

# 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 31:</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Criminal Code Act 1995</b></p>	<p>Cth</p>	<p>268.20</p>	<p><b>Crime against humanity—persecution</b></p> <p>(1) A person (the '<b>perpetrator</b>') commits an offence if:</p> <p>(a) the perpetrator severely deprives one or more persons of any of the rights referred to in paragraph (b); and</p> <p>(b) the rights are those guaranteed in articles 6, 7, 8 and 9, paragraph 2 of article 14, article 18, paragraph 2 of article 20, paragraph 2 of article 23 and article 27 of the Covenant; and</p> <p>(c) the perpetrator targets the person or persons by reason of the identity of a group or collectivity or targets the group or collectivity as such; and</p> <p>(d) the grounds on which the targeting is based are political, racial, national, ethnic, cultural, religious, gender or other grounds that are recognised in paragraph 1 of article 2 of the Covenant; and</p> <p>(e) the perpetrator's conduct is committed in connection with another act that is:</p> <p>(i) a proscribed inhumane act; or</p> <p>(ii) genocide; or</p>

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				<p>(iii) a war crime; and</p> <p>(f) the perpetrator's conduct is committed intentionally or knowingly as part of a widespread or systematic attack directed against a civilian population.</p> <p>Penalty: Imprisonment for 17 years.</p> <p>(2) Strict liability applies to:</p> <p>(a) the physical element of the offence referred to in paragraph (1)(a) that the rights are those referred to in paragraph (1)(b); and</p> <p>(b) paragraphs (1)(b) and (d).</p>
			NB: Article 27 of International Covenant on Civil and Political Rights	<p><b>Article 27</b></p> <p>In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.</p>
	<b>Family Law Act 1975</b>	Cth	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>

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				<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 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</p>

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				<p>right to enjoy that culture with other people who share that culture).</p> <p>(3) For the purposes of subparagraph (2)(e), an Aboriginal child's or Torres Strait Islander child's right to enjoy his or her Aboriginal or Torres Strait Islander culture includes the right:</p> <p>(a) to maintain a connection with that culture; and</p> <p>(b) to have the support, opportunity and encouragement necessary:</p> <p>(i) to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views; and</p> <p>(ii) to develop a positive appreciation of that culture.</p> <p>(4) An additional object of this Part is to give effect to the Convention on the Rights of the Child done at New York on 20 November 1989.</p>
			60CC	<p><b>How a court determines what is in a child's best interests</b></p> <p>Determining child's best interests</p> <p>(1) Subject to subsection (5), in determining what is in the child's best interests, the court must consider the matters set out in subsections (2) and (3).</p>

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				<p>Primary considerations</p> <p>(2) The primary considerations are:</p> <p>(a) the benefit to the child of having a meaningful relationship with both of the child’s parents; and</p> <p>(b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.</p> <p>(2A) In applying the considerations set out in subsection (2), the court is to give greater weight to the consideration set out in paragraph (2)(b).</p> <p>Additional considerations</p> <p>(3) Additional considerations are:</p> <p>...</p> <p>(h) if the child is an Aboriginal child or a Torres Strait Islander child:</p> <p>(i) the child’s right to enjoy his or her Aboriginal or Torres Strait Islander culture (including the right to enjoy that culture with other people who share that culture); and</p> <p>(ii) the likely impact any proposed parenting order under this Part will have on that right;</p> <p>...</p>

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				<p>(6) For the purposes of paragraph (3)(h), an Aboriginal child's or a Torres Strait Islander child's right to enjoy his or her Aboriginal or Torres Strait Islander culture includes the right:</p> <p>(a) to maintain a connection with that culture; and</p> <p>(b) to have the support, opportunity and encouragement necessary:</p> <p>(i) to explore the full extent of that culture, consistent with the child's age and developmental level and the child's views; and</p> <p>(ii) to develop a positive appreciation of that culture.</p>
	<p><b>Australian Human Rights Commission Act 1986</b></p>	Cth	46MB	<p><b>Functions of Commission that are to be performed by National Children's Commissioner</b></p> <p>(1) The following functions are conferred on the Commission:</p> <p>(a) to submit a report to the Minister that complies with subsection (3) as soon as practicable after 30 June in each year;</p> <p>(b) to promote discussion and awareness of matters relating to the human rights of children in Australia;</p> <p>(c) to undertake research, or educational or other programs, for the purpose of promoting respect for the human rights of children in Australia, and promoting the enjoyment and</p>

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				<p>exercise of human rights by children in Australia;</p> <p>(d) to examine existing and proposed Commonwealth enactments for the purpose of ascertaining whether they recognise and protect the human rights of children in Australia, and to report to the Minister the results of any such examination.</p> <p>(2) The functions of the Commission under this section are to be performed by the National Children’s Commissioner on behalf of the Commission.</p> <p>(3) A report under paragraph (1)(a):</p> <p>(a) must deal with such matters, relating to the enjoyment and exercise of human rights by children in Australia, as the National Children’s Commissioner considers appropriate; and</p> <p>(b) may include recommendations that the Commissioner considers appropriate as to the action that should be taken to ensure the enjoyment and exercise of human rights by children in Australia.</p> <p>(4) In performing functions under this section, the National Children’s Commissioner may give particular attention to children who are at risk or vulnerable.</p> <p>(5) In performing functions under this section, the National Children’s Commissioner may consult any of the following:</p> <p>(a) children;</p>

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				<p>(b) Departments and authorities of the Commonwealth, and of the States and Territories;</p> <p>(c) non-governmental organisations;</p> <p>(d) international organisations and agencies;</p> <p>(e) such other organisations, agencies or persons as the Commissioner considers appropriate.</p> <p>(6) In performing functions under this section, the National Children’s Commissioner must, as appropriate, have regard to:</p> <p>(a) the Universal Declaration of Human Rights (United Nations General Assembly Resolution A/RES/217(III) A (1948); and</p> <p>(b) the following, as amended and in force for Australia from time to time:</p> <p>(i) the International Convention on the Elimination of all Forms of Racial Discrimination done at New York on 21 December 1965 ([1975] ATS 40);</p> <p>(ii) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5);</p> <p>(iii) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23);</p>



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				<p>(iv) the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9);</p> <p>(v) the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4);</p> <p>(vi) the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12); and</p> <p>(c) such other instruments relating to human rights as the Commissioner considers relevant.</p>
	<p><b>Indigenous Education (Targeted Assistance) Act 2000</b></p>	Cth	9	<p>It is an object of this Act to encourage the development of education services that are culturally appropriate for Indigenous people by:</p> <p>(a) the development of curricula that are suited to:</p> <p>(i) the education of Indigenous students; and</p> <p>(ii) the training of professional educators (including administrators, teachers, teaching assistants, researchers, student services officers, curriculum advisers and community liaison officers) who are involved in the education of Indigenous students; and</p> <p>(b) the development of teaching methods and techniques that are suited to the learning styles of Indigenous students; and</p> <p>(c) the promotion of research to devise innovative methods</p>

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				<p>to deliver education services to Indigenous students; and</p> <p>(d) the promotion of research to devise methods to eliminate barriers to educational attainment encountered by Indigenous students; and</p> <p>(e) the conduct of pilot studies to test the effectiveness of the methods referred to in paragraphs (c) and (d).</p>
	<p><b>Racial Discrimination Act 1975</b></p>	<p>Cth</p>	<p>9</p>	<p>(1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.</p> <p>(1A) Where:</p> <p>(a) a person requires another person to comply with a term, condition or requirement which is not reasonable having regard to the circumstances of the case; and</p> <p>(b) the other person does not or cannot comply with the term, condition or requirement; and</p> <p>(c) the requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, by persons of the same race, colour, descent or national or ethnic origin as the other person, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of</p>

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				<p>public life;</p> <p>(1) the act of requiring such compliance is to be treated, for the purposes of this Part, as an act involving a distinction based on, or an act done by reason of, the other person's race, colour, descent or national or ethnic origin.</p> <p>(2) A reference in this section to a human right or fundamental freedom in the political, economic, social, cultural or any other field of public life includes any right of a kind referred to in Article 5 of the Convention.</p> <p>(3) This section does not apply in respect of the employment, or an application for the employment, of a person on a ship or aircraft (not being an Australian ship or aircraft) if that person was engaged, or applied, for that employment outside Australia.</p> <p>(4) The succeeding provisions of this Part do not limit the generality of this section.</p>
			<p>NB: Article 5 of the International Convention on the elimination of all forms of racial discrimination</p>	<p><i>Article 5</i></p> <p>In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:</p> <p>(a) The right to equal treatment before the tribunals and all</p>

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				<p>other organs administering justice;</p> <p>(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution;</p> <p>(c) Political rights, in particular the rights to participate in elections—to vote and to stand for election—on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;</p> <p>(d) Other civil rights, in particular:</p> <p>(i) The right to freedom of movement and residence within the border of the State;</p> <p>(ii) The right to leave any country, including one’s own, and to return to one’s country;</p> <p>(iii) The right to nationality;</p> <p>(iv) The right to marriage and choice of spouse;</p> <p>(v) The right to own property alone as well as in association with others;</p> <p>(vi) The right to inherit;</p> <p>(vii) The right to freedom of thought, conscience and</p>

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				<p>religion;</p> <p>(viii) The right to freedom of opinion and expression;</p> <p>(ix) The right to freedom of peaceful assembly and association;</p> <p>(e) Economic, social and cultural rights, in particular:</p> <p>(i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;</p> <p>(ii) The right to form and join trade unions;</p> <p>(iii) The right to housing;</p> <p>(iv) The right to public health, medical care, social security and social services;</p> <p>(v) The right to education and training;</p> <p>(vi) The right to equal participation in cultural activities;</p> <p>(f) The right of access to any place or service intended for use by the general public such as transport, hotels, restaurants, cafes, theatres and parks.</p>

## 2. New South Wales

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<p><b>ARTICLE 31</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Adoption Act 2000 No 75</b></p>	<p>NSW</p>	<p>8</p>	<p><b>What principles are to be applied by persons making decisions about the adoption of a child?</b></p> <p>(1) In making a decision about the adoption of a child, a decision maker is to have regard (as far as is practicable or appropriate) to the following principles:</p> <p>(a) the best interests of the child, both in childhood and in later life, must be the paramount consideration,</p> <p>(b) adoption is to be regarded as a service for the child,</p> <p>(c) no adult has a right to adopt the child,</p> <p>(d) if the child is able to form his or her own views on a matter concerning his or her adoption, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child and the circumstances,</p> <p>(e) the child’s given name or names, identity, language and cultural and religious ties should, as far as possible, be identified and preserved,</p> <p>(e1) undue delay in making a decision in relation to the adoption of a child is likely to prejudice the child’s welfare,</p> <p>(f) if the child is Aboriginal—the Aboriginal child placement</p>

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				<p>principles are to be applied,</p> <p>(g) if the child is a Torres Strait Islander—the Torres Strait Islander child placement principles are to be applied.</p> <p>(2) In determining the best interests of the child, the decision maker is to have regard to the following:</p> <p>(a) any wishes expressed by the child,</p> <p>(b) the child’s age, maturity, level of understanding, gender, background and family relationships and any other characteristics of the child that the decision maker thinks are relevant,</p> <p>(c) the child’s physical, emotional and educational needs, including the child’s sense of personal, family and cultural identity,</p> <p>(d) any disability that the child has,</p> <p>(e) any wishes expressed by either or both of the parents of the child,</p> <p>(f) the relationship that the child has with his or her parents and siblings (if any) and any significant other people (including relatives) in relation to whom the decision maker considers the question to be relevant,</p> <p>(g) the attitude of each proposed adoptive parent to the child and to the responsibilities of parenthood,</p>

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				<p>(h) the nature of the relationship of the child with each proposed adoptive parent,</p> <p>(i) the suitability and capacity of each proposed adoptive parent, or any other person, to provide for the needs of the child, including the emotional and intellectual needs of the child,</p> <p>(j) the need to protect the child from physical or psychological harm caused, or that may be caused, by being subjected or exposed to abuse, ill-treatment, violence or other behaviour, or being present while a third person is subjected or exposed to abuse, ill-treatment, violence or other behaviour,</p> <p>(k) the alternatives to the making of an adoption order and the likely effect on the child in both the short and longer term of changes in the child's circumstances caused by an adoption, so that adoption is determined among all alternative forms of care to best meet the needs of the child.</p>
			32	<p><b>Regard to be had to cultural heritage of child</b></p> <p>(1) In placing a child (other than an Aboriginal or Torres Strait Islander child) for adoption, the decision maker must take into account the culture, any disability, language and religion of the child and the principle that the child's given name, identity, language and cultural and religious ties should, as far as possible, be preserved.</p> <p>(2) Without limiting matters that may be taken into account, the decision maker must take into account whether a prospective adoptive parent of a different cultural heritage to</p>



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				<p>that of the child has demonstrated the following:</p> <p>(a) the capacity to assist the child to develop a healthy and positive cultural identity,</p> <p>(b) knowledge of or a willingness to learn about, and teach the child about, the child's cultural heritage,</p> <p>(c) a willingness to foster links with that heritage in the child's upbringing,</p> <p>(d) the capacity to help the child if the child encounters racism or discrimination in school or the wider community.</p>
			36	<p><b>Alternatives to placement for adoption to be considered</b></p> <p>An Aboriginal child is not to be placed for adoption unless the Director-General is satisfied that the making of the adoption order is clearly preferable in the best interests of the child to any other action that could be taken by law in relation to the care of the child.</p>
	<b>Anti- Discrimination Act 1977</b>	NSW	49ZYQ-49ZYW	<p><b>49ZYQ Legal capacity and welfare of children</b></p> <p>Nothing in this Part:</p> <p>(a) affects the operation of a law that relates to the legal capacity or the legal entitlements, obligations or disqualifications of persons who are under 18 years of age, or</p> <p>(b) affects the operation of a law the object of which is to protect the welfare of those persons, including provisions of the</p>

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				<p>criminal law that are designed to protect them.</p> <p><b>49ZYR Special needs programs and activities</b></p> <p>Nothing in this Part applies to or in respect of anything done to afford persons who are of a particular age or age group access to facilities, services or opportunities to meet their special needs or to promote equal or improved access for them to facilities, services and opportunities.</p> <p><b>49ZYS Superannuation</b></p> <p>(1) Nothing in this Part renders unlawful discrimination against a person on the ground of age in the terms or conditions appertaining to a superannuation or provident fund or scheme if, subject to subsection (2), one or more of the following apply:</p> <p>(a) the discrimination occurs because of the application of a standard in force under the Occupational Superannuation Standards Act 1987, or a requirement under the Superannuation Industry (Supervision) Act 1993, of the Commonwealth,</p> <p>(b) the discrimination is required in order to comply with, or obtain a benefit of, or avoid a penalty under, any other Act of the Commonwealth,</p> <p>(c) the discrimination is based on actuarial or statistical data from a source on which it is reasonable to rely,</p> <p>(d) if there is no data of a kind referred to in paragraph (c), the discrimination is based on such other data as may be available</p>

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				<p>and on which it is reasonable to rely,</p> <p>(e) if none of the above apply, the discrimination is reasonable having regard to any other relevant factors,</p> <p>(f) the discrimination is based on an existing condition and relates to a person who became a member of the fund or scheme before the commencement of this section or not more than 12 months after that commencement, or happens not more than 12 months after that commencement.</p> <p>(2) An exemption under subsection (1) (c)–(e) is available only if the sources on which the data are based and those relevant factors (if any) are disclosed to the Tribunal, if the Tribunal so requires.</p> <p>(3) This section has effect despite section 54 (1) (d).</p> <p><b>49ZYT Provision of insurance</b></p> <p>Nothing in this Part renders unlawful discrimination on the ground of age the terms on which any annuity, life assurance policy or accident or insurance policy or any other kind of insurance is offered or may be obtained if:</p> <p>(a) those terms:</p> <p>(i) are based on actuarial or statistical data from a source on which it is reasonable to rely or, if there are no such data, on such other data as may be available, and</p> <p>(ii) are reasonable having regard to the data and any other</p>

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				<p>relevant factors, and</p> <p>(b) the sources on which the data are based and those relevant factors (if any) are disclosed to the Tribunal, if the Tribunal so requires.</p> <p><b>49ZYU Credit applications</b></p> <p>Nothing in this Part renders unlawful discrimination against a person on the ground of age with respect to the criteria on which an application for credit is assessed or the terms on which credit is offered or may be obtained if:</p> <p>(a) those criteria or terms:</p> <p>(i) are based on actuarial or statistical data from a source on which it is reasonable to rely or, if there are no such data, on such other data as may be available, and</p> <p>(ii) are reasonable having regard to the data and any other relevant factors, and</p> <p>(b) the sources on which the data are based and those relevant factors (if any) are disclosed to the Tribunal, if the Tribunal so requires.</p> <p><b>49ZYV Safety procedures</b></p> <p>Nothing in this Part renders unlawful discrimination against a person on the ground of age with respect to:</p> <p>(a) the manner in which fitness to control a vehicle or a class of</p>

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				<p>vehicle is assessed, or</p> <p>(b) the terms and conditions on which and the length of time during which a licence to drive or ride a vehicle is provided or made available,</p> <p>as the case requires, if that manner is, or those terms and conditions and length of time are, imposed in order to meet safety considerations that are reasonable in the circumstances.</p> <p><b>49ZYW Sport</b></p> <p>(1) Nothing in this Part renders unlawful the exclusion of persons of particular ages from participation in any sporting activity.</p> <p>(2) Subsection (1) does not apply:</p> <p>(a) to the coaching of persons engaged in any sporting activity, or</p> <p>(b) to the administration of any sporting activity, or</p> <p>(c) to any sporting activity prescribed by the regulations for the purposes of this section.</p> <p><b>49ZYX Certain activities or matters may be prescribed to be lawful</b></p> <p>Nothing in this Part renders unlawful any activity or matter declared to be lawful by regulation made for the purposes of</p>

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				<p>this Part.</p> <p><b>49ZYY Operation of Part 4E not affected</b></p> <p>Nothing in this Part affects the operation of Part 4E.</p>
	<p><b>Children (Community Service Orders) Act 1987 No 57</b></p>	NSW	15 - 19	<p><b>15 Children’s Court to supervise the administration of children’s community service orders</b></p> <p>The Children’s Court shall be the supervising court in respect of a children’s community service order, whether or not the order was made by the Children’s Court.</p> <p><b>16 Assignment of officer by Director-General</b></p> <p>(1) On receiving notice of the making of a children’s community service order, the Director-General shall assign an officer, or, where the regulations so provide, a person other than an officer, in respect of the administration of the order.</p> <p><b>17 Obligations of persons subject to children’s community service orders</b></p> <p>(1) A person in respect of whom a children’s community service order is in force shall, in addition to complying with any other requirement made by or under this Act in respect of the order:</p> <p>(a) perform, for the number of hours specified in the order, such community service work as the assigned officer directs at such times and such places as the assigned officer directs,</p>

