or</p> <p>(b) a voluntary care agreement; or</p> <p>(c) a care and protection order including a parental responsibility provision; or</p> <p>(d) a court order (under this Act or another law in force in the Territory).</p> <p>If parental responsibility is shared between 2 or more people, either of them may discharge the responsibility.</p>
			21	<p>If a provision requires a person to act in relation to a parent or a person with parental responsibility, the person is not required to act if they cannot after reasonable inquiry find the parent or other person.</p>

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			22	<p>The director-general has the following functions:</p> <ul style="list-style-type: none"> <li>(a) providing, or assisting in providing, services directed to strengthening and supporting families in relation to the wellbeing, care and protection of their children and young people; and</li> <li>(b) supporting the community in preventing, or reducing, abuse and neglect of children and young people; and</li> <li>(c) providing, or assisting in providing, information to parents, carers, government and non-government agencies and members of the community about the operation of this Act; and</li> <li>(d) providing information to people who are required to report suspected abuse of children and young people to help them perform their legal obligation; and</li> <li>(e) providing information to people who report suspected abuse or neglect of children and young people and encouraging those people to continue their involvement in matters arising from their report; and</li> <li>(f) exercising aspects of parental responsibility for children and young people; and</li> <li>(g) providing information, services or assistance to children and young people who have left the director-general's care;</li> <li>(h) providing services for young offenders;</li> </ul>

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				(i) working with other government agencies and community organisations, to coordinate and promote the care and protection of children and young people, including young offenders.
			Chapter 3 - Family Group Conferences  74, 80	<p>The director-general may arrange for a family group conference about a child if satisfied that it may help to promote the wellbeing and best interests of the child, or if the director-general believes on reasonable grounds that:</p> <ul style="list-style-type: none"> <li>(a) the child is in need of care and protection; and</li> <li>(b) arrangements should be made to secure the child's or young person's care and protection.</li> </ul> <p>The objects of a family group conference about a child or young person are to:</p> <ul style="list-style-type: none"> <li>(a) encourage the child and his or her family members, to take part in decisions affecting the child or young person; and</li> <li>(b) increase the support for the child or young person by his or her family members and significant people; and</li> <li>(c) make arrangements for the care of the child or young person to reduce the likelihood of the child or young person being in need of care and protection in the future.</li> </ul>
			75	<p>A family group conference is a conference about a child or young person to give the participants an opportunity to:</p> <ul style="list-style-type: none"> <li>(a) reach an agreement about a matter relating to the</li> </ul>

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				<p>wellbeing of the child or young person; and</p> <p>(b) enter into a family group conference agreement detailing the agreed arrangements for the wellbeing of the child or young person; and</p> <p>(c) if a family group conference agreement is already in force for the child or young person—review the agreement.</p>
			<p>336</p> <p>Care and Protection Chapters</p>	<p>The Act includes various chapters on care and protection of children, including:</p> <p>(a) reporting, investigating and appraising abuse and neglect; and</p> <p>(b) voluntary agreements to transfer or share parental responsibility; and</p> <p>(c) care and protection and therapeutic protection—emergency situations; and</p> <p>(d) care and protection orders; and</p> <p>(e) director-general has aspect of parental responsibility; and</p> <p>(f) therapeutic protection of children; and</p> <p>(g) interstate transfer of orders and proceedings; and</p> <p>(h) police assistance.</p>
			349	For the care and protection chapters, in deciding what is in

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				<p>the best interests of a child or young person, among other things, a decision-maker must consider each of the following matters that are relevant to the child or young person:</p> <ul style="list-style-type: none"> <li>(a) the need to ensure that the child or young person is not at risk of abuse or neglect; and</li> <li>(b) any views or wishes expressed by the child; and</li> <li>(c) the nature of the child's or young person's relationship with each parent and anyone else; and</li> <li>(d) the likely effect on the child of changes in circumstances, including separation from a parent or person with whom the child has been living; and</li> <li>(e) the practicalities of the child maintaining contact with each parent or person with whom the child has been living or having substantial contact; and</li> <li>(f) the capacity of the child's parents, or anyone else, to provide for the child's or young person's needs including emotional and intellectual needs; and</li> <li>(g) for an Aboriginal or Torres Strait Islander child—that it is a high priority to protect and promote the child's or young person's cultural and spiritual identity and development by, maintaining and building the child's or young person's connections to family, community and culture; and</li> <li>(h) that it is important for the child to have settled, stable and</li> </ul>



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				<p>permanent living arrangements; and</p> <p>(i) for decisions about placement—the need to ensure that the earliest possible decisions are made about a safe, supportive and stable placement; and</p> <p>(j) the attitude to the child, and to parental responsibilities, demonstrated by each of the child's or young person's parents or anyone else; and</p> <p>(k) any abuse or neglect of the child or family member; and</p> <p>(l) any court order that applies to the child or young person, or a family member.</p>
			350	<p>In making a decision under the care and protection chapters, a decision-maker must apply the following principles (the '<b>care and protection principles</b>') except when it is, or would be, contrary to the best interests of a child or young person:</p> <p>(a) the primary responsibility for providing care and protection for the child n lies with the child's or young person's parents and other family members; and</p> <p>(b) priority must be given to supporting the child's parents and family members to provide for the wellbeing, care and protection of the child; and</p> <p>(c) if the child does not live with his or her family because of the operation of this Act—contact with his or her family, and significant people, must be encouraged, if practicable and</p>