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				<p>(b) perform that community service work in a satisfactory manner,</p> <p>(c) while performing that community service work, comply with any reasonable direction of the assigned officer or a supervisor, and</p> <p>(d) inform the assigned officer of any change in the person's place of residence.</p> <p>(2) The community service work to be performed by a person in respect of whom a children's community service order is in force (being an order containing a recommendation referred to in section 5 (1A)) must, if practicable, include:</p> <p>(a) the removal of graffiti from buildings, vehicles, vessels and places, and</p> <p>(b) the restoration of the appearance of buildings, vehicles, vessels and places consequent on the removal of graffiti from them.</p> <p>(3) The community service work to be performed by a person in respect of whom a children's community service order is in force (being an order containing a recommendation referred to in section 5 (1B)) must, if practicable, include participation in a personal development, educational or other program.</p> <p><b>18 Directions</b></p> <p>(1) The assigned officer must not, under section 17, direct a person in respect of whom a children's community service</p>

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				<p>order is in force to perform community service work if, in performing the community service work, the person would take the place of any other person who would otherwise be employed in that community service work as a regular employee.</p> <p>(1A) Subsection (1) does not prevent a direction being given under section 17 to perform community service work, even if the person would take the place of any other person who would otherwise be employed in that community service work as a regular employee, as long as the community service work is to be performed:</p> <p>(a) at facilities (within the meaning of the Community Welfare Act 1987) operated by officers, or</p> <p>(b) for such authorities of the State, in such circumstances, as are prescribed by the regulations.</p> <p>(1B) Subsection (1) does not apply in respect of participation in a personal development, educational or other program.</p> <p>(2) In giving directions to a person under section 17, the assigned officer and a supervisor shall, so far as is reasonably practicable:</p> <p>(a) take into consideration the person's capacities and interests, having regard to the person's physical, psychological, behavioural, intellectual and cultural characteristics, and</p> <p>(b) avoid any conflict with the person's religious beliefs, if any, or the times, if any, at which the person usually works or</p>



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				<p>attends a school or other educational establishment from time to time.</p> <p><b>19 Duration of children’s community service orders</b></p> <p>A children’s community service order shall remain in force until:</p> <p>(a) the person in respect of whom the order is made has performed community service work, in accordance with any requirement made by or under this Act in respect of the order, for the number of hours specified in the order,</p> <p>(b) the expiration of the relevant maximum period, or</p> <p>(c) the order is revoked or considered satisfied under this Act or, in the case of an order made under another Act, under the Act under which it is made,</p> <p>whichever first occurs.</p>
	<p><b>Children (Detention Centres) Act 1987 No 57</b></p>	NSW	14	<p><b>Functions of the Director-General</b></p> <p>(1) The Director-General shall ensure that adequate arrangements exist:</p> <p>(a) to maintain the physical, psychological and emotional well-being of detainees,</p> <p>(b) to promote the social, cultural and educational development of detainees,</p>

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				<p>(c) to maintain discipline and good order among detainees, and</p> <p>(d) to facilitate the proper control and management of detention centres.</p> <p>(2) In exercising any function under this section in relation to a detainee who is a forensic patient within the meaning of the Mental Health Act 1990, the Director-General must consult with, and have regard to the recommendations of, the Director-General of the Department of Health.</p>
			21	<p><b>Punishments for misbehaviour</b></p> <p>(1) Subject to the regulations, the following punishments may be imposed on a detainee found guilty of misbehaviour:</p> <p>(a) caution,</p> <p>(b) restriction from participation in sport or leisure activities,</p> <p>(c) additional duties for a period not exceeding 7 days, being duties of a constructive nature designed to promote the welfare of detainees,</p> <p>(d) exclusion from, or confinement to, a place for a period not exceeding 12 hours or, in the case of a detainee of or over the age of 16 years, not exceeding 24 hours,</p> <p>(e) in the case of misbehaviour declared by the regulations to be serious misbehaviour—extension, by a period that does not exceed 7 days, of the non-parole period of any detention order, or the term of any detention order without a non-parole period,</p>

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				<p>to which the detainee is subject (other than a detention order whose term is cumulative and that has not commenced).</p> <p>(1A) A detainee may not be restricted from participation in sport or leisure activities for more than 7 days at a time except with the prior approval of the Director-General, whether given generally or in relation to a particular detainee.</p> <p>(2) Punishment of a kind referred to in subsection (1) (d) may only be imposed on a detainee subject to the following conditions:</p> <p>(a) the detainee shall be provided with some means of usefully occupying himself or herself,</p> <p>(b) if the punishment consists of confinement to a place, the physical environment of the place where the detainee is confined shall, unless otherwise appropriate, be no less favourable than the physical environment of other places occupied by detainees in the detention centre,</p> <p>(c) the detainee shall at all times be visible to, and able to communicate readily with, a juvenile justice officer.</p> <p>(3) A punishment must not be imposed on a detainee so as to interfere with a visit to the detainee by:</p> <p>(a) a barrister or solicitor (or such other classes of persons as may be prescribed), or</p> <p>(b) any other person, unless the centre manager is of the opinion that the security, safety or good order of the detention</p>

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				<p>centre would be adversely affected if the visit were permitted.</p> <p>(4) A punishment under subsection (1) (e) may only be imposed, in accordance with this Act and the regulations, by the Children’s Court.</p> <p>(5) A penalty under subsection (1) (e) that extends the non-parole period of a person subject to control reduces by a corresponding period the remaining balance of the term of the detention order.</p> <p>(6) A punishment under subsection (1) (e) may extend a detainee’s period of detention beyond the end of the period of detention imposed by the court or the maximum period of detention which could lawfully be imposed by the court for the offence concerned.</p>
			Regulation 45	<p>(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to the following:</p> <p>(a) the control, management, good government, supervision and inspection of detention centres,</p> <p>(b) the maintenance of the physical, psychological and emotional well-being of detainees,</p> <p>(c) the promotion of the social, cultural and educational development of detainees,</p>

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				<p>(d) the conduct and functions of persons employed in or about detention centres,</p> <p>(e) the constitution, functions, and procedures of the Review Panel.</p> <p>(2) A provision of a regulation may:</p> <p>(a) apply generally or be limited in its application by reference to specified exceptions or factors,</p> <p>(b) apply differently according to different factors of a specified kind, or</p> <p>(c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,</p> <p>or may do any combination of those things.</p> <p>(3) A regulation may create an offence punishable (except in the case of misbehaviour) by a penalty not exceeding 5 penalty units.</p>
	<p><b>Children (Criminal Proceedings) Act 1987 No 55</b></p>	NSW	48C	<p>(1) For the purposes of this Part, positive conduct provisions are any of the following kinds of provisions:</p> <p>(a) provisions requiring a child to engage in kinds of conduct aimed at addressing the underlying causes of the child's anti-social behaviour, including (without limitation) any of the following:</p>

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				<ul style="list-style-type: none"> <li>(i) attending or completing a course of study or training,</li> <li>(ii) meeting with health professionals or other persons with backgrounds or experience that may assist the child,</li> <li>(iii) participating in sporting or recreational activities,</li> <li>(b) such other kinds of provisions as may be prescribed by the regulations.</li> <li>(2) For the purposes of this Part, conduct restriction provisions are any of the following kinds of provisions: <ul style="list-style-type: none"> <li>(a) provisions prohibiting or restricting a child from associating with specified persons or kinds of persons,</li> <li>(b) provisions prohibiting or restricting a child from frequenting or visiting specified places or kinds of places,</li> <li>(c) provisions imposing curfews on a child,</li> <li>(d) provisions requiring a child to reside at a specified place or places,</li> <li>(e) provisions requiring a child to report to a specified person, court or other body,</li> <li>(f) provisions requiring a child to be of good behaviour,</li> <li>(g) such other kinds of provisions as may be prescribed by the regulations.</li> </ul> </li> </ul>

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	<b>Children (Protection and Parental Responsibility) Act 1997 No 146</b>	NSW	3	<i>cultural heritage</i> includes beliefs, morals, laws, customs, religion, superstitions, art, language, diet, dress and race.
			13	<p><b>Object of Division</b></p> <p>The object of this Division is to provide for the declaration of the areas (or portions of areas) in which the powers conferred by Division 2 of this Part on police officers to remove children from public places may be exercised.</p> <p><b>Note.</b> An 'area' is defined in section 3 to mean a local government area and to include a part of a local government area.</p>
			14	<p><b>Operational area</b></p> <p>(1) The council for an area may request the Attorney General to declare the area to be an operational area for the purposes of Division 2 of this Part.</p> <p>(2) The Attorney General may, by order, declare an area described in the order to be an operational area for the purposes of Division 2 of this Part in accordance with a request under subsection (1), or may declare a portion only of that area to be an operational area.</p> <p>(3) The Attorney General must not make an order declaring an area (or portion of an area) to be an operational area unless the Attorney General is satisfied that adequate crime prevention or youth support initiatives will be available in the area before the</p>

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				<p>order takes effect.</p> <p>(4) In considering a request under subsection (1) to declare an area (or a portion of an area) to be an operational area, the Attorney General is to have regard to the following:</p> <p>(a) whether the council has adequately informed and consulted with the local community concerned, including young people and the Aboriginal community, and the views expressed,</p> <p>(b) the extent and nature of crime in the area,</p> <p>(c) the nature of any crime prevention or youth support initiatives that have been undertaken in the area, including whether any local crime prevention plan or safer community compact is in force for the area, or is in the course of being prepared by the council for the area, and the contents or proposed contents of that plan or compact,</p> <p>(d) the effect of making the declaration on young people in the area, including the availability of safe and appropriate recreational amenities for young people in the area,</p> <p>(e) the practicality of applying Division 2 of this Part in the area, including (but not limited to) any advice given by the Commissioner of Police relating to the operational capacity of police to carry out functions under the Division in the area,</p> <p>(f) without limiting paragraph (e), whether appropriate arrangements have been made, or are able to be made, to cater for the needs of young people who are removed from public places in the area under Division 2 of this Part and who are not</p>



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				<p>able to be taken home, including culturally appropriate arrangements for Aboriginal and Torres Strait Islander young people,</p> <p>(g) whether the council has undertaken steps to include young people's needs in its local planning processes.</p> <p>(5) The Attorney General is to consult with the Minister for Community Services and the Minister for Police before declaring an area (or a portion of an area) to be an operational area.</p>
	<p><b>Commission for Children and Young People Act 1998 No 146</b></p>	<p>NSW</p>	<p>33</p>	<p><b>33 Definitions</b></p> <p>(1) In this Part:</p> <p><b>'approved screening agency'</b> means the Commission or an employer (or employer-related body) approved by the Minister as referred to in section 37 (4).</p> <p><b>'child protection prohibition order'</b> means a prohibition order within the meaning of the Child Protection (Offenders Prohibition Orders) Act 2004, and includes an order which has expired or been revoked.</p> <p><b>'child-related employment'</b>:</p> <p>(a) means any employment of the following kind that primarily involves direct contact with children where that contact is not directly supervised by a person having the capacity to direct the person in the course of the employment:</p>

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				<ul style="list-style-type: none"> <li>(i) employment involving the provision of child protection services,</li> <li>(ii) employment in pre-schools, kindergartens and child care centres (including residential child care centres),</li> <li>(iii) employment in schools or other educational institutions (not being universities),</li> <li>(iv) employment in detention centres (within the meaning of the Children (Detention Centres) Act 1987) and juvenile correctional centres (within the meaning of the Crimes (Administration of Sentences) Act 1999),</li> <li>(v) employment in refuges used by children,</li> <li>(vi) employment in wards of public or private hospitals in which children are patients,</li> <li>(vii) employment in clubs, associations, movements, societies, institutions or other bodies (including bodies of a cultural, recreational or sporting nature) having a significant child membership or involvement,</li> <li>(viii) employment in any religious organisation,</li> <li>(ix) employment in entertainment venues where the clientele is primarily children,</li> <li>(x) employment as a babysitter or childminder that is arranged by a commercial agency,</li> </ul>

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				(xi) employment involving fostering or other child care, (xii) employment involving regular provision of taxi services for the transport of children with a disability, (xiii) employment involving the private tuition of children, (xiv) employment involving the direct provision of child health services, (xv) employment involving the provision of counselling or other support services for children, (xvi) employment on school buses, (xvii) employment at overnight camps for children, and
	<b>Community Protection Act 1194</b>	NSW	10	<b>Detention orders may not be made against persons under 16</b>  A detention order may not be made against a person who is under the age of 16 years
	<b>Crimes Act 1900</b>	NSW	43	<b>Abandoning or exposing a child under 7 years</b>  A person who, without reasonable excuse, intentionally abandons or exposes a child under 7 years of age is guilty of an offence if it causes a danger of death or of serious injury to the child.  Maximum penalty: Imprisonment for 5 years.
		NSW	43A	<b>43A Failure of persons with parental responsibility to care</b>

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				<p><b>for child</b></p> <p>1 In this section:</p> <p>'<b>child</b>' means a child under 16 years of age.</p> <p>'<b>parental responsibility</b>' means the duties, powers, responsibilities and authority in respect of a child that, by law, parents have in relation to their children.</p> <p>2 A person:</p> <p>(a) who has parental responsibility for a child, and</p> <p>(b) who, without reasonable excuse, intentionally or recklessly fails to provide the child with the necessities of life,</p> <p>is guilty of an offence if the failure causes a danger of death or of serious injury to the child.</p> <p>Maximum penalty: Imprisonment for 5 years.</p>
	<p><b>Crimes (Domestic and Personal Violence) Act 2007</b></p>	NSW	41	<p><b>41 Measures to protect children in apprehended violence order proceedings</b></p> <p>(1) This section applies to the following proceedings or part of proceedings:</p> <p>(a) proceedings in which an apprehended violence order is sought or proposed to be made for the protection of a child,</p> <p>(b) proceedings in relation to an application for the variation or revocation of an apprehended violence order if the protected</p>

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				<p>person or one of the protected persons is a child,</p> <p>(c) any part of proceedings in which an apprehended violence order is sought or proposed to be made in which a child appears as a witness,</p> <p>(d) any part of proceedings in relation to an application for the variation or revocation of an apprehended violence order in which a child appears as a witness.</p> <p>(2) Proceedings or any part of proceedings to which this section applies are to be heard in the absence of the public unless the court hearing the proceedings otherwise directs.</p> <p>(3) Even if proceedings or a part of proceedings to which this section applies are open to the public, the court hearing the proceedings may direct any person (other than a person who is directly interested in the proceedings) to leave the place where the proceedings are being heard during the examination of any witness.</p> <p>(4) In any proceedings referred to in subsection (1) (a), (b), (c) or (d), a child should not be required to give evidence in any manner about a matter unless the court is of the opinion that it is in the interests of justice for the child to do so.</p> <p>(5) If a child is required to give evidence under this section, the evidence should be required to be given only in accordance with Divisions 3 and 4 of Part 6 of Chapter 6 of the <i>Criminal Procedure Act 1986</i>.</p> <p>(6) For the purposes of subsection (5), Division 3 of Part 6 of</p>

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				Chapter 6 of the <i>Criminal Procedure Act 1986</i> applies to proceedings in relation to an application for an apprehended violence order, or a variation or revocation of such an order, in the same way as it applies to criminal proceedings.
	<b>Education Act 1990 No 8</b>	NSW	8	<p><b>Minimum curriculum for primary education</b></p> <p>(1) The curriculum for primary school children during Kindergarten to Year 6 must meet the following requirements:</p> <p>(a) courses of study in each of the 6 key learning areas for primary education are to be provided for each child during each Year,</p> <p>(b) courses of study relating to Australia are to be included in the key learning area of Human Society and its Environment,</p> <p>(c) courses of study in both Art and Music are to be included in the key learning area of Creative and Practical Arts,</p> <p>(d) courses of study in a key learning area are to be appropriate for the children concerned having regard to their level of achievement and needs,</p> <p>(e) courses of study in a key learning area are to be provided in accordance with any relevant guidelines developed by the Board and approved by the Minister,</p> <p>(f) courses of study in a key learning area are to be based on, and taught in accordance with, a syllabus developed or endorsed by the Board and approved by the Minister.</p>

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				<p>(2) The requirements of this section constitute the minimum curriculum for schools providing primary education.</p> <p>(3) If requested to do so by the proprietor of a non-government school (or, in the case of a school that is a member of a system of non-government schools, the approved authority for the system), the Board may approve such modifications to the syllabus referred to in subsection (1) (f) as it considers necessary to enable any part of a course of study in a key learning area that appears to the Board to be incompatible with the educational philosophy or religious outlook of the school to be based on, and taught compatibly with, that educational philosophy or religious outlook. The part of the course of study at that school is to be based on and taught in accordance with the syllabus as modified.</p> <p>(4) Any modification approved under subsection (3) must be consistent with the guidelines referred to in subsection (1) (e).</p>
			9	<p><b>Key learning areas for secondary education (Years 7 to 10)</b></p> <p>For the purposes of this Act, each of the following is a key learning area for secondary education in Years 7 to 10:</p> <ul style="list-style-type: none"> <li>• English,</li> <li>• Mathematics,</li> <li>• Science,</li> <li>• Human Society and its Environment,</li> </ul>

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				<ul style="list-style-type: none"> <li>• Languages other than English,</li> <li>• Technological and Applied Studies,</li> <li>• Creative Arts,</li> <li>• Personal Development, Health and Physical Education.</li> </ul>
			20	<p><b>Assistance to government school children with special needs</b></p> <p>(1) The Minister may provide or arrange special or additional assistance for government school children with special needs, such as:</p> <ul style="list-style-type: none"> <li>(a) children with disabilities, or</li> <li>(b) children with significant learning difficulties, or</li> <li>(c) children who live in isolated or remote areas, or</li> <li>(d) children who are from non-English speaking backgrounds, or</li> <li>(e) Aboriginal children, or</li> <li>(f) children with special abilities, or</li> <li>(g) children who are disadvantaged by their socio-economic background.</li> </ul> <p>(2) Any such special or additional assistance may include the provision of financial assistance, facilities, courses of study,</p>



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				<p>staff, staff training or distance education.</p> <p>(3) Any such financial assistance is to be paid out of money to be provided by Parliament.</p> <p>(4) For the purposes of subsection (1) (a1), a child has a significant learning difficulty if a qualified teacher or other qualified education professional is of the opinion that the child is not, regardless of the cause, performing in the basic educational areas of reading, writing, spelling and mathematics in accordance with the child's peer age group and stage of learning.</p>
	<p><b>Infants Custody and Settlements Act 1899 No 39</b></p>	<p>NSW</p>	<p>5</p>	<p><b>Custody of minor</b></p> <p>(1) The Supreme Court may, upon the application of the mother of any minor, make such order as it may think fit regarding the custody of the minor and the right of access thereto of either parent, having regard to the welfare of the minor, and to the conduct of the parents, and to the wishes as well of the mother as of the father.</p> <p>The fact that a parent contemplates leaving the State shall not of itself be regarded as a reason for denying such parent the custody of the minor or depriving such parent thereof if the court is satisfied that the welfare of the minor will best be served by allowing such parent to have or retain such custody.</p> <p>(2) The power of the court under this section to make an order as to the custody of a minor and the right of access thereto may be exercised notwithstanding that the mother of the minor is</p>

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				<p>then residing with the father of the minor.</p> <p>(3) Where the court under this section makes an order giving the custody of the minor to the mother, then, whether or not the mother is then residing with the father, the court may further order that the father shall pay to the mother towards the maintenance of the minor such weekly or other periodical sum as the court, having regard to the means of the father, may think reasonable.</p> <p>(4) No such order, whether for custody or maintenance, shall be enforceable and no liability shall accrue while the mother resides with the father, and any such order shall cease to have effect if for any continuous period of three months after it is made the mother of the minor resides with the father.</p> <p>(5) (Repealed)</p> <p>(6) The powers of the court under this section to make orders regarding the custody of a minor, and the right of access thereto of either parent, may be exercised upon the application of the father of a minor in like manner as those powers may be exercised upon the application of the mother of the minor.</p> <p>(7) In any case in which a parent of a minor is dead, the court may, on the application of any relative of that parent, make such order as to access to the minor by such relative as to the court seems fit.</p> <p>(8) Any order made under this section may, on the application either of the father or the mother or any guardian of the minor,</p>

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				be varied or discharged by a subsequent order.
		NSW	17	<p><b>Custody, upbringing, and property of minor</b></p> <p>Where in any proceeding before any court (whether or not a court within the meaning of this Act) the custody or upbringing of a minor, or the administration of any property belonging to or held in trust for a minor, or the application of the income thereof, is in question, the court, in deciding that question, shall regard the welfare of the minor as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim by 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> <p>In this section '<b>upbringing</b>' includes religious instruction.</p>
		NSW	6	<p><b>Voluntary admission of children</b></p> <p>(1) An authorised medical officer must, as soon as practicable after admitting a person under the age of 16 years as a voluntary patient, take all reasonably practicable steps to notify a parent of the person of the admission.</p> <p>(2) An authorised medical officer must discharge a person of 14 or 15 years of age who has been admitted as a voluntary patient if a parent of the person objects to the admission to the officer, unless the person elects to continue as a voluntary patient.</p>

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				<p>(3) A person under the age of 14 years must not be admitted as a voluntary patient if a parent of the person objects to the admission to an authorised medical officer.</p> <p>(4) An authorised medical officer must discharge a person under the age of 14 years who has been admitted as a voluntary patient if a parent of the person requests that the person be discharged.</p>
			35	<p><b>Purpose and findings of mental health inquiries</b></p> <p>(1) The Tribunal when holding a mental health inquiry is to determine whether or not, on the balance of probabilities, the assessable person is a mentally ill person.</p> <p>(2) For that purpose, the Tribunal is to do the following:</p> <p>(a) consider the reports and recommendations of the authorised medical officer and other medical practitioners who examined the person under section 27 after the person’s detention,</p> <p>(b) consider any other information before the Tribunal,</p> <p>(c) inquire about the administration of any medication to the person and take account of its effect on the person’s ability to communicate,</p> <p>(d) have due regard to any cultural factors relating to the person that may be relevant to the determination,</p> <p>(e) have due regard to any evidence given at the inquiry by an expert witness concerning the person’s cultural background and</p>

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				its relevance to any question of mental illness.
			153	<p><b>Determination whether a person is a mentally ill person or mentally disordered person</b></p> <p>(1) A member of the Tribunal must not determine, for the purposes of this Act or the Mental Health (Forensic Provisions) Act 1990, that a person is a mentally ill person or a mentally disordered person unless the member is satisfied, on the balance of probabilities, that the person is a mentally ill person or a mentally disordered person.</p> <p>(2) In determining whether a person is a mentally ill person, a member is to give due regard to the following:</p> <p>(a) any cultural factors relating to the person that may be relevant to the determination,</p> <p>(b) any evidence given to the Tribunal by an expert witness concerning the person's cultural background and its relevance to any question of mental illness.</p>
	<b>Minors (Property and Contract) Act 1970</b>	NSW	16	<p><b>Application</b></p> <p>This Part applies in relation to a civil act in which a minor participates after the commencement of this Act.</p>
	17	Where a minor participates in a civil act, the civil act is not binding on the minor except as provided by this Act.		
	18	<b>Age of understanding</b>		

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				This Part does not make presumptively binding on a minor a civil act in which the minor participates, or appears to participate, while lacking, by reason of youth, the understanding necessary for his or her participation in the civil act.
			19	<p><b>Beneficial civil act</b></p> <p>Where a minor participates in a civil act and his or her participation is for his or her benefit at the time of his or her participation, the civil act is presumptively binding on the minor.</p>
			26	<p><b>Capacity by order of Supreme Court</b></p> <p>(1) The Supreme Court, on application by a minor, may, by order:</p> <p>(a) grant to the minor capacity to participate in any civil act or in any description of civil acts or in all civil acts, and</p> <p>(b) rescind or vary an order under paragraph (a).</p> <p>(2) The Court may make an order under subsection (1) on such terms and conditions as the Court thinks fit.</p> <p>(3) The Court shall not make an order under this section unless it appears to the Court that the order is for the benefit of the minor.</p> <p>(4) A civil act in which a minor participates is, if authorised by a grant of capacity under this section, presumptively binding on</p>

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				<p>the minor.</p> <p>(5) An order of rescission or variation under paragraph (b) of subsection (1) does not affect the validity of a civil act in which the minor has participated before the making of the order of rescission or variation.</p>
			27	<p><b>Approval of contract or disposition</b></p> <p>(1) A contract made by a minor or a disposition of property made by or to a minor pursuant to an approval under this section is presumptively binding on the minor.</p> <p>(2) The Local Court may, on application by a minor, by order approve a contract proposed to be made by a minor or a disposition of property proposed to be made by or to a minor.</p> <p>(3) (Repealed)</p> <p>(4) The Local Court may make an order under this section on such terms and conditions as the Court thinks fit.</p> <p>(5) The Local Court shall not make an order under this section unless it appears to the Court that:</p> <p>(a) the minor would not undertake obligations under the proposed contract or dispose of property under the proposed disposition of property to the value of \$10,000 or upwards, and</p> <p>(b) the order is for the benefit of the minor.</p> <p>(6) A refusal to make an order under this section or the making</p>

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				<p>of an order subject to any terms or conditions does not prevent the minor making a further application, whether on evidence of the same or other facts, to the Supreme Court under section 26.</p> <p>(7) Parts 2, 3 and 5 of the <i>Crimes (Local Courts Appeal and Review) Act 2001</i> (as applied by section 70 of the <i>Local Court Act 2007</i>) do not apply to an order under this section.</p>
	<b>Status of Children Act 1996 No 76</b>	NSW	5	<p><b>All children are of equal status</b></p> <p>(1) For the purposes of any law of the State by or under which the relationship between any person and the person's father and mother (or either of them) arises, that relationship and any other relationship (whether of consanguinity or affinity) between the person and another person is to be determined regardless of whether the person's parents are or have been married to each other.</p> <p>(2) This section is subject to sections 6 and 7.</p>
	<b>Surrogacy Act 2010 No 102</b>	NSW	22	<p><b>Best interests of child are paramount</b></p> <p>(1) The Court must be satisfied that the making of the parentage order is in the best interests of the child.</p> <p>(2) This precondition is a mandatory precondition to the making of a parentage order.</p>
			26	<p><b>Age and wishes of child must be considered</b></p> <p>(1) The child must be under 18 years of age at the time the</p>



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				<p>application is made.</p> <p>(2) The Court must have regard to the wishes of the child, if the child is of sufficient maturity to express his or her wishes and the Court considers it appropriate to take those wishes into account.</p> <p>(3) These preconditions are mandatory preconditions to the making of a parentage order.</p> <p><i>Note. The above preconditions will generally be of relevance only to pre-commencement surrogacy arrangements, which may have been entered into some years before the commencement of this Act.</i></p>
	<p><b>Young Offenders Act 1997 No 54</b></p>	<p>NSW</p>	<p>26</p>	<p><b>Explanations to children</b></p> <p>(1) Before an investigating official proceeds to arrange for a caution to be given under this Part, the investigating official must explain the following matters to the child concerned:</p> <p>(a) the nature of the offence and the circumstances out of which it is alleged to arise,</p> <p>(b) that the child is entitled to obtain legal advice and where that advice may be obtained,</p> <p>(c) that the child is entitled to elect that the matter be dealt with by a court,</p> <p>(d) the purpose, nature and effect of the caution.</p>

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				<p>(2) An investigating official must, if practicable, ensure that an explanation takes place in the presence of:</p> <p>(a) a person responsible for the child, or</p> <p>(b) an adult (other than an investigating official) who is present with the consent of a person responsible for the child, or</p> <p>(c) if the child is 14 years or over, an adult chosen by the child, or</p> <p>(d) an Australian legal practitioner chosen by the child.</p>
	<p><b>Young Offenders Regulation 2010</b></p>	NSW	8	<p><b>Outcome plans in respect of bush fire or arson offences</b></p> <p>(1) This clause applies to a child who admits to an offence covered by the Act that consists of:</p> <p>(a) the lighting of a bush fire, or</p> <p>(b) the destruction or damage of property by means of fire.</p> <p>(2) For the purposes of section 52 (6) (e) of the Act, an outcome plan for a child to whom this clause applies must provide for:</p> <p>(a) attendance by the child at a program, or at the screening of a film or video, designed to provide education as to the harmful effects of fire, and</p> <p>(b) the making of reparation for the offence, such as:</p> <p>(i) assistance in clean-up operations and in treatment of injured</p>

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				<p>animals or, if such work is not available, community service work comparable to the performance of such work, and</p> <p>(ii) the payment of compensation (not exceeding the amount that a court may impose on conviction for the offence).</p> <p>(3) This clause does not limit any other matter for which an outcome plan may provide.</p> <p>(4) This clause does not affect the requirements of the Act relating to the agreement of the child and victims of the offence to the outcome plan.</p>
			9	<p><b>Outcome plans in respect of graffiti offences</b></p> <p>(1) This clause applies to a child who admits to an offence covered by the Act that consists of:</p> <p>(a) an offence against section 5 or 6 of the <i>Graffiti Control Act 2008</i> or another crime involving graffiti, or</p> <p>(b) damage to property by means of any graffiti implement (within the meaning of the <i>Graffiti Control Act 2008</i>).</p> <p>(2) For the purposes of section 52 (6) (e) of the Act, an outcome plan for a child to whom this clause applies must provide for at least one of the following:</p> <p>(a) the making of reparation for the offence, such as:</p> <p>(i) the performance of graffiti removal work or, if such work is not available, community service work comparable to the</p>

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				<p>performance of such work, and</p> <p>(ii) the payment of compensation (not exceeding the amount that a court may impose on conviction for the offence),</p> <p>(b) participation in a personal development, educational or other program,</p> <p>(c) the fulfilment of any other obligation by the child:</p> <p>(i) that is suggested by any victim of the offence who personally attends the conference, and</p> <p>(ii) that is consistent with the objects of the Act.</p> <p>(3) This clause does not limit any other matter for which an outcome plan may provide.</p> <p>(4) This clause does not affect the requirements of the Act relating to the agreement of the child and victims of the offence to the outcome plan.</p>
	<p><b>Youth Advisory Council 1989 No 39</b></p>	<p>NSW</p>	<p>11</p>	<p><b>Functions of Council</b></p> <p>(1) The Council has the following functions:</p> <p>(a) to advise the Minister on the planning, development, integration and implementation of Government policies and programs concerning young persons,</p> <p>(b) to consult with young persons, community groups and Government authorities on issues and policies concerning</p>

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				<p>young persons,</p> <p>(c) to monitor and evaluate legislation and Government policies and programs concerning young persons and to recommend changes if required,</p> <p>(d) to conduct forums, approved by the Minister, on issues of interest to young persons,</p> <p>(e) to collect, analyse and provide the Minister with information on issues and policies concerning young persons.</p> <p>(2) Any advice given to the Minister by the Council may be given either at the request of the Minister or without any such request.</p> <p>(3) The Council has such other functions as are conferred or imposed on it by or under this or any other Act.</p>

### 3. Victoria

#### 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 31:</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Adoption Act 1984</b></p>	<p>VIC</p>	<p>9</p>	<p><b>9 Welfare and interests of child to be paramount</b></p> <p>In the administration of this Act, the welfare and interests of the child concerned shall be regarded as the paramount consideration.</p>
			<p>14</p>	<p><b>Wishes of child</b></p> <p>(1) Subject to this Division, an order for the adoption of a child shall not be made unless the Court is satisfied that:</p> <p>(a) at least 28 days before the day on which the adoption order is to be made the child received counselling from an approved counsellor as to the effects of the adoption; and</p> <p>(b) as far as practicable, the wishes of the child have been ascertained and due consideration is given to them, having regard to the age and understanding of the child.</p> <p>(2) Subsection (1)(a) does not apply if the Court is satisfied that counselling is inappropriate having regard to the age and understanding of the child.</p> <p>(3) A person who has given counselling to a child under subsection (1)(a) must provide a written report to the Court.</p>
			<p>50</p>	<p><b>Adoption of Aboriginal Child</b></p>

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				This section which reflects the principle of Aboriginal self-management and self-determination and that adoption is absent in customary Aboriginal child care arrangements and may be of some relevance.
	<b>Charter of Human Rights and Responsibilities Act 2006</b>	VIC	15	<p><b>Freedom of expression</b></p> <p>(1) Every person has the right to hold an opinion without interference.</p> <p>(2) Every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Victoria and whether:</p> <p>(a) orally; or</p> <p>(b) in writing; or</p> <p>(c) in print; or</p> <p>(d) by way of art; or</p> <p>(e) in another medium chosen by him or her.</p> <p>(3) Special duties and responsibilities are attached to the right of freedom of expression and the right may be subject to lawful restrictions reasonably necessary:</p> <p>(a) to respect the rights and reputation of other persons; or</p> <p>(b) for the protection of national security, public order,</p>

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				public health or public morality.
			17	<p><b>Protection of families and children</b></p> <p>(1) Families are the fundamental group unit of society and are entitled to be protected by society and the State.</p> <p>(2) Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.</p>
			19	<p><b>Cultural Rights</b></p> <p>(1) All persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture, to declare and practise his or her religion and to use his or her language.</p> <p>(2) Aboriginal persons hold distinct cultural rights and must not be denied the right, with other members of their community:</p> <p>(a) to enjoy their identity and culture; and</p> <p>(b) to maintain and use their language; and</p> <p>(c) to maintain their kinship ties; and</p> <p>(d) to maintain their distinctive spiritual, material and economic relationship with the land and waters and other</p>



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				resources with
			44	<p><b>R Review of Charter after 4 years of operation</b></p> <p>Section 44(2) refers to a review under subsection 44(1) including consideration as to whether additional human rights should be included, but not limited to, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.</p>
	<b>Child Employment Act 2003</b>	VIC	10	<p>10 Minimum age for employment</p> <p>(1) Subject to subsection (2), the minimum age for the employment of a child is:</p> <p>(a) 11 years of age for any of the following employment:</p> <p>(i) delivering newspapers;</p> <p>(ii) delivering pamphlets or other advertising material;</p> <p>(iii) making deliveries for a registered pharmacist; and</p> <p>(b) 13 years of age for any other employment.</p> <p>(2) There is no minimum age for the employment of a child in a family business or in entertainment.</p> <p>(3) A person must not employ a child who is below the minimum age for employment.</p> <p>Penalty: 100 penalty units in the case of a body corporate; 60</p>

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				penalty units in any other case.
			12	<p><b>Prohibited employment</b></p> <p>(1) A person must not employ a child in any of the following kinds of employment:</p> <p>(a) door-to-door selling;</p> <p>(b) employment on a fishing boat, other than a boat operating on inland waters;</p> <p>(c) employment on a building or construction site (whether commercial or residential) at any time before the buildings on the site are at lock-up stage;</p> <p>(d) any kind of employment declared under subsection (2) to be prohibited employment for the purposes of this subsection.</p> <p>Penalty: 100 penalty units in the case of a body corporate; 60 penalty units in any other case.</p> <p>(2) The Governor in Council, by order published in the Government Gazette, may declare a kind of employment to be prohibited employment for the purposes of subsection (1).</p> <p>(3) The Governor in Council, by order published in the Government Gazette, may from time to time amend or revoke a declaration made under subsection (2).</p>
			20	<b>Condition 1—light work</b>

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				A child may only be employed to perform light work.
			21	<p><b>Condition 2—hours of work</b></p> <p>(1) A child may be employed:</p> <p>(a) for a maximum of 3 hours per day and 12 hours per week at any time during school term; and</p> <p>(b) for a maximum of 6 hours per day and 30 hours per week at any time outside school term.</p> <p><i>Note: A child must not be employed during school hours—see section 11.</i></p> <p>(2) The hours in subsection (1)(b) are inclusive of rest breaks.</p> <p>(3) A child must not be employed to perform work on any day:</p> <p>(a) earlier than 6 a.m. or sunrise (whichever is later) or later than 6 p.m. or sunset (whichever is earlier) if the child is employed in street trading;</p> <p>(b) earlier than 6 a.m. or later than 9 p.m. in any other case.</p>
			22	<p><b>22 Condition 3—rest breaks</b></p> <p>(1) A child who is employed must be given a rest break of at least 30 minutes after every 3 hours of work.</p>

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				<p>(2) The rest break may be paid or unpaid.</p> <p>(3) A child who is employed must be given a break of at least 12 hours between finishing one shift of work and commencing the next.</p>
			27	<p><b>When may a child be employed in entertainment?</b></p> <p>A child may be employed in entertainment in accordance with a permit and with the prior written consent of the parent or guardian of the child.</p>
	<b>Child Employment Regulations 2004</b>		Reg 6	<p><b>Records</b></p> <p>(1) An employer must keep records in accordance with this regulation in relation to each child employed by the employer under a permit.</p> <p>Penalty: 10 penalty units.</p> <p>(2) The records must include:</p> <p>(a) the times the child started work and finished work each day of work; and</p> <p>(b) the hours the child worked each day and each week; and</p> <p>(c) the date the child started employment and the date that he or she finished employment; and</p> <p>(d) each date the child worked.</p> <p>(3) The records in relation to a child must be kept for at least</p>