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				<p>appropriate; and</p> <p>(d) if the child is in need of care and protection and the child's or young person's parents and other family members are unwilling or unable to provide the adequate care and protection—it is the responsibility of the government to share or take over their responsibility; and</p> <p>(e) if the child does not live with the child's or young person's parents because of the operation of this Act—the safety and wellbeing of the child are more important than the interests of the parents; and</p> <p>(f) a court should make an order for a child only if the making the order would be better for the child or young person than making no order at all.</p>
			360	<p>If the director-general receives a child concern report about a child or young person, the director-general must:</p> <p>(a) consider the report; and</p> <p>(b) carry out an initial assessment of the matters raised to decide if the child or young person may be in need of care and protection; and</p> <p>(c) take the action that it considers appropriate in relation to the initial assessment.</p> <p>To carry out an initial assessment of the matters raised in the report, the director-general may take reasonable steps to</p>

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				obtain further information about the matters.
			361	<p>If the director-general decides that a child concern report is a child protection report, the director-general must take the action that the director-general considers appropriate in relation to the report.</p> <p>In doing so, the director-general may:</p> <ul style="list-style-type: none"> <li>(a) seek information from anyone to decide the most appropriate response to the report; or</li> <li>(b) give advice to the person who made the report about appropriate assistance that they may consider to protect the child; or</li> <li>(c) refer a matter raised in the report to the chief police officer if the director-general suspects that it relates to a criminal offence; or</li> <li>(d) refer the matters raised in the report to a government or community-based service for advice and support services for the child and, if appropriate, the child's family members; or</li> <li>(e) provide or arrange support services for the child and, if appropriate, the child's family members; or</li> <li>(f) arrange a family group conference in relation to the child or young person; or</li> <li>(g) assist a family member or a significant person to care for</li> </ul>

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				<p>the child or young person; or</p> <p>(h) enter into a voluntary care agreement or the child or young person; or</p> <p>(i) take no action.</p>
			390	<p>If, in a family group conference agreement reached at a family group conference, the parties agree that daily care responsibility or long-term care responsibility for a child or young person should be:</p> <p>(a) transferred from a person to someone else (other than the director-general); or</p> <p>(b) shared with a person (other than the director-general) who would not otherwise have that aspect of parental responsibility for the child or young person, the director-general may apply to the Children's Court to register the family group conference agreement.</p> <p>An application to register a family group conference agreement must be accompanied by a copy of the family group conference agreement; and a statement signed by each party to the agreement (other than the director-general) to the effect that the party has had an opportunity to get legal advice about the meaning and effect of the agreement.</p>
			729  Child care	<p>The objects of this chapter include:</p> <p>(a) providing an effective licensing system for childcare</p>

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				<p>services; and</p> <p>(b) imposing standards for childcare services.</p>
			730	<p>In making a decision or taking action under this chapter for a childcare service, the following childcare services principles should be applied:</p> <p>(a) childcare services must provide care that is safe, positive and nurturing; and</p> <p>(b) childcare services must promote the educational, social and developmental wellbeing of children.</p> <p><i>Note</i> In making a decision under this chapter for a child or young person, the decision-maker must regard the best interests of the child or young person as the paramount consideration (see s 8).</p>
			731	<p>This chapter does not apply to care provided for a child:</p> <p>(a) at a playgroup; or</p> <p>(b) by an education and care service within the meaning of the <i>Education and Care Services National Law (ACT)</i> ; or</p> <p>(c) in conjunction with a meeting, function or similar activity that involves a person who has daily care responsibility for the child, at the same or adjacent premises; or</p> <p>(d) by a family member (unless provided as part of a family</p>

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				<p>day care scheme); or</p> <p>(e) by an out-of-home carer with whom the director-general has placed the child or young person; or</p> <p>(f) by a government school or non-government school under the <i>Education Act 2004</i> , whether provided during or outside school hours; or</p> <p>(g) by a person providing home education to the child if the child is registered, or provisionally registered, for home education under the <i>Education Act 2004</i> ; or</p> <p>(h) that is incidental to the child's participation in religious instruction, sporting, educational, recreational or cultural events or activities; or</p> <p>(i) that is incidental to activities by the child as a member of a club or class sponsored by a non-profit community organisation; or</p> <p>(j) while the child is a patient in a hospital, including a day hospital (see the <i>Health Act 1993</i>).</p>
			746	<p>A proposed proprietor of a childcare service is eligible for a childcare service licence to operate the childcare service only if the director-general is satisfied that:</p> <p>(a) the proposed proprietor is a suitable entity to provide the childcare service; and</p> <p>(b) each proposed controlling person is a suitable entity to</p>

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				<p>provide the childcare services; and</p> <p>(c) the proposed proprietor complies, and is likely to continue to comply, with the childcare services standards; and</p> <p>(d) the premises comply with the childcare services standards.</p>