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				<p>12 months after the date on which the last entry was made in those records in relation to the child.</p> <p>(4) An employer must not alter a record, or allow a record to be altered, except to correct an error.</p> <p>(5) An employer must:</p> <p>(a) correct any error in a record as soon as the employer becomes aware of that error; and</p> <p>(b) record the nature of the error with the correction.</p> <p>(6) A record kept under this regulation must:</p> <p>(a) be in a legible form in the English language; or</p> <p>(b) be in a form that is readily accessible and is convertible into a legible form in the English language.</p>
	<b>Child Wellbeing and Safety Act 2005</b>	VIC	5	<p><b>Principles for children</b></p> <p>(1) 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;</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;</p>

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				<p>(c) those who develop and provide services, as well as parents, should give the highest priority to the promotion and protection of a child's safety, health, development, education and wellbeing;</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;</p> <p>(e) every child should be able to enrol in a kindergarten program at an early childhood education and care centre.</p> <p>(2) 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;</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;</p>

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				<p>(c) to give the highest priority to making appropriate and sufficient levels of assistance available to children and families in communities or population groups that are known to have the greatest need;</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> <p>(3) 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;</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;</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;</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; (e) co-operate with other services or professionals to work in the interests of the child and family.</p>

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			6	<p><b>The Role of the Minister</b></p> <p>The Minister must promote the co-ordination of government programs that affect child wellbeing and safety. The Minister must establish any advisory committee that the Minister considers appropriate to assist the Minister in the administration of this Act.</p>
			7	<p><b>Role of the Secretary in relation to Aboriginal Communities</b></p> <p>The Secretary must work with Aboriginal communities to establish a Victorian Aboriginal Child Wellbeing Charter.</p>
	<p><b>Children, Youth and Families Act 2005</b></p>	VIC	10	<p><b>Best interests principles</b></p> <p>(1) 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 (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;</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;</p> <p>(c) the need, in relation to an Aboriginal child, to protect and promote his or her Aboriginal cultural and spiritual identity and development by, wherever possible, maintaining and building their connections to their Aboriginal family and community;</p> <p>(d) the child's views and wishes, if they can be reasonably ascertained, and they should be given such weight as is appropriate in the circumstances;</p> <p>(e) the effects of cumulative patterns of harm on a child's safety and development;</p> <p>(f) the desirability of continuity and stability in the child's care;</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;</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</p>

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				<p>placement option is considered;</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;</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;</p> <p>(k) access arrangements between the child and the child's parents, siblings, family members and other persons significant to the child;</p> <p>(l) the child's social, individual and cultural identity and religious faith (if any) and the child's age, maturity, sex and sexual identity;</p> <p>(m) where a child with a particular cultural identity is placed in out of home care with a care giver who is not a member of that cultural community, the desirability of the child retaining a connection with their culture;</p> <p>(n) the desirability of the child being supported to gain access to appropriate educational services, health services and accommodation and to participate in appropriate social opportunities;</p> <p>(o) the desirability of allowing the education, training or employment of the child to continue without interruption or</p>

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				<p>disturbance;</p> <p>(p) the possible harmful effect of delay in making the decision or taking the action;</p> <p>(q) the desirability of siblings being placed together when they are placed in out of home care;</p> <p>(r) any other relevant consideration.</p>
			13	<p><b>Aboriginal Child Placement Principle</b></p> <p>(1) For the purposes of this Act the Aboriginal Child Placement Principle is that if it is in the best interests of an Aboriginal child to be placed in out of home care, in making that placement, regard must be had:</p> <p>(a) to the advice of the relevant Aboriginal agency; and</p> <p>(b) to the criteria in subsection (2); and</p> <p>(c) to the principles in section 14.</p> <p>(2) The criteria are:</p> <p>(a) as a priority, wherever possible, the child must be placed within the Aboriginal extended family or relatives and where this is not possible other extended family or relatives;</p> <p>(b) if, after consultation with the relevant Aboriginal agency, placement with extended family or relatives is not feasible or possible, the child may be placed with:</p>

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				<p>(i) an Aboriginal family from the local community and within close geographical proximity to the child's natural family;</p> <p>(ii) an Aboriginal family from another Aboriginal community;</p> <p>(iii) as a last resort, a non-Aboriginal family living in close proximity to the child's natural family;</p> <p>(c) any non-Aboriginal placement must ensure the maintenance of the child's culture and identity through contact with the child's community.</p> <p>(3) The requirements under subsection (1)(a) to have regard to the advice of the relevant Aboriginal agency and under subsection (2)(b) to consult with the relevant Aboriginal agency do not apply to the making of a decision or the taking of an action under Part 3.5.</p>
			14	<p><b>Further principles for placement of Aboriginal child</b></p> <p><i>Self-identification and expressed wishes of child</i></p> <p>(1) In determining where a child is to be placed, account is to be taken of whether the child identifies as Aboriginal and the expressed wishes of the child.</p> <p><i>Child with parents from different Aboriginal communities</i></p> <p>(2) If a child has parents from different Aboriginal communities, the order of placement set out in sections</p>

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				<p>13(2)(b)(i) and 13(2)(b)(ii) applies but consideration should also be given to the child's own sense of belonging.</p> <p>(3) If a child with parents from different Aboriginal communities is placed with one parent's family or community, arrangements must be made to ensure that the child has the opportunity for continuing contact with his or her other parent's family, community and culture.</p> <p><i>Child with one Aboriginal parent and one non-Aboriginal parent</i></p> <p>(4) If a child has one Aboriginal parent and one non-Aboriginal parent, the child must be placed with the parent with whom it is in the best interests of the child to be placed.</p> <p><i>Placement of child in care of a non-Aboriginal person</i></p> <p>(5) If an Aboriginal child is placed with a person who is not within an Aboriginal family or community, arrangements must be made to ensure that the child has the opportunity for continuing contact with his or her Aboriginal family, community and culture.</p>
			176	<p><b>Cultural plan for Aboriginal child</b></p> <p>(1) The Secretary must prepare a cultural plan for each Aboriginal child placed in out of home care under a guardianship to Secretary order or long-term guardianship to Secretary order.</p> <p>(2) A cultural plan must set out how the Aboriginal child</p>

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				<p>placed in out of home care is to remain connected to his or her Aboriginal community and to his or her Aboriginal culture.</p> <p>(3) For the purposes of subsection (2), a child's Aboriginal community is:</p> <p>(a) the Aboriginal community to which the child has a sense of belonging, if this can be ascertained by the Secretary; or</p> <p>(b) if paragraph (a) does not apply, the Aboriginal community in which the child has primarily lived; or</p> <p>(c) if paragraphs (a) and (b) do not apply, the Aboriginal community of the child's parent or grandparent.</p> <p>(4) The Secretary must monitor compliance by the carer of a child with the cultural plan prepared for a child.</p>
			573	<p><b>Contents of pre-sentence report</b></p> <p>(1) A pre-sentence report may set out all or any of the following matters but no others:</p> <p>(a) the sources of information on which the report is based;</p> <p>(b) the circumstances of the offence of which the child has been found guilty;</p> <p>(c) any previous sentences in respect of the child involving the Secretary;</p>

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				(d) the family circumstances of the child; (e) the education of the child; (f) the employment history of the child; (g) the recreation and leisure activities of the child; (h) medical and health matters relating to the child.
	<b>Disability Act 2006</b>	VIC	5	<b>Principles</b> (1) Persons with a disability have the same rights and responsibilities as other members of the community and should be empowered to exercise those rights and responsibilities. (2) Persons with a disability have the same right as other members of the community to: (a) respect for their human worth and dignity as individuals; (b) live free from abuse, neglect or exploitation; (c) realise their individual capacity for physical, social, emotional and intellectual development; (d) exercise control over their own lives; (e) participate actively in the decisions that affect their lives and have information and be supported where necessary, to enable this to occur;

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				<p>(f) access information and communicate in a manner appropriate to their communication and cultural needs;</p> <p>(g) services which support their quality of life.</p> <p>(3) Disability services should:</p> <p>(a) advance the inclusion and participation in the community of persons with a disability with the aim of achieving their individual aspirations;</p> <p>(b) be flexible and responsive to the individual needs of persons with a disability;</p> <p>(c) maximise the choice and independence of persons with a disability;</p> <p>(d) be designed and provided in a manner that recognises different models of practice may be required to assist people with different types of disability and at different stages in their lives to realise their physical, social, emotional and intellectual capacities;</p> <p>(e) enable persons with a disability to access services as part of their local community and foster collaboration, coordination and integration with other local services;</p> <p>(f) as far as possible be provided in a manner so that a person with a disability need not move out of his or her local community to access the disability services required;</p> <p>(g) be of high quality and provided by appropriately skilled</p>



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				<p>and experienced staff who have opportunities for on-going learning and development;</p> <p>(h) consider and respect the role of families, carers and other persons who are significant in the life of the person with a disability;</p> <p>(i) acknowledge the important role families and carers have in supporting persons with a disability;</p> <p>(j) acknowledge the important role families have in assisting their family member to realise their individual physical, social, emotional and intellectual capacities;</p> <p>(ja) acknowledge the important role carers have in assisting the people they care for to realise their individual physical, social, emotional and intellectual capacities;</p> <p>(k) where possible strengthen and build capacity of families and carers who are supporting persons with a disability;</p> <p>(l) have regard for the needs of children with a disability and preserve and promote relationships between the child, their family and other persons (including carers) who are significant in the life of the child with a disability;</p> <p>(m) be provided in a manner that respects the privacy and dignity of persons accessing the disability services;</p> <p>(n) be provided in a way which reasonably balances safety with the right of persons with a disability to choose to</p>

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				<p>participate in activities involving a degree of risk;</p> <p>(o) have regard for any potential increased disadvantage which may be experienced by persons with a disability as a result of their gender, language, cultural or indigenous background or location;</p> <p>(p) be designed and administered in a manner so as to ensure that persons with a disability have access to advocacy support where necessary to enable adequate decision making about the services they receive;</p> <p>(q) be designed and provided in a manner which continues to reflect the role of the Secretary in providing and funding planning for persons with a disability;</p> <p>(r) be accountable for the quality of those services and for the extent to which the rights of persons with a disability are promoted and protected in the provision of those services.</p> <p>(4) If a restriction on the rights or opportunities of a person with a disability is necessary, the option chosen should be the option which is the least restrictive of the person as is possible in the circumstances.</p> <p>(5) It is the intention of Parliament that the principles specified in this section should wherever possible be given effect to in the administration of this Act and the provision of disability services.</p>
			11	<b>Victorian Disability Advisory Council</b>

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				<p>(1) There is established a body to be known as the Victorian Disability Advisory Council.</p> <p>(2) The Victorian Disability Advisory Council is to consist of not less than 8 members and not more than 14 members as may be appointed by the Minister.</p> <p>(3) The Minister must ensure that members of the Victorian Disability Advisory Council are appointed from persons who:</p> <p>(a) reflect the diversity of persons with a disability; and</p> <p>(b) reflect the cultural and indigenous backgrounds of persons with a disability; and</p> <p>(c) have appropriate skills, knowledge and experience in matters relevant to persons with a disability, including children with a disability; and</p> <p>(d) in so far as is possible have personal experience of disability.</p> <p>(4) The Minister must ensure that a majority of the members of the Victorian Disability Advisory Council are persons with a disability.</p> <p>(5) The Minister must appoint one of the members to be the chairperson of the Victorian Disability Advisory Council.</p>
	<b>Education and Care Services National</b>	VIC	3	<p><b>Objectives and guiding principles</b></p> <p>(1) The objective of this Law is to establish a national</p>

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	<b>Law Act 2010</b>			<p>education and care services quality framework for the delivery of education and care services to children.</p> <p>(2) The objectives of the national education and care services quality framework are:</p> <p>(a) to ensure the safety, health and wellbeing of children attending education and care services;</p> <p>(b) to improve the educational and developmental outcomes for children attending education and care services;</p> <p>(c) to promote continuous improvement in the provision of quality education and care services;</p> <p>(d) to establish a system of national integration and shared responsibility between participating jurisdictions and the Commonwealth in the administration of the national education and care services quality framework;</p> <p>(e) to improve public knowledge, and access to information, about the quality of education and care services;</p> <p>(f) to reduce the regulatory and administrative burden for education and care services by enabling information to be shared between participating jurisdictions and the Commonwealth.</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</p>

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				<p>paramount;</p> <p>(b) that children are successful, competent and capable learners;</p> <p>(c) that the principles of equity, inclusion and diversity underlie this Law;</p> <p>(d) that Australia's Aboriginal and Torres Strait Islander cultures are valued;</p> <p>(e) that the role of parents and families is respected and supported;</p> <p>(f) that best practice is expected in the provision of education and care services.</p>
	<p><b>Education and Training Reform Act 2006</b></p>	<p>VIC</p>	<p>2.1.3</p>	<p><b>What is a reasonable excuse?</b></p> <p>Without limiting section 2.1.2, it is a reasonable excuse for the purposes of that section, in relation to a child if:</p> <p>(a) the child has been prevented from attending school or receiving instruction because of:</p> <p>(i) illness, accident, an unforeseen event or an unavoidable cause; or</p> <p>(ii) a requirement to comply with another law; or</p> <p>(iii) the child's absence from Victoria;</p> <p>(b) there is no Government school within a prescribed</p>

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				<p>distance of the child's residence and the child is receiving a distance education program through a registered school;</p> <p>(c) the child is participating in education or training, or employment, or both, in accordance with an Order made by the Minister for the purposes of this paragraph;</p> <p>(d) the child has been suspended or expelled from a registered school and is undertaking other educational programs provided by the Department or another registered school;</p> <p>(e) the absence from school or instruction was because of the child's disobedience and was not due to any fault of the parent;</p> <p>(f) the child is attending or observing a religious event or obligation as a result of a genuinely held belief of the child or a parent of the child;</p> <p>(g) the child is exempted from attendance at school by the Minister under section 2.1.5.</p>
			2.3.11	<p><b>Use of school buildings and grounds for activities</b></p> <p>(1) A school council may:</p> <p>(a) conduct programs in or use; or</p> <p>(b) subject to any conditions imposed by the council, join with any other person or body to conduct programs in or use;</p>

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				<p>or</p> <p>(c) subject to any conditions imposed by the council, allow any other person or body to conduct programs in or use:</p> <p>any buildings or grounds of any school in relation to which the council is constituted for the purposes of educational, recreational, sporting or cultural activities for students, the local community or young persons.</p>
	<p><b>Family Violence Protection Act 2008</b></p>	<p>VIC</p>	<p>83</p>	<p><b>Exclusion of child respondent from residence</b></p> <p>(1) This section applies if the court decides to make a family violence intervention order against a respondent who is a child.</p> <p>(2) In addition to the matters to which the court must have regard under section 82 in deciding whether to include an exclusion condition in the family violence intervention order, the court must consider the following:</p> <p>(a) the desirability of the child being supported to gain access to appropriate educational services and health services;</p> <p>(b) the desirability of allowing the education, training or employment of the child to continue without interruption.</p> <p>(3) Despite section 80, the court may include an exclusion condition in the order only if it is satisfied that if the child is excluded from the residence the child will have appropriate alternative accommodation and appropriate care and supervision.</p> <p>(4) If the child is an Aboriginal or Torres Strait Islander child, for the purposes of deciding under subsection (3) whether the child will have appropriate alternative accommodation and appropriate care and supervision, the court must have regard</p>

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				<p>to the following:</p> <p>(a) as a priority, an Aboriginal or Torres Strait Islander child should live within the child's Aboriginal or Torres Strait Islander extended family or relatives or, if that is not possible, other extended family or relatives;</p> <p>(b) the need for the child to keep the child's culture and identity through contact with the child's community.</p> <p>(5) If the court includes an exclusion condition in the family violence intervention order, the court must notify the Secretary to the Department of Human Services that the order has been made.</p>
	<b>Mental Health Act 1986</b>	VIC	4	Provides that the Sentencing Act applies to all courts except the Children's Court so to this extent many of the provisions will not be applicable in the context of this study.
			5	<p><b>Objectives of the Department</b></p> <p>The objectives of the Department under this Act are as follows:</p> <p>(a) to establish, develop, promote, assist and encourage mental health services which:</p> <p>(i) provide standards and conditions of care and treatment for people with a mental disorder which are in all possible respects at least equal to those provided for people suffering from other forms of illness; and</p> <p>(ii) take into account the age-related, gender-related, religious, cultural, language and other special needs of people with a mental disorder; and</p>



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				<p>(ii) minimize the adverse effects of mental disorders on the individual and his or her family and community; and</p> <p>(iv) are comprehensive and accessible; and</p> <p>(v) are designed to promote the mental health of, and reduce the incidence of mental disorder in, the community; and</p> <p>(vi) provide for intervention at an early stage of mental disorder; and</p> <p>(vii) support people with a mental disorder in the community and co-ordinate with other community services; and</p> <p>(viii) provide information on, and access to, complaint mechanisms about standards of treatment and care; and</p> <p>(ix) encourage patients and other people with a mental disorder to participate as far as possible in the development and operation of those services;</p> <p>(b) to ensure that patients and other people with a mental disorder are informed of their legal rights and other entitlements under this Act and that the relevant provisions of this Act are explained to patients and other people with a mental disorder in the language, mode of communication or terms which they are most likely to understand;</p> <p>(c) to ensure that appropriate facilities and services are available for the care and treatment of security patients and forensic patients.</p>

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			6	<p><b>Functions of the Secretary</b></p> <p>The functions of the Secretary under this Act are as follows:</p> <p>(a) to facilitate the provision of care, protection, treatment and rehabilitation of people (including children) with a mental disorder;</p>
	<b>Sentencing Act 1991</b>	VIC	48D	<p><b>Treatment and rehabilitation condition</b></p> <p>(1) A court which is making a community correction order may attach a condition to the order that requires the offender to undergo treatment and rehabilitation specified by the court and directed by the Secretary unless otherwise directed by the court.</p> <p>...</p> <p>(3) The treatment and rehabilitation that must be specified by the court in a treatment and rehabilitation condition must be any one or more of the following:</p> <p>...</p> <p>(g) any other treatment and rehabilitation that the court considers necessary and that is specified in the order that may include employment, educational, cultural and personal development programs that are consistent with the purpose of the treatment and rehabilitation condition.</p>
	<b>Sex Offenders Registration Act</b>	VIC	67	<b>Definitions</b>

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	2004			<p>(1) In this Part:</p> <p><b>'child-related employment means'</b> employment involving contact with a child in connection with:</p> <p>(a) child protection services;</p> <p>(b) child care services mentioned in section 194(1) of the <i>New Tax System (Family Assistance) (Administration) Act 1999</i> of the Commonwealth;</p> <p>(c) children's services within the meaning of the <i>Children's Services Act 1996</i>;</p> <p>(ca) education and care services within the meaning of the <i>Education and Care Services National Law (Victoria)</i>;</p> <p>(d) educational institutions;</p> <p>(e) community services, remand centres, youth residential centres, youth supervision units or youth justice centres, within the meaning of the <i>Children, Youth and Families Act 2005</i> or probation services under that Act;</p> <p>(f) refuges or other residential facilities used by children;</p> <p>(g) paediatric wards of public hospitals within the meaning of the <i>Health Services Act 1988</i> or of private hospitals within the meaning of that Act;</p> <p>(h) clubs, associations or movements (including of a cultural, recreational or sporting nature) that provide services or</p>

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				<p>conduct activities for, or directed at, children or whose membership is mainly comprised of children;</p> <p>(i) religious organisations;</p> <p>(j) baby sitting or child minding services arranged by a commercial agency;</p> <p>(k) fostering children;</p> <p>(l) providing, on a publicly-funded or commercial basis, a transport service specifically for children;</p> <p>(m) coaching or private tuition services of any kind for children;</p> <p>(n) counselling or other support services for children;</p> <p>(o) overnight camps for children regardless of the type of accommodation or of how many children are involved;</p> <p>(p) school crossing services, being services provided by people employed to assist children to cross roads on their way to or from school;</p> <p>(q) providing, on a commercial basis and not merely incidentally to or in support of other business activities, an entertainment or party service specifically for children;</p> <p>(r) providing, on a commercial basis and not merely incidentally to or in support of other business activities, gym</p>

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				<p>or play facilities specifically for children;</p> <p>(s) providing, on a commercial basis and not merely incidentally to or in support of other business activities, photography services specifically for children;</p> <p>(t) talent or beauty competitions held for children on a commercial basis and not merely incidentally to or in support of other business activities;</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 31</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Adoption Act 2009</b></p>	<p>QLD</p>	<p>6</p>	<p>(1) This Act is to be administered under the principle that the wellbeing and best interests of an adopted child, both through childhood and the rest of his or her life, are paramount.</p> <p>(2) 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;</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;</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;</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</p>

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				<p>regard to the child’s age and ability to understand;</p> <p>(e) the process for a child’s adoption should include considering the views of:</p> <p>(i) the child’s parents; and</p> <p>(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;</p> <p>(f) an adopted child of a particular ethnic or other cultural background should have:</p> <p>(i) access to information about the child’s ethnic or cultural heritage; and</p> <p>(ii) opportunities to develop and maintain a connection with the child’s ethnicity or culture; and</p> <p>(iii) opportunities to maintain contact with the child’s community or language group;</p> <p>(g) a child’s adoptive parents have the primary responsibility for the child’s upbringing, protection and development;</p> <p>(h) an adopted child 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</p>

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				<p>adoption; and</p> <p>(ii) promotes the development of the child’s emotional, mental, physical and social wellbeing;</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;</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>
			132	<p>(1) This section applies if the chief executive is making a decision about the person’s suitability to be an adoptive parent of a child who is, or children who include, a child of a particular ethnic or other cultural background.</p> <p>(2) The chief executive must have regard to the person’s ability and willingness to:</p>



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				<p>(a) understand the child’s background; and</p> <p>(b) help the child to maintain contact with the child’s community or language group; and</p> <p>(c) help the child to develop and maintain a connection with the child’s ethnicity or culture; and</p> <p>(d) preserve and enhance the child’s sense of ethnic or cultural identity.</p> <p>(3) If the person has a current expression of interest that relates to an intercountry adoption from a particular country, the chief executive must have regard to:</p> <p>(a) the person’s attitudes to, and understanding of, the country and its culture; and</p> <p>(b) the person’s ability and willingness, if the person adopted a child from the country, to:</p> <p>(i) continue to learn about the country and its culture; and</p> <p>(ii) help the child learn about the country and its culture.</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>

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				<p>(a) the degree of openness there will be in the adoption, including:</p> <p>(i) when a party will communicate with another party; and</p> <p>(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</p> <p>(iii) the matters about which information will be exchanged;</p> <p><i>Examples of matters about which information may be exchanged:</i></p> <ul style="list-style-type: none"> <li>• the child’s development</li> <li>• important events in the child’s life</li> <li>• a medical condition of the child</li> <li>• the medical history of the child’s biological family</li> </ul> <p>(b) the adoptive parents’ commitment to telling the child about the adoption and helping the child understand the circumstances of the adoption;</p> <p>(c) if the child is an Aboriginal or Torres Strait Islander child, how the adoptive parents will:</p> <p>(i) help the child to maintain contact with the child’s community or language group; and</p>

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				<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;</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>
			189	<p>(1) The court may make a final adoption order for the child only if it is satisfied of the following matters:</p> <p>(a) the child is present in Queensland;</p> <p>(b) the proposed order will promote the child's wellbeing and best interests;</p> <p>(c) each of the prospective adoptive parents:</p> <p>(i) is an adult; and</p> <p>(ii) is an Australian citizen or has a spouse who is an Australian citizen; and</p>

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				<p>(iii) is resident or domiciled in Queensland; and</p> <p>(iv) is suitable, having regard to the matters stated in part 6, division 5;</p> <p>(d) any adoption plan required under part 8, division 2 has been agreed;</p> <p>(e) while the child has been in their custody, the prospective adoptive parents have demonstrated:</p> <p>(i) their willingness and ability to meet the child's needs; and</p> <p>(ii) their commitment to any adoption plan mentioned in paragraph (d); and</p> <p>(iii) if the child has a particular ethnic or other cultural background, their willingness and ability to:</p> <p>(A) help the child to maintain contact with the child's community or language group; and</p> <p>(B) help the child to develop and maintain a connection with the child's ethnicity or culture; and</p> <p>(C) preserve and enhance the child's sense of ethnic or cultural identity.</p> <p>(2) Also, if an interim order is not in force for the child, the court must be satisfied that the chief executive selected the prospective adoptive parents in compliance with part 7,</p>

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				<p>division 2.</p> <p>(3) This section does not apply if the prospective adoptive parent is a person habitually resident in a convention country.</p> <p><i>Note:</i></p> <p>For the matters applying if the prospective adoptive parents are habitually resident in a convention country, see section 213.</p>
			200	<p>The court may make a final adoption order only if it is satisfied of the following matters:</p> <p>(a) the child is present in Queensland;</p> <p>(b) the child is not prevented from residing permanently in Australia:</p> <p>(i) under a law of the Commonwealth or a State; or</p> <p>(ii) by an order of a court of the Commonwealth or a State;</p> <p>(c) the competent authority has advised the chief executive that arrangements for the adoption have been made:</p> <p>(i) under the law of the country; and</p> <p>(ii) if the country is a convention country, under the Hague convention;</p> <p>(d) the competent authority for the country has agreed to the</p>

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				<p>adoption;</p> <p>(e) the proposed adoption order will promote the child’s wellbeing and best interests;</p> <p>(f) each of the prospective adoptive parents:</p> <p>(i) is an adult; and</p> <p>(ii) is an Australian citizen or has a spouse who is an Australian citizen; and</p> <p>(iii) is resident or domiciled in Queensland; and</p> <p>(iv) is suitable, having regard to the matters stated in part 6, division 5;</p> <p>(g) while the child has been in their custody, the prospective adoptive parents have demonstrated:</p> <p>(i) their willingness and ability to meet the child’s needs; and</p> <p>(ii) if the child has a particular ethnic or other cultural background, their willingness and ability to:</p> <p>(A) help the child to maintain contact with the child’s community or language group; and</p> <p>(B) help the child to develop and maintain a connection with the child’s ethnicity or culture; and</p> <p>(C) preserve and enhance the child’s sense of ethnic or</p>

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				cultural identity.
	<b>Child Care Act 2002</b>	QLD	9	<p>This Act is to be administered, and licensed services are to be conducted, under the following principles:</p> <ul style="list-style-type: none"> <li>(a) the best interests of a child are the paramount concern;</li> <li>(b) child care should be provided to a child in a way that: <ul style="list-style-type: none"> <li>(i) protects the child from harm; and</li> <li>(ii) respects the child’s dignity and privacy; and</li> <li>(iii) promotes the child’s wellbeing; and</li> <li>(iv) provides positive experiences to the child;</li> </ul> </li> <li>(c) licensed child care should be provided to a child in a way that stimulates and develops the child’s creative, emotional, intellectual, lingual, physical, recreational and social potential;</li> <li>(d) parents have the primary responsibility for the upbringing, protection and development of their children, and should be supported in that role;</li> <li>(e) child care should be planned and provided in a way that: <ul style="list-style-type: none"> <li>(i) involves parents and other members of the community; and</li> </ul> </li> </ul>

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				(ii) reflects the multicultural and multilingual nature of the community.
			89	<p>(1) The licensee of a centre based service must ensure all child care provided under the licence is provided under an appropriate program that is designed to stimulate and develop each child’s creative, emotional, intellectual, lingual, physical, recreational and social potential.</p> <p>(2) A regulation may make provision about programs including, for example, by imposing requirements about:</p> <p>(a) the contents of a program; or</p> <p>(b) keeping records about programs; or</p> <p>(c) monitoring the operation of programs and reviewing their content; or</p> <p>(d) giving information about programs to parents and guardians.</p>
			98	<p>(1) The licensee of a home based service must ensure the child care provided under the licence includes appropriate activities and experiences that are designed to stimulate and develop each child’s creative, emotional, intellectual, lingual, physical, recreational and social potential.</p> <p>(2) A regulation may make provision about the activities and experiences including, for example, by imposing requirements about:</p>



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				<p>(a) the nature of the activities and experiences; or</p> <p>(b) keeping records about the activities and experiences; or</p> <p>(c) giving information about the activities and experiences to parents and guardians.</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>(a) a child has a right to be protected from harm or risk of harm;</p> <p>(b) a child's family has the primary responsibility for the child's upbringing, protection and development;</p> <p>(c) the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family;</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;</p> <p>(e) in protecting a child, the State should only take action that is warranted in the circumstances;</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;</p> <p>(g) if a child does not have a parent able and willing to give</p>

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				<p>the child ongoing protection in the foreseeable future, the child should have long-term alternative care;</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;</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;</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);</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> <p>(ii) for the child’s developmental, educational, emotional, health, intellectual and physical needs to be met;</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;</p> <p>(m) a child should be able to know, explore and maintain the child’s identity and values, including their cultural, ethnic and</p>

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				<p>religious identity and values;</p> <p>(n) a delay in making a decision in relation to a child should be avoided, unless appropriate for the child.</p>
			5C	<p>The following additional principles apply in relation to an Aboriginal or Torres Strait Islander child:</p> <p>(a) the child should be allowed to develop and maintain a connection with the child’s family, culture, traditions, language and community;</p> <p>(b) the long-term effect of a decision on the child’s identity and connection with their family and community should be taken into account.</p> <p><i>Note</i>— See also sections 6 (Recognised entities and decisions about Aboriginal and Torres Strait Islander children) and 83 (Additional provisions for placing Aboriginal and Torres Strait Islander children in care).</p>
			51B	<p>(1) A '<b>case plan</b>' for a child is a written plan for meeting the child’s protection and care needs.</p> <p>(2) A case plan may include any of the following matters:</p> <p>(a) a goal or goals to be achieved by implementing the plan;</p> <p>(b) arrangements about where or with whom the child will live, including interim arrangements;</p> <p>(c) services to be provided to meet the child’s protection and</p>

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				<p>care needs and promote the child's future wellbeing;</p> <p>(d) matters for which the chief executive will be responsible, including particular support or services;</p> <p>(e) the child's contact with the child's family group or other persons with whom the child is connected;</p> <p>(f) arrangements for maintaining the child's ethnic and cultural identity;</p> <p>(g) matters for which a parent or carer will be responsible;</p> <p>(h) a proposed review day for the plan.</p>
			122	<p>(1) The chief executive must take reasonable steps to ensure a child placed in care under section 82(1) is cared for in a way that meets the following standards (the '<b>statement of standards</b>')</p> <p>(a) the child's dignity and rights will be respected at all times;</p> <p>(b) the child's needs for physical care will be met, including adequate food, clothing and shelter;</p> <p>(c) the child will receive emotional care that allows him or her to experience being cared about and valued and that contributes to the child's positive self-regard;</p> <p>(d) the child's needs relating to his or her culture and ethnic</p>

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				<p>grouping will be met;</p> <p>(e) the child’s material needs relating to his or her schooling, physical and mental stimulation, recreation and general living will be met;</p> <p>(f) the child will receive education, training or employment opportunities relevant to the child’s age and ability;</p> <p>(g) the child will receive positive guidance when necessary to help him or her to change inappropriate behaviour;</p> <p>(h) the child will receive dental, medical and therapeutic services necessary to meet his or her needs;</p> <p>(i) the child will be given the opportunity to participate in positive social and recreational activities appropriate to his or her developmental level and age;</p> <p>(j) the child will be encouraged to maintain family and other significant personal relationships;</p> <p>(k) if the child has a disability—the child will receive care and help appropriate to the child’s special needs.</p> <p>(2) For subsection (1)(g), techniques for managing the child’s behaviour must not include corporal punishment or punishment that humiliates, frightens or threatens the child in a way that is likely to cause emotional harm.</p> <p>(3) For subsection (1)(j), if the chief executive has custody or guardianship of the child, the child’s carer must act in</p>

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				<p>accordance with the chief executive's reasonable directions.</p> <p>(4) The application of the standards to the child's care must take into account what is reasonable having regard to:</p> <p>(a) the length of time the child is in the care of the carer or care service; and</p> <p>(b) the child's age and development.</p>
	<p><b>Family Responsibilities Commission Act 2008</b></p>	<p>QLD</p>	<p>5</p>	<p>(1) The Act is to be administered under the principle that the wellbeing 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>(a) in a conference about an agency notice, the commission should deal with the matters to which the notice relates in a way that:</p> <p>(i) facilitates early intervention in relation to the matters; and</p> <p>(ii) supports the restoration of socially responsible standards of behaviour and local authority in welfare reform community areas; and</p> <p>(iii) makes appropriate use of community support services;</p> <p>(b) in a conference about an agency notice involving a child, the child's views and wishes should be taken into account in a way that has regard to the child's age and ability to</p>

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				<p>understand;</p> <p>(c) Aboriginal tradition and Island custom must be taken into account in matters involving Aboriginal people or Torres Strait Islanders;</p> <p>(d) the commission should deal with agency notices in a timely way.</p>
	<p><b>Vocational Education, Training and Employment Act 2000</b></p>	<p>QLD</p>	<p>4</p>	<p>The objectives of this Act are:</p> <p>(b) to provide mechanisms for employees, employers, associations of employees or employers, industry and the community to advise government on vocational education and training needs and priorities to meet those needs; and</p> <p>(c) to support the continued development of high quality training by and within industry; and</p> <p>(d) to facilitate the provision of vocational education and training that is relevant to employment, encourages the generation of employment opportunities and is responsive to the future workforce development and skills requirements of industry; and</p> <p>(f) to further the commitment by the States, the Territories and the Commonwealth, in partnership with industry, to work together to increase the participation of Australians in an integrated national vocational education and training system that allows for local diversity; and</p> <p>(g) to promote a community commitment towards supporting</p>

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				<p>young people in the compulsory participation phase; and</p> <p>(h) to implement initiatives that are consistent with the ministerial declaration ‘Stepping forward: improving pathways for all young people’; and</p> <p>(i) to strengthen Queensland’s economic base by providing a skilled workforce that meets the current and future needs of industry, Government and the community.</p>
			<p>Attachment: Ministerial declaration ‘Stepping forward: improving pathways for all young people’</p>	<p>This is one of the objectives to the Act stipulated in section 4(h). It includes the following vision where</p> <ul style="list-style-type: none"> <li>• young people benefit and flourish through sustaining networks of family, friends and community, and through their engagement in education, training, employment, recreation and society.</li> </ul>
			197	<p>The chief executive, in giving directions to a child in relation to the child’s performance of community service, is:</p> <p>(a) to avoid, if practicable, conflicts with the religious and cultural beliefs and practices of the child or the child’s parent; and</p> <p>(b) to avoid, if practicable, interference with the child’s attendance at a place of employment or a school or other educational or training establishment; and</p> <p>(c) to take all steps necessary to ensure that the child, if practicable, is kept apart from any adult under sentence for an</p>
	<p><b>Youth Justice Act 1992</b></p>	QLD		



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				offence.
			263	<p>(1) Subject to this Act, the chief executive is responsible for the security and management of detention centres and the safe custody and wellbeing of children detained in detention centres.</p> <p>(2) The chief executive may carry out the responsibilities mentioned in subsection (1) by using any convenient form of direction, for example, rules, directions, codes, standards and guidelines relating to:</p> <ul style="list-style-type: none"> <li>(a) detention centre organisation; or</li> <li>(b) functions, conduct and responsibilities of detention centre employees; or</li> <li>(c) types of programs for children detained in a detention centre; or</li> <li>(d) contact between children detained in the detention centre and members of the public; or</li> <li>(e) arrangements for educational, recreational and social activities of children detained in detention centres.</li> </ul> <p>(3) In relation to each detention centre, the chief executive is responsible for:</p> <ul style="list-style-type: none"> <li>(a) providing services that promote the health and wellbeing of children detained at the centre; and</li> </ul>

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				<p>(b) promoting the social, cultural and educational development of children detained at the centre; and</p> <p>(c) maintaining discipline and good order in the centre; and</p> <p>(d) maintaining the security and management of the centre.</p> <p>(4) The chief executive must monitor the operation of the detention centres and inspect each detention centre at least once every 3 months.</p> <p>(5) Also, as far as reasonably practicable, the chief executive must ensure principles 3, 15, 19 and 20 of the youth justice principles are complied with in relation to each child detained in a detention centre.</p> <p>(6) Subsection (5) does not limit another provision of this Act.</p>

## 5. South Australia

### 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 31:</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Adoption Act 1988</b></p>	<p>SA</p>	<p>11</p>	<p>(1) The Court will not make an order for the adoption of an Aboriginal child unless satisfied that adoption is clearly preferable, in the interests of the child, to any alternative order that may be made under the laws of the State or the Commonwealth.</p> <p>(2) Subject to subsection (3), an order for the adoption of an Aboriginal child will not be made except in favour of a member of the child's Aboriginal community who has the correct relationship with the child in accordance with Aboriginal customary law or, if there is no such person seeking to adopt the child, some other Aboriginal person.</p> <p>(3) An order for the adoption of an Aboriginal child may be made in favour of a person who is not an Aboriginal person if the Court is satisfied:</p> <p>(a) that there are special circumstances justifying the making of the order; and</p> <p>(b) that the child's cultural identity with the Aboriginal people will not be lost in consequence of the adoption.</p>
	<p><b>Children's Protection Act 1993</b></p>	<p>SA</p>	<p>3</p>	<p>The objects of this Act are:</p> <p>(a) to ensure that all children are safe from harm; and</p> <p>(b) to ensure as far as practicable that all children are cared</p>

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				<p>for in a way that allows them to reach their full potential; and</p> <p>(c) to promote caring attitudes and responses towards children among all sections of the community so that the need for appropriate nurture, care and protection (including protection of the child's cultural identity) is understood, risks to a child's wellbeing are quickly identified, and any necessary support, protection or care is promptly provided; and</p> <p>(d) to recognise the family as the primary means of providing for the nurture, care and protection of children and to accord a high priority to supporting and assisting the family to carry out its responsibilities to children.</p>
			4	<p>(1) Every child has a right to be safe from harm.</p> <p>(2) Every child has a right to care in a safe and stable family environment or, if such a family environment cannot for some reason be provided, in some alternative form of care in which the child has every opportunity that can be reasonably provided to develop to his or her full potential.</p> <p>(3) 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>(4) In determining a child's best interests, consideration must be given to the following:</p> <p>(a) the desirability of keeping the child within the child's own family and the undesirability of withdrawing the child</p>

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				<p>unnecessarily from a neighbourhood or environment with which the child has an established sense of connection;</p> <p>(b) the need to preserve and strengthen relationships between the child, the child's parents and grandparents and other members of the child's family (whether or not the child is to reside with those parents, grandparents or other family members);</p> <p>(c) the need to encourage, preserve and enhance the child's sense of racial, ethnic, religious, spiritual and cultural identity and to respect traditions and values of the community into which the child was born;</p> <p>(d) if the child is able to form and express his or her own views as to his or her best interests—those views;</p> <p>(e) the undesirability of interrupting the child's education or employment unnecessarily.</p> <p>(5) In relation to an Aboriginal or Torres Strait Islander child, the Aboriginal and Torres Strait Islander Child Placement Principle is to be observed.</p> <p>(6) A child who is placed or about to be placed in alternative care:</p> <p>(a) must be provided with:</p> <p>(i) a nurturing, safe and stable living environment; and</p> <p>(ii) care that is, as far as practicable, appropriate to the child's</p>

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				<p>needs and culturally appropriate; and</p> <p>(b) must be allowed to maintain relationships with the child's family (including the child's grandparents) and community, to the extent that such relationships can be maintained without serious risk of harm; and</p> <p>(c) must be consulted about, and (if the child is reasonably able to do so) take part in making, decisions affecting the child's life, particularly decisions about the child's ongoing care, where the child is to live, contact with the child's family and the child's health and schooling; and</p> <p>(d) must be given information that is appropriate, having regard to the child's age and ability to understand, about plans and decisions concerning the child's future; and</p> <p>(e) is entitled to have his or her privacy respected; and</p> <p>(f) if the child is in alternative care and under the guardianship, or in the custody, of the Minister—is entitled to regular review of the child's circumstances and the arrangements for the child's care.</p> <p>(7) All proceedings under this Act must be dealt with expeditiously, with due regard to the degree of urgency of each particular case.</p>
			52J	<p>The Council's functions are as follows:</p> <p>(a) to keep under review the operation of this Act and the <i>Family and Community Services Act 1972</i> so far as it affects</p>

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				<p>the interests of children;</p> <p>(b) to provide advice to the Government on the rights and interests of children;</p> <p>(c) to report to the Government on progress achieved towards:</p> <p>(i) keeping children safe from harm; and</p> <p>(ii) ensuring that all children are cared for in a way that allows them to realise their full potential; and</p> <p>(iii) improving the physical and mental health, and the emotional wellbeing, of children; and</p> <p>(iv) improving access for children to educational and vocational training; and</p> <p>(v) improving access for children to sporting and healthy recreational activities; and</p> <p>(vi) ensuring that children are properly prepared for taking their position in society as responsible citizens; and</p> <p>(vii) maintaining the cultural identity of children;</p> <p>(d) to promote the safe care of children by their families (or surrogate families) and communities with particular reference to vulnerable children including:</p> <p>(i) children under the guardianship, or in the custody, of the</p>

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				Minister; and (ii) Aboriginal children; and (iii) children with disabilities; (e) to provide advice to the Minister on: (i) creating environments that are safe for children; and (ii) raising community awareness of the relationship between the needs of children for care and protection and their developmental needs; and (iii) initiatives involving the community as a whole for the protection or care of children; and (iv) policy issues that may require government action or legislative reform; and (v) priorities for research; (f) to investigate and report to the Minister on matters referred to the Council for advice.
	<b>Disability Services Act 1993</b>	SA	3	' <b>disability services</b> ' means services provided, whether wholly or partially, for persons with disabilities or their carers and, without limiting the generality of the expression, includes: (a) accommodation services; (b) home care and family support services;



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				<ul style="list-style-type: none"> <li>(c) independent living training services;</li> <li>(d) information services;</li> <li>(e) print disability services;</li> <li>(f) recreation services;</li> <li>(g) respite care services;</li> <li>(h) education or training services;</li> <li>(i) advocacy services;</li> <li>(j) therapy services;</li> <li>(k) equipment services;</li> <li>(l) counselling or support services;</li> <li>(m) transport services;</li> </ul>
			5	<p>(1) A provider of disability services or researcher funded under this Act must, in providing the services or carrying out the research or development activities, apply the principles and meet the objectives set out in the Schedules to this Act.</p> <p>(2) The Minister may, as a condition of approving funding under this Act, require the person, body or authority to whom the money is to be granted to enter into a performance agreement containing such terms and conditions as the Minister thinks will ensure compliance with subsection (1).</p>

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				<p>(3) An agreement under this section must be in writing and signed by both parties.</p> <p>(4) The Minister should include in such an agreement a condition or conditions that will enable the Minister to monitor adequately the other party's performance under the agreement.</p>
			Schedule 1: Principles	<p>1 Persons with disabilities, whatever the origin, nature or degree of their disabilities might be, are individuals:</p> <p>(a) who have the inherent right to respect for their human worth and dignity; and</p> <p>(b) who have the same fundamental human rights and responsibilities as other members of the Australian community; and</p> <p>(c) who have the same right as other members of the Australian community to realise their potential for intellectual, physical, social, emotional, sexual and spiritual development; and</p> <p>(d) who have the same right as other members of the Australian community to choose their own lifestyle and generally to control their own lives.</p> <p>2 Persons with disabilities have a right to protection from neglect, abuse, intimidation and exploitation.</p> <p>3 Persons with disabilities have the same right as other members of the Australian community to the assistance and</p>

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				<p>support that will enable them to exercise their rights, discharge their responsibilities and attain a reasonable quality of life.</p> <p>4 In receiving the services that supply such assistance and support, persons with disabilities:</p> <p>(a) have the right to choose between those services, and to choose between the options available within a particular service, so as to provide assistance and support that best meets their individual (including cultural) needs; and</p> <p>(b) have the right to have those services provided in a manner that:</p> <p>(i) involves the least restriction of their rights and opportunities; and</p> <p>(ii) takes into account their individual needs, goals, age and other personal circumstances; and</p> <p>(iii) takes into account any further disadvantage that may be suffered as a result of their gender, ethnic origin, aboriginality, financial situation or location; and</p> <p>(c) have the right to pursue any grievance in relation to those services without fear of the discontinuance of services or of recriminations or retribution from service providers.</p>
			Schedule 2: Objects of the	1 Disability services are to be designed and administered so as:

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			Act	<p>(a) to achieve positive outcomes for persons with disabilities, such as an enhanced image and level of competence, increased independence, increased education, training and employment opportunities and integration into, and participation in the life of the community; and</p> <p>(b) to ensure that the conditions of the day-to-day life of persons with disabilities are as close as possible to those of other members of the community; and</p> <p>(c) to meet the individual needs and goals of the persons to whom the services are provided taking into account their age and other personal circumstances and any further disadvantage suffered as a result of their gender, ethnic origin, aboriginality, financial situation or location; and</p> <p>(d) to ensure that no single service provider exercises control over all or most of the aspects of the life of a person with a disability; and</p> <p>(e) to render the service provider accountable to all persons who use the service, the carers and advocates of persons with disabilities who use the service, the Minister and all other interested persons, through the provision of information relating to the services provided and their administration; and</p> <p>(f) to ensure that the persons to whom the services are provided have their right to privacy and confidentiality respected; and</p> <p>(g) to ensure that persons with disabilities who wish to use the services have easy access to advocacy support to facilitate</p>

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				<p>their use of the services and their participation in any decision making relating to their use of the services; and</p> <p>(h) to ensure that appropriate avenues exist for the persons who use the services to raise and have resolved any grievance they may have in relation to a service or the manner in which it is administered; and</p> <p>(i) to allow, to the extent that is practicable, the persons who use the services the opportunity for informed participation in the design, development, management and evaluation of the services.</p> <p>2 Disability services are to be provided as part of local coordinated service systems and are to be integrated, where it is appropriate and practicable to do so, with services generally available to the community.</p> <p>3 The providers of disability services are to take the following matters into consideration in determining eligibility for and priority of access to the services and in assessing the needs of a person with a disability who is accorded access to a service:</p> <p>(a) the person's wishes;</p> <p>(b) the level of disability and its impact on the person;</p> <p>(c) the needs and capabilities of any carers;</p> <p>(d) the extent of support and assistance (if any) provided or</p>

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				<p>available to the person from all other sources;</p> <p>(e) the implications of any decision for carers and members of the person's family;</p> <p>(f) such other matters as may be considered relevant.</p>
	<b>Health Care Act 2008</b>	SA	5	<p>The following principles are to be applied in connection with the operation and administration of this Act:</p> <p>(a) the protection of the public and the interests of people in need of care related to their health should be the highest priorities in the provision of health services;</p> <p>(b) Aboriginal people and Torres Strait Islanders should be recognised as having a special heritage and the health system should, in interacting with Aboriginal people and Torres Strait Islanders, support values that respect their historical and contemporary cultures;</p> <p>(c) the planning and provision of health services should take into account the situation and needs of people who live or work in the country or regional areas of the State, including through the support of health professionals who provide services in those areas;</p> <p>(d) support should be given to encouraging responsibility at community and individual levels for the promotion and development of healthy communities and individuals, and to ensure that people are able to make informed decisions about their health;</p>

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				<p>(e) health services or programs should be accessible on a State-wide or community basis;</p> <p>(f) health services should be provided as part of an integrated system:</p> <p>(i) that includes all aspects of health promotion and disease, illness and injury prevention so as to maximise community health and well-being; and</p> <p>(ii) that supports services or programs designed to promote early intervention in detecting and responding to disease, illness or injury; and</p> <p>(iii) that provides for the effective and safe management and treatment of disease, illness or injury, including through self-management of chronic or other diseases; and</p> <p>(iv) that supports improved health outcomes for communities with particular health needs; and</p> <p>(v) that promotes a whole of Government approach to advance and improve health status within the community; and</p> <p>(vi) that seeks to reduce in-patient hospitalisation and dependence on emergency and out-patient services within hospitals; and</p> <p>(vii) that promotes the efficient and economic provision of services;</p> <p>(g) health services should meet the highest levels of quality</p>

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				<p>and safety;</p> <p>(h) service providers should seek to engage with the community in the planning and provision of health services, including through the encouragement or involvement of volunteers;</p> <p>(i) recognition should be given to the fact that there is a significant public benefit in having a single emergency ambulance service that provides an efficient use of assets, a highly-responsive service, and high levels of integration with other health services provided within the public health system.</p>
			8(2) and (5)	<p>(1) '<b>Abuse</b>' may take many forms including physical, sexual, emotional, psychological or economic abuse.</p> <p>(2) An act is an '<b>act of abuse</b>' against a person if it results in or is intended to result in:</p> <p>(a) physical injury; or</p> <p>(b) emotional or psychological harm; or</p> <p>(c) an unreasonable and non-consensual denial of financial, social or personal autonomy; or</p> <p>(d) damage to property in the ownership or possession of the person or used or otherwise enjoyed by the person.</p> <p>...</p>



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				<p><b>(5) Unreasonable and non-consensual denial of financial, social or personal autonomy—examples</b></p> <p>Without limiting subsection (2)(c), an act of abuse against a person resulting in an unreasonable and non-consensual denial of financial, social or personal autonomy may be comprised of any of the following:</p> <p>... (h) preventing the person from making or keeping connections with the person's family, friends or cultural group, from participating in cultural or spiritual ceremonies or practices, or from expressing the person's cultural identity;</p> <p>(i) exercising an unreasonable level of control and domination over the daily life of the person.</p>
	<p><b>Mental Health Act 2009</b></p>	SA	7	<p>(1) The Minister, the Board, the Chief Psychiatrist, health professionals and other persons and bodies involved in the administration of this Act are to be guided by the following principles in the performance of their functions:</p> <p>(a) mental health services should be designed to bring about the best therapeutic outcomes for patients, and, as far as possible, their recovery and participation in community life;</p> <p>(b) the services should be provided on a voluntary basis as far as possible, and otherwise in the least restrictive way and in the least restrictive environment that is consistent with their efficacy and public safety, and at places as near as practicable to where the patients, or their families or other carers or supporters, reside;</p>

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				<p>(c) the services should:</p> <p>(i) be governed by comprehensive treatment and care plans that are developed in a multi-disciplinary framework in consultation with the patients (including children) and their family or other carers or supporters; and</p> <p>(ii) take into account the different developmental stages of children and young persons and the needs of the aged; and</p> <p>(iii) take into account the different cultural backgrounds of patients; and</p> <p>(iv) in the case of patients of Aboriginal or Torres Strait Islander descent, take into account the patients' traditional beliefs and practices and, when practicable and appropriate, involve collaboration with health workers and traditional healers from their communities;</p> <p>...</p> <p>(2) In this section:</p> <p><b>'mental health services'</b> means all services involved in the treatment, care and rehabilitation of persons with serious mental illness, including the making and carrying out of orders under this Act and services to assist the recovery of patients after the termination of the orders or the completion of treatment.</p>
	<b>Young Offenders</b>	SA	3	(1) The object of this Act is to secure for youths who offend against the criminal law the care, correction and guidance

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	Act 1993			<p>necessary for their development into responsible and useful members of the community and the proper realisation of their potential.</p> <p>(2) The powers conferred by this Act are to be directed towards that object with proper regard to the following statutory policies:</p> <p>(a) a youth should be made aware of his or her obligations under the law and of the consequences of breach of the law;</p> <p>(c) the community, and individual members of it, must be adequately protected against violent or wrongful acts.</p> <p>(2a) In imposing sanctions on a youth for illegal conduct:</p> <p>(a) regard should be had to the deterrent effect any proposed sanction may have on the youth; and</p> <p>(b) if the sanctions are imposed by a court on a youth who is being dealt with as an adult (whether because the youth's conduct is part of a pattern of repeated illegal conduct or for some other reason), regard should be had to:</p> <p>(i) the deterrent effect any proposed sanction may have on other youths; and</p> <p>(ii) the balance to be achieved between:</p> <p>(A) the protection of the community; and</p>

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				<p>(B) the need to rehabilitate the youth.</p> <p>(3) Effect is to be given to the following statutory policies so far as the circumstances of the individual case allow:</p> <p>(a) compensation and restitution should be provided, where appropriate, for victims of offences committed by youths;</p> <p>(b) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened;</p> <p>(c) a youth should not be withdrawn unnecessarily from the youth's family environment;</p> <p>(d) there should be no unnecessary interruption of a youth's education or employment;</p> <p>(e) a youth's sense of racial, ethnic or cultural identity should not be impaired.</p>

## 6. Western Australia

### 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 31</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Classification (Publications, Films and Computer Games) Enforcement Act 1996</b></p>	<p>WA</p>	<p>Section 65D</p>	<p><b>Sale of restricted publications to minors</b></p> <p>(1) A person must not sell or supply to a minor a publication classified Category 2 restricted.</p> <p>Penalty: \$15 000 or imprisonment for 18 months.</p> <p>(2) A person must not sell or supply to a minor a publication classified Category 1 restricted, unless the person is a parent or guardian of the minor.</p> <p>Penalty: \$5 000.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (1) or (2) to prove that the minor produced to the accused acceptable proof of age before the accused sold or supplied the publication to the minor and the accused believed on reasonable grounds that the minor was an adult.</p> <p>(4) It is a defence to a prosecution for an offence against subsection (1) or (2) for the supply of a publication to a minor, to prove that the minor was employed by the person who supplied the publication and the supply took place in the course of that employment.</p> <p>(5) A minor who is 15 years of age or older must not buy a publication classified Category 1 restricted or Category 2 restricted, knowing that it is so classified.</p>

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	<p><b>Classification (Publications, Films and Computer Games) Enforcement Act 1996</b></p>	WA	Section 65E	<p>Penalty: \$200.</p> <p><b>65E. Leaving certain publications in certain places</b></p> <p>(1) A person must not leave in a public place or display in such a manner as to be visible to persons in a public place —</p> <p>(a) a submittable publication; or</p> <p>(b) a publication classified Category 1 restricted, Category 2 restricted or RC.</p> <p>Penalty: \$10 000.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) to prove that:</p> <p>(a) since the offence was alleged to have been committed, the publication has been classified Unrestricted; or</p> <p>(b) the accused believed on reasonable grounds that the publication was not a submittable publication or a publication classified Category 1 restricted, Category 2 restricted or RC, as the case may be; or</p> <p>(c) in the case of a publication classified Category 1 restricted, the publication was displayed on registered premises and the publication and packaging complied with section 64(4); or</p> <p>(d) in the case of a publication classified Category 2 restricted, the publication was displayed on registered premises and was not visible from outside those premises or</p>

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				<p>by a minor in the premises.</p> <p>(3) A person must not leave on private premises, without the occupier's permission:</p> <p>(a) a submittable publication; or</p> <p>(b) a publication classified Category 1 restricted, Category 2 restricted or RC.</p> <p>Penalty: \$5 000.</p> <p>(4) It is a defence to a prosecution for an offence against subsection (3)(a) to prove that since the offence was alleged to have been committed, the publication has been classified Unrestricted.</p> <p>(5) It is a defence to a prosecution for an offence against subsection (3) to prove that the accused believed on reasonable grounds that the publication was not a submittable publication or a publication classified Category 1 restricted, Category 2 restricted or RC, as the case may be.</p>
	<p><b>Classification (Publications, Films and Computer Games) Enforcement Act 1996</b></p>	WA	Section 68	<p><b>68. RC films not to be exhibited</b></p> <p>A person must not exhibit in any place:</p> <p>(a) an unclassified film that would, if classified, be classified RC; or</p> <p>(b) a film classified RC.</p>

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	<p><b>Classification (Publications, Films and Computer Games) Enforcement Act 1996</b></p>	WA	Section 69	<p>Penalty: \$15 000 or imprisonment for 18 months.</p> <p><b>69. X 18+ films, exhibition of</b></p> <p>(1) A person must not exhibit in a public place a film classified X 18+.</p> <p>Penalty: \$10 000.</p> <p>(2) A person must not exhibit so that it can be seen from a public place that is outside the place where it is exhibited —</p> <p>(a) an unclassified film that would, if classified, be classified X 18+; or</p> <p>(b) a film classified X 18+.</p> <p>Penalty: \$5 000.</p> <p>(3) A person must not exhibit in a place that is not a public place, in the presence of a minor:</p> <p>(a) an unclassified film that would, if classified, be classified X 18+; or (b) a film classified X 18+.</p> <p>Penalty: \$5 000.</p> <p>(4) It is a defence to a charge of an offence against subsection (3) for the person charged to prove that the person believed on reasonable grounds that the minor was an adult.</p>
	<p><b>Classification (Publications, Films and Computer</b></p>	WA	Section 70	<p><b>70. R 18+ and MA 15+ films, exhibition of</b></p> <p>(1) A person must not exhibit so that it can be seen from a</p>



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	<p><b>Games) Enforcement Act 1996</b></p>			<p>public place that is outside the place where it is exhibited —</p> <p>(a) an unclassified film that would, if classified, be classified R 18+ or MA 15+; or</p> <p>(b) a film classified R 18+ or MA 15+.</p> <p>Penalty: \$2 000.</p> <p>(2) The Minister may, by notice published in the <i>Government Gazette</i> and served on the exhibitor of the film, exempt an exhibitor of films from subsection (1) on such conditions as are specified in the notice.</p> <p>(3) A person must not exhibit in a place that is not a public place, in the presence of a minor:</p> <p>(a) an unclassified film that would, if classified, be classified R 18+; or</p> <p>(b) a film classified R 18+,</p> <p>unless the person is a parent or guardian of the minor.</p> <p>Penalty: \$2 000.</p> <p>(4) It is a defence to a charge of an offence against subsection (3) for the person charged to prove that the person believed on reasonable grounds that the minor was an adult.</p>
	<p><b>Classification (Publications, Films and Computer Games)</b></p>	<p>WA</p>	<p>Section 71</p>	<p><b>71. Attendance of minor at RC, X 18+ or R 18+ films</b></p> <p>(1) Any adult who knows that:</p>

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	<b>Enforcement Act 1996</b>			<p>(a) an unclassified film that would, if classified, be classified RC, X 18+ or R 18+; or</p> <p>(b) a film classified RC, X 18+ or R 18+, is to be exhibited in a public place, must not permit a minor to attend the exhibition of the film.</p> <p>Penalty: \$5 000.</p> <p>(2) A minor who is 15 years of age or older must not attend the exhibition in a public place of a film classified RC, X 18+ or R 18+, knowing that the film is so classified.</p> <p>Penalty: \$200.</p> <p>(3) A person must not exhibit in a public place a film classified R 18+ if a minor is present during any part of the exhibition.</p> <p>Penalty: \$5 000.</p> <p>(4) It is a defence to a charge of an offence against subsection (3) for the person charged to prove that:</p> <p>(a) the minor produced to the person charged or that person's employee or agent acceptable proof of age before the minor was admitted to the public place; or</p> <p>(b) the person charged or that person's employee or agent believed on reasonable grounds that the minor was an adult.</p>

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	<p><b>Classification (Publications, Films and Computer Games) Enforcement Act 1996</b></p>	WA	Section 72	<p><b>72. Attendance of minor at MA 15+ film</b></p> <p>(1) A person must not exhibit in a public place a film classified MA 15+ if:</p> <p>(a) a minor under 15 years of age is present during any part of the exhibition; and(b) the minor is not accompanied by his or her parent or guardian.</p> <p>Penalty: \$1 000.</p> <p>(2) For the purposes of subsection (1):</p> <p>(a) a minor does not cease to be accompanied if his or her parent or guardian is temporarily absent from the exhibition of the film; and</p> <p>(b) an offence is committed in respect of each unaccompanied minor present at the exhibition of the film.</p> <p>(3) It is a defence to a charge of an offence against subsection (1) for the person charged to prove that:</p> <p>(a) the person charged or that person's employee or agent took all reasonable steps to ensure that a minor was not present in contravention of subsection (1); or</p> <p>(b) the person charged or that person's employee or agent believed on reasonable grounds that the minor was 15 years of age or older; or</p> <p>(c) the person charged or that person's employee or agent believed on reasonable grounds that the person</p>

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				accompanying the minor was the minor's parent or guardian.
	<b>Classification (Publications, Films and Computer Games) Enforcement Act 1996</b>	WA	Section 73	<p><b>73. Unclassified, RC and X 18+ films, sale of</b></p> <p>A person must not sell an unclassified film or a film classified RC or X 18+.</p> <p>Penalty: \$15 000 or imprisonment for 18 months.</p>
	<b>Classification (Publications, Films and Computer Games) Enforcement Act 1996</b>	WA	Section 74	<p><b>74. Classified films, sale of</b></p> <p>(1) A person must not sell a classified film unless the film is sold:</p> <p>(a) under the same title as that under which it is classified; and</p> <p>(b) in the form, without alteration or addition, in which it is classified.</p> <p>Penalty: \$10 000.</p> <p>(2) Subsection (1) is not contravened by reason only of the sale of a classified film:</p> <p>(a) under a title different from that under which it is classified if it is contained on one device that consists only of 2 or more classified films; or</p> <p>(b) with a modification referred to in section 21(2) of the Commonwealth Act.</p>
	<b>Classification</b>	WA	Section 77	<b>77. Unclassified, RC or X 18+ films not to be kept where</b>

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	<b>(Publications, Films and Computer Games) Enforcement Act 1996</b>			<p><b>classified films are sold</b></p> <p>(1) If a person keeps or possesses an unclassified film or a film classified RC or X 18+ on any premises where classified films are sold, the person and the occupier of the premises are each guilty of an offence.</p> <p>Penalty: \$5 000.</p> <p>(2) It is a defence to a charge of an offence against subsection (1) for the person charged to prove that the person did not know, and could not reasonably have known, that the film was on the premises.</p>
	<b>Classification (Publications, Films and Computer Games) Enforcement Act 1996</b>	WA	Section 78	<p><b>78. R 18+ films, containers etc., display of in public</b></p> <p>A person must not display in a public place:</p> <p>(a) a film classified R 18+; or</p> <p>(b) the container, wrapping or casing for a film classified R 18+, with the intention of selling the film except in an area of the public place set aside by that person, and conspicuously identified, as an area for the display of films, or containers, wrapping or casings for films, with that classification.</p> <p>Penalty: \$500.</p>
	<b>Classification (Publications, Films and Computer</b>	WA	Section 79	<p><b>79. Sale or supply of certain films to minors</b></p> <p>(1) A person must not sell or supply to a minor a film classified R 18+, unless the person is a parent or guardian of</p>

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	<p><b>Games) Enforcement Act 1996</b></p>			<p>the minor.</p> <p>Penalty: \$5 000.</p> <p>(2) It is a defence to a charge of an offence against subsection (1) for the person charged to prove that:</p> <p>(a) the minor produced to the person charged or that person's employee or agent acceptable proof of age before the person charged sold or supplied the film to the minor and the person charged or that person's employee or agent believed on reasonable grounds that the minor was an adult; or</p> <p>(b) the minor was employed by the person charged or that person's employer and the supply took place in the course of that employment.</p> <p>(3) A minor who is 15 years of age or older must not buy a film classified RC, X 18+ or R 18+ knowing that it is so classified.</p> <p>Penalty: \$200.</p> <p>(4) A person must not sell or supply to a minor under 15 years of age a film classified MA 15+ unless the person is a parent or guardian of the minor.</p> <p>Penalty: \$2 000.</p> <p>(5) It is a defence to a charge of an offence against subsection (4) for the person charged to prove that the person charged or that person's employee or agent believed on reasonable grounds that the minor was 15 years of age or</p>

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				<p>older.</p> <p>(6) A person must not supply to a minor a film classified X 18+ or RC or an unclassified film which would, if classified, be classified X 18+ or RC.</p> <p>Penalty: \$15 000 or imprisonment for 18 months.</p>
		WA	Section 80	<p><b>80. Leaving certain films in certain places</b></p> <p>A person must not leave in a public place or, without the occupier's permission, on private premises:</p> <p>(a) an unclassified film that would, if classified, be classified X 18+; or</p> <p>(b) a film classified X 18+,</p> <p>knowing that the film is, or would be, so classified.</p> <p>Penalty: \$5 000.</p>
		WA	Section 81	<p><b>81. Possessing or copying certain films</b></p> <p>(1) A person must not possess or copy:</p> <p>(a) an unclassified film that would, if classified, be classified RC; or</p> <p>(b) a film classified RC.</p> <p>Penalty: \$10 000. (2) A person must not possess or copy:</p> <p>(a) an unclassified film that would, if classified, be classified</p>

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				<p>X 18+, R 18+ or MA 15+; or</p> <p>(b) a film classified X 18+, with the intention of selling the film or the copy, or exhibiting the film or the copy in a public place.</p> <p>Penalty: \$10 000.</p> <p>(3) In proceedings for an offence against subsection (2), evidence that a person had possession of, or made, 10 or more copies of a film is evidence that the person intended to sell or exhibit the film and, in the absence of evidence to the contrary, is proof of that fact.</p>
		WA	Section 84	<p><b>84. RC computer games, sale etc. of</b></p> <p>(1) A person must not sell or demonstrate:</p> <p>(a) an unclassified computer game that would, if classified, be classified RC; or</p> <p>(b) a computer game classified RC.</p> <p>Penalty: \$15 000 or imprisonment for 18 months.</p> <p>(2) A minor who is 15 years of age or older must not buy a computer game classified RC, knowing that it is so classified.</p> <p>Penalty: \$200.</p>
		WA	Section 85	<p><b>85. MA 15+ computer games, demonstration of</b></p> <p>(1) A person must not demonstrate a computer game</p>



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				<p>classified MA 15+ in a public place.</p> <p>Penalty: \$5 000.</p> <p>(2) A person must not demonstrate so that it can be seen from a public place:</p> <p>(a) an unclassified computer game that would, if classified, be classified MA 15+; or</p> <p>(b) a computer game classified MA 15+.</p> <p>Penalty: \$2 000.</p> <p>(3) A person must not demonstrate in a place that is not a public place, in the presence of a minor under 15 years of age:</p> <p>(a) an unclassified computer game that would, if classified, be classified MA 15+; or</p> <p>(b) a computer game classified MA 15+, unless that person is a parent or guardian of the minor.</p> <p>Penalty: \$2 000.</p> <p>(4) It is a defence to a charge of an offence against subsection (3) for the person charged to prove that the person believed on reasonable grounds that the minor was 15 years of age or older.</p>
		WA	Section 85A	<b>85A. MA 15+ computer games, containers etc., display of</b>

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				<p><b>in public</b></p> <p>A person must not display in a public place:</p> <p>(a) a computer game classified MA 15+; or</p> <p>(b) the container, wrapping or casing for a computer game classified MA 15+,</p> <p>with the intention of selling or supplying the computer game except in an area of the public place set aside by that person and conspicuously identified, as an area for the display of computer games, or containers, wrapping or casings for computer games, with that classification.</p> <p>Penalty: \$500.</p>
		WA	Section 86	<p><b>86. Markings etc. on computer games, offences as to</b></p> <p>(1) A person must not sell a computer game unless the determined markings relevant to the classification of the computer game and relevant consumer advice, if any, are displayed on the container, wrapping or casing of the computer game.</p> <p>Penalty: \$5 000.</p> <p>(2) A person must not sell an unclassified computer game if the container, wrapping or casing in which the computer game is sold bears a marking that indicates or suggests that the computer game has been classified.</p>

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				<p>Penalty: \$5 000.</p> <p>(3) A person must not sell a classified computer game if the container, wrapping or casing in which the computer game is sold bears a marking that indicates or suggests that the computer game is unclassified or has a different classification.</p> <p>Penalty: \$5 000.</p> <p>(4) A person must not make a computer game available for playing on a pay and play basis (for example, a coin operated arcade game) unless the determined markings relevant to the classification of the computer game and relevant consumer advice, if any, are displayed on the device used for playing the game.</p> <p>Penalty: \$5 000.</p> <p>(5) If 2 or more computer games are available for playing on a device referred to in subsection (4), the determined markings and consumer advice to be displayed on the device are those relevant to the computer game with the highest classification under the Commonwealth Act.</p> <p>(6) If:</p> <p>(a) a computer game is reclassified under section 39 of the Commonwealth Act; or</p> <p>(b) the Board revokes a classification or consumer advice for a computer game under section 22B(3) of that Act, display of the determined markings and consumer advice applicable to</p>

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				the computer game before that reclassification or revocation is sufficient compliance with this section for a period of 30 days after the decision to reclassify or revoke takes effect.
		WA	Section 87	<p><b>87. Unclassified or RC computer games not to be kept where classified computer games are sold etc.</b></p> <p>(1) If a person keeps or possesses an unclassified computer game or a computer game classified RC on any premises where classified computer games are sold or demonstrated, the person and the occupier of the premises are each guilty of an offence.</p> <p>Penalty: \$5 000.</p> <p>(2) It is a defence to a charge of an offence against subsection (1) for the person charged to prove that the person did not know, and could not reasonably have known, that the computer game was on the premises.</p>
		WA	Section 88	<p><b>88. Sale or supply of certain computer games to minors</b></p> <p>(1) A person must not sell or supply to a minor who is under 15 years of age a computer game classified MA 15+ unless the person is a parent or guardian of the minor.</p> <p>Penalty: \$5 000.</p> <p>(2) It is a defence to a charge of an offence against subsection (1) for the person charged to prove that the person charged or that person's employee or agent believed on reasonable grounds that the minor was 15 years of age or</p>

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				<p>older.</p> <p>(3) A person must not supply to a minor a computer game classified RC or an unclassified computer game which would, if classified, be classified RC.</p> <p>Penalty: \$15 000 or imprisonment for 18 months.</p>
		WA	Section 89	<p><b>89. Possessing or copying certain computer games</b></p> <p>(1) A person must not possess or copy:</p> <p>(a) an unclassified computer game that would, if classified, be classified RC; or(b) a computer game classified RC.</p> <p>Penalty: \$10 000.</p> <p>(2) A person must not possess or copy an unclassified computer game that would, if classified, be classified MA 15+ with the intention of selling the computer game or the copy or demonstrating the computer game or the copy in a public place.</p> <p>Penalty: \$10 000.</p> <p>(3) A person must not possess or copy a computer game classified MA 15+ with the intention of demonstrating the computer game or the copy in a public place.</p> <p>Penalty: \$5 000.</p> <p>(4) In proceedings for an offence against subsection (2) or (3), evidence that a person had possession of, or made, 10 or</p>

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				more copies of a computer game is evidence that the person intended to sell or demonstrate the computer game and, in the absence of evidence to the contrary, is proof of that fact.
		WA	Section 90	<p><b>90. Certain advertisements not to be published</b></p> <p>(1) A person must not publish an unapproved advertisement for a publication or film or computer game.</p> <p>Penalty: \$5 000.</p> <p>(2) In subsection (1):</p> <p><b>'unapproved advertisement'</b> means an advertisement that:</p> <p>(a) has not been submitted for approval under section 29 of the Commonwealth Act and, if submitted, would be refused approval; or</p> <p>(b) has been refused approval under section 29 of the Commonwealth Act; or(c) was approved under section 29 of the Commonwealth Act but the approval was revoked under section 13(5) or 21A of that Act.</p> <p>(3) If an advertisement for a film, publication or computer game is approved under section 29 of the Commonwealth Act, a person must not publish the advertisement:</p> <p>(a) in an altered form to the form in which it is approved; or</p> <p>(b) if it is approved subject to conditions, except in accordance with those conditions.</p>

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				Penalty: a fine of \$5 000.
		WA	Section 91	<p><b>91. Certain films etc. not to be advertised</b></p> <p>(1) A person must not publish an advertisement for:</p> <p><i>[(a) deleted]</i></p> <p>(b) a film classified RC or X 18+; or</p> <p><i>[(c) deleted]</i></p> <p>(d) a computer game classified RC; or</p> <p>(e) a submittable publication; or</p> <p>(f) a publication classified RC.</p> <p>Penalty: \$5 000.</p> <p>(2A) A person must not publish an advertisement for an unclassified film or an unclassified computer game otherwise than in accordance with the advertising scheme.</p> <p>Penalty: a fine of \$5 000.</p> <p>(2) For the purposes of this section, if a person publishes an advertisement for an unclassified film or an unclassified computer game at the request of another person, that other person alone must be taken to have published it.</p>
		WA	Section 92	<p><b>92. Which advertisements of films etc. can be screened with feature films</b></p>

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				<p>(1) A person must not screen in a public place an advertisement for a classified film during a programme for the exhibition of another classified film (the <b>'feature film'</b>) unless the feature film has a classification specified in column 1 of an item in the Table and the advertised film has a classification specified opposite it in column 2 of that item.</p> <p>(2) A person must not exhibit in a public place an advertisement for a classified computer game during a programme for the exhibition of a classified film unless the film has a classification specified in column 1 of an item in the Table and the advertised computer game has a classification specified opposite it in column 2 of that item.</p> <p>(3) A person must not exhibit in a public place an advertisement for an unclassified film or an unclassified computer game during a programme for the exhibition of a classified film unless the exhibition of that advertisement with the classified film complies with the advertising scheme.</p> <p>Penalty: \$5 000.</p>
		WA	Section 93	<p><b>93. Advertisements for R 18+ or MA 15+ films, screening of</b></p> <p>(1) An occupier of a public place must not screen in the public place an advertisement for a film classified R 18+ or MA 15+.</p> <p>Penalty: \$2 000.</p> <p>(2) It is a defence to a charge of an offence against</p>



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				<p>subsection (1) for the person charged to prove that:</p> <p>(a) if the advertised film is classified MA 15+, the advertisement was screened during a programme for the exhibition of a film classified R 18+ or MA 15+; or</p> <p>(b) if the advertised film is classified R 18+, the advertisement was screened during a programme for the exhibition of a film classified R 18+.</p>
		WA	Section 94	<p><b>94. Classified films not to be sold with certain advertisements</b></p> <p>(1) A person must not sell a classified film (the '<b>feature film</b>') that is accompanied by an advertisement for another classified film unless the feature film has a classification specified in column 1 of an item in the Table and the advertised film has a classification specified opposite it in column 2 of that item.</p> <p>(2) A person must not sell a classified film that is accompanied by an advertisement for a classified computer game unless the film has a classification specified in column 1 of an item in the Table and the advertised computer game has a classification specified opposite it in column 2 of that item.</p> <p>(3) A person must not sell a classified film that is accompanied by an advertisement for an unclassified film or an unclassified computer game unless the sale of the classified film with that advertisement complies with the advertising scheme.</p>

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				Penalty: \$5 000.
		WA	Section 95	<p><b>95. Classified computer games not to be sold with certain advertisements</b></p> <p>(1) A person must not sell a classified computer game (the '<b>main game</b>') that is accompanied by an advertisement for another classified computer game unless the main game has a classification specified in column 1 of an item in the Table and the advertised computer game has a classification specified opposite it in column 2 of that item.</p> <p>(2) A person must not sell a classified computer game that is accompanied by an advertisement for a classified film unless the computer game has a classification specified in column 1 of an item in the Table and the advertised film has a classification specified opposite it in column 2 of that item.</p> <p>(3) A person must not sell a classified computer game that is accompanied by an advertisement for an unclassified computer film or an unclassified computer game unless the sale of the classified computer game with that advertisement complies with the advertising scheme.</p> <p>Penalty: \$5 000.</p>
		WA	Section 96	<p><b>96. Illegal advertisements for classified articles not to be published</b></p> <p>(1) A person must not publish an illegal advertisement for a classified publication or a classified film or a classified computer game.</p>

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				<p>Penalty: \$2 000.</p> <p>(2) In subsection (1):</p> <p><b>'illegal advertisement'</b> means an advertisement that does not:</p> <p>(a) contain the determined markings relevant to the classification of the publication or film or computer game and relevant consumer advice, if any; and</p> <p>(b) display the determined markings and consumer advice:</p> <p>(i) in the manner determined under section 8 of the Commonwealth Act; and</p> <p>(ii) so as to be clearly visible, having regard to the size and nature of the advertisement.</p> <p>(3) If:</p> <p>(a) a publication, film or computer game is reclassified under section 39 or 97A of the Commonwealth Act; or</p> <p>(b) the Board revokes a classification or consumer advice for a publication, film or computer game under section 22B(3) of that Act,</p> <p>display of the determined markings and consumer advice applicable to the publication, film or computer game before that reclassification or revocation is sufficient compliance with subsection (1) for a period of 30 days after the decision to reclassify or revoke takes effect.</p>

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		WA	Section 99	<p><b>99. Terms used</b></p> <p>In this Division:</p> <p>'<b>code of practice</b>' means a code of practice, as amended from time to time, that is approved and published under section 100;</p> <p>'<b>computer service</b>' means a service provided by or through the facilities of a computer communication system allowing:</p> <p>(a) the input, output or examination of computer data or computer programmes; or</p> <p>(b) the transmission of computer data or computer programmes from one computer to another; or</p> <p>(c) the transmission of computer data or computer programmes from a computer to a terminal device;</p> <p>'<b>objectionable material</b>' means:</p> <p>(a) a film classified RC, a computer game classified RC, or a publication classified RC; or</p> <p><i>[(b) deleted]</i></p> <p>(c) an article that promotes crime or violence, or incites or instructs in matters of crime or violence; or</p> <p>(d) an article that describes or depicts, in a manner that is likely to cause offence to a reasonable adult:</p>

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				<p>(i) the use of violence or coercion to compel any person to participate in, or submit to, sexual conduct;</p> <p>(ii) sexual conduct with or upon the body of a dead person;</p> <p>(iii) the use of urine or excrement in association with degrading or dehumanizing conduct or sexual conduct;</p> <p>(iv) bestiality;</p> <p>(v) acts of torture or the infliction of extreme violence or extreme cruelty;</p> <p><b>'restricted material'</b> means an article that a reasonable adult, by reason of the nature of the article, or the nature or extent of references in the article, to matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena, would regard as unsuitable for a minor to see, read or hear.</p>
		WA	Section 101	<p><b>101. Objectionable material, offences as to</b></p> <p>(1) A person must not use a computer service to:</p> <p>(a) transmit an article knowing it to be objectionable material; or</p> <p>(b) obtain possession of an article knowing it to be objectionable material; or</p> <p>(c) demonstrate an article knowing it to be objectionable material; or</p>

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				<p>(d) advertise that objectionable material is available for transmission; or</p> <p>(e) request the transmission of objectionable material knowing it to be objectionable material.</p> <p>Penalty: \$15 000 or imprisonment for 18 months.</p> <p>(2) It is a defence to a charge of an offence against this section to prove that the article concerned is:</p> <p>(a) an article of recognized literary, artistic or scientific merit; or</p> <p>(b) a <i>bona fide</i> medical article, and that transmitting, obtaining possession of, demonstrating, advertising, or requesting the transmission of, the article is justified as being for the public good.</p>
		WA	Section 102	<p><b>102. Restricted material, offences as to</b></p> <p>(1) A person must not use a computer service to transmit restricted material to a minor.</p> <p>Penalty: \$5 000.</p> <p>(2) A person must not use a computer service to make restricted material available to a minor.</p> <p>Penalty: \$5 000.</p> <p>(3) It is a defence to a charge of an offence against</p>

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				<p>subsection (1) or</p> <p>(2) to prove that:</p> <p>(a) the accused complied with a code of practice; or</p> <p>(b) the accused took all reasonable steps in the circumstances to avoid a contravention of the subsection; or</p> <p>(c) the accused believed on reasonable grounds that:</p> <p>(i) the person to whom the accused transmitted the restricted material was not a minor; or</p> <p>(ii) the restricted material would not be made available to a minor.</p>
	<p><b>Professional Combat Sports Act 1987</b></p>	<p>WA</p>	<p>Section 17</p>	<p><b>17. Registration of contestants</b></p> <p>(1) Subject to this section, where the Commission is satisfied that an applicant for registration as a contestant:</p> <p>(a) is a fit and proper person;</p> <p>(b) is fit to be registered as a contestant in the prescribed class of contestant in respect of which registration is sought;</p> <p>(c) has attained the age of 18 years;</p> <p>(d) has complied with such conditions as may be prescribed, the Commission:</p> <p>(e) shall register the applicant as a contestant of the class</p>

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				<p>referred to in the application; or</p> <p>(f) if, the Commission is of the opinion that, it is in the interests of the health and safety of the applicant the Commission:</p> <p>(i) shall register the applicant as a contestant of a class other than the class in respect of which application is sought; or</p> <p>(ii) shall register the applicant as a contestant of the class in respect of which application is sought for such period, being a period ending on or before 30 June then next ensuing, as the Commission determines.</p> <p>(2) Where the Commission is satisfied that an applicant for registration has not attained the age of 18 years as required by subsection (1)(c) but otherwise complies with the requirements of that subsection the Commission may recommend to the Minister that the applicant be registered in terms of the application or in the prescribed class of contestant specified in the recommendation and the Minister may direct and authorise the Commission to register the applicant in terms of the recommendation or in such other terms as the Minister determines.</p> <p>(3) The Commission may impose such conditions or restrictions on a contestant as it thinks fit.</p>
	<p><b>Child Care Services (Child Care) Regulations 2006</b></p>	<p>WA</p>	<p>Section 83</p>	<p><b>83. Programme of activities</b></p> <p>(1) A licensee must ensure the provision of a programme of activities which is developmentally appropriate to the needs</p>



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				<p>of the children attending the service.</p> <p>(2) A licensee must ensure that the programme:</p> <p>(a) meets the play and relaxation needs of children;</p> <p>(b) provides a balance of indoor and outdoor activities;</p> <p>(c) includes activities that a child may choose to participate in; and</p> <p>(d) is designed to stimulate and provide for the development of each child's social, cultural, physical, emotional, intellectual, language and creative potential.</p> <p>(3) A licensee must ensure that a copy of the programme is prominently displayed in each indoor playing area at the place.</p> <p>Penalty: a fine of \$3 000.</p>
		WA	Section 32	<p><b>32. Play areas on place</b></p> <p>(1) A licensee must ensure that the place has an area of indoor space suitable for children's play of at least:</p> <p>(a) 3.25 m<sup>2</sup> multiplied by the number equal to the maximum number of children who may attend a care session specified in the licence; and</p> <p>(b) 1 m<sup>2</sup> multiplied by the number equal to the number of enrolled children from 0 to 2 years of age present at the place</p>

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				<p>during a care session.</p> <p>(2) A licensee must ensure that the place has an area of outdoor space suitable for children’s play of at least 9.3 m2 multiplied by the number equal to the maximum number of children who may attend a care session specified in the licence.</p> <p>(3) When calculating the area of indoor space for the purposes of subregulation (1) the area of any built-in cupboard, bench, passageway, thoroughfare, bathroom, toilet or shower is not to be taken into account.</p> <p>(4) The CEO may waive or vary the outdoor space requirement under subregulation (2) if —(a) there is an equivalent area of playing space within walking distance for the enrolled children; or</p> <p>(b) the outdoor space available is augmented by a larger indoor space suitable for children’s play.</p> <p>Penalty: a fine of \$3 000.</p>
		WA	Section 33	<p><b>33. Exits</b></p> <p>(1) A licensee must ensure that children are able to open interconnecting doors of rooms at the place that they are permitted to use and that door handles are positioned between 750 mm and 1 000 mm from the floor.</p> <p>(2) A licensee must ensure that doors giving direct access from the place to the street:</p>

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				<p>(a) have handles positioned between 1 300 mm and 1 500 mm from the floor; and</p> <p>(b) are locked in a manner that does not prevent effective evacuation of the place.</p> <p>(3) A licensee must ensure that there are at least 2 exits from the place, and that those exits are as widely separated as practicable and are readily accessible.</p> <p>(4) A licensee must ensure that every room at the place having accommodation for 20 children or less has at least one doorway not less than 800 mm wide giving direct access to the outdoor space or to a thoroughfare or passage giving direct access to the outdoor space.</p> <p>(5) A licensee must ensure that every room at the place having accommodation for more than 20 children has at least 2 doorways not less than 800 mm wide giving direct access to the outdoor space or to a thoroughfare or passage giving direct access to the outdoor space, and that those doorways are as widely separated as practicable.</p> <p>Penalty: a fine of \$4 000.</p>
	<p><b>Child Care Services (Family Day Care) Regulations 2006</b></p>	<p>WA</p>	<p>Section 68</p>	<p><b>68. Play equipment and materials</b></p> <p>(1) A licensee must ensure that play equipment and materials are suitable:</p> <p>(a) for the development stages of the enrolled children;</p>

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				<p>(b) for the number of enrolled children;</p> <p>(c) to provide for all areas of child development and play; and</p> <p>(d) for carrying out programmes.</p> <p>(2) A licensee must ensure that enrolled children using play equipment are supervised at all times.</p> <p>Penalty: a fine of \$2 000.</p>
		WA	Section 67	<p><b>67. Programme of activities</b></p> <p>(1) A licensee must ensure the provision of a programme of activities which is developmentally appropriate to the needs of the children attending the service.</p> <p>(2) A licensee must ensure that the programme:</p> <p>(a) meets the play and relaxation needs of children;</p> <p>(b) provides a balance of indoor and outdoor activities;</p> <p>(c) includes activities that a child may choose to participate in; and</p> <p>(d) is designed to stimulate and provide for the development of each child's social, cultural, physical, emotional, intellectual, language and creative potential.</p> <p>(3) A licensee must ensure that a copy of the programme is prominently displayed in the indoor playing area at the place.</p>

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	<p><b>Child Care Services (Outside School Hours Care) Regulations 2006</b></p>	WA	Section 29	<p>Penalty: a fine of \$3 000.</p> <p><b>29. Play areas on place</b></p> <p>(1) A licensee must ensure that the place has:</p> <p>(a) an area of indoor space suitable for children’s play of at least 3.25 m<sup>2</sup> multiplied by the number equal to the number of children specified in the licence; and</p> <p>(b) an area of outdoor space suitable for children’s play of at least 9.3 m<sup>2</sup> multiplied by the number equal to the number of children specified in the licence.</p> <p>(2) When calculating the area of indoor space for the purposes of subregulation (1)(a) the area of any built-in cupboard, bench, passageway, thoroughfare, bathroom, toilet or shower is not to be taken into account.</p> <p>(3) The CEO may waive or vary the outdoor space requirement under subregulation (1)(b) if:</p> <p>(a) there is an equivalent area of playing space within walking distance for the enrolled children; or</p> <p>(b) the outdoor space available is augmented by a larger indoor space suitable for children’s play.</p> <p>(4) A licensee must ensure that indoor and outdoor play areas are clearly defined and identifiable.</p> <p>(5) A licensee must ensure that indoor play areas include a separate and clearly defined space suitable for relaxation or</p>

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				quieter activities such as reading and homework.  Penalty: a fine of \$3 000.
		WA	Section 33	<p><b>33. Play equipment and materials</b></p> <p>A licensee must ensure that:</p> <p>(a) equipment and materials that support the developmental and recreational needs of the enrolled children are provided at the place; and</p> <p>(b) there is enough storage space at the place for the equipment and materials.</p> <p>Penalty: a fine of \$2 000.</p>
		WA	Section 65	<p><b>65. Programmes</b></p> <p>(1) A licensee must ensure that a programme of activities is provided during care sessions that:</p> <p>(a) is developmentally appropriate for the enrolled children; and</p> <p>(b) meets the play, recreation and relaxation needs of the enrolled children.</p> <p>(2) Without limiting subregulation (1), a licensee must ensure that the programme of activities, as far as practicable:</p> <p>(a) is suited to each child's skills and interests;</p>

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				<p>(b) provides a balance of indoor and outdoor activities;</p> <p>(c) provides a range of activities from which a child may choose; and</p> <p>(d) includes:</p> <p>(i) physical activities (for example, sport, climbing, ball games or gymnastics);</p> <p>(ii) creative activities (for example, art and craft, music or sewing);</p> <p>(iii) activities involving construction (for example, cubby building, woodwork or construction kits);</p> <p>(iv) exploratory activities (for example, nature walks, science activities or sand or water activities);</p> <p>(v) dramatic activities (for example, puppetry, dressing up and plays); and</p> <p>(vi) cognitive play activities (for example, board games, computer activities or reading).</p> <p>Penalty: a fine of \$3 000.</p>
	<p><b>Child Care Services (Outside School Hours Family Day Care) Regulations 2006</b></p>	<p>WA</p>	<p>Section 26</p>	<p><b>26. Play equipment and materials</b></p> <p>A licensee must ensure that:</p> <p>(a) equipment and materials that support the developmental and recreational needs of the enrolled children are provided at</p>

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				<p>the place; and(b) there is enough storage space at the place for the equipment and materials.</p> <p>Penalty: a fine of \$2 000.</p>
		WA	Section 51	<p><b>51. Programmes</b></p> <p>(1) A licensee must ensure that a programme of activities is provided during care sessions that:</p> <p>(a) is developmentally appropriate for the enrolled children; and</p> <p>(b) meets the play, recreation and relaxation needs of the enrolled children.</p> <p>(2) Without limiting subregulation (1), a licensee must ensure that the programme of activities, as far as practicable:</p> <p>(a) is suited to each child’s skills and interests;</p> <p>(b) provides a balance of indoor and outdoor activities;</p> <p>(c) provides a range of activities from which a child may choose; and</p> <p>(d) includes:</p> <p>(i) physical activities (for example, sport, climbing, ball games or gymnastics);</p> <p>(ii) creative activities (for example, art and craft, music or sewing);</p>



CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(iii) activities involving construction (for example, cubby building, woodwork or construction kits);</p> <p>(iv) exploratory activities (for example, nature walks, science activities or sand or water activities);</p> <p>(v) dramatic activities (for example, puppetry, dressing up and plays); and</p> <p>(vi) cognitive play activities (for example, board games, computer activities or reading).</p> <p>Penalty: a fine of \$3 000.</p>
	<p><b>Child Care Services (Rural Family Care) Regulations 2010</b></p>	WA	Section 48	<p><b>48. Programming requirements</b></p> <p>(1) A licensee must ensure the provision of a programme that is developmentally appropriate to the needs of enrolled children.</p> <p>Penalty: a fine of \$3 000.</p> <p>(2) Without limiting subregulation (1), a licensee must ensure that the programme:</p> <p>(a) meets the play and relaxation needs of enrolled children; and</p> <p>(b) provides a balance of indoor and outdoor activities; and</p> <p>(c) includes activities that enrolled children may choose to participate in; and</p>

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				<p>(d) is designed to stimulate and provide for the development of each enrolled child's social, cultural, physical, emotional, intellectual, language and creative potential.</p> <p>Penalty: a fine of \$3 000.</p> <p>(3) A licensee must ensure that a copy of the programme is prominently displayed in the indoor playing area at the place.</p> <p>Penalty: a fine of \$3 000.</p>
		WA	Section 49	<p><b>49. Play equipment and materials</b></p> <p>(1) A licensee must ensure that play equipment and materials are suitable:</p> <p>(a) for the development stages of enrolled children; and</p> <p>(b) for the number of enrolled children; and</p> <p>(c) to provide for all areas of child development and play; and</p> <p>(d) for carrying out the programme referred to in regulation 48.</p> <p>Penalty: a fine of \$2 000.</p>
		WA	Section 64	<p><b>64. Space requirement for indoor play</b></p> <p>(1) A licensee must ensure that the place has an area of indoor space suitable for children's play of at least:</p> <p>(a) 3.25 m<sup>2</sup> multiplied by the number equal to the maximum</p>

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				<p>number of children who may attend a care session specified in the licence; and</p> <p>(b) 1 m<sup>2</sup> multiplied by the number equal to the number of enrolled children from 0 to 2 years of age present at the place during a care session.</p> <p>Penalty: a fine of \$3 000.</p> <p>(2) When calculating the area of indoor space for the purposes of subregulation (1) the area of any built-in cupboard, bench, passageway, thoroughfare, bathroom, toilet or shower is not to be taken into account.</p>
		WA	Section 65	<p><b>65. Space requirement for outdoor play</b></p> <p>A licensee must ensure that the place has an area of outdoor space suitable for children's play of at least 9.3 m<sup>2</sup> multiplied by the number equal to the maximum number of children who may attend a care session specified in the licence.</p> <p>Penalty: a fine of \$3 000.</p>
	<b>Child Care Services (Child Care) Regulations 2006</b>	WA	Section 83	<p><b>83. Programme of activities</b></p> <p>(1) A licensee must ensure the provision of a programme of activities which is developmentally appropriate to the needs of the children attending the service.</p> <p>(2) A licensee must ensure that the programme:</p> <p>(a) meets the play and relaxation needs of children;</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(b) provides a balance of indoor and outdoor activities; (c) includes activities that a child may choose to participate in; and</p> <p>(d) is designed to stimulate and provide for the development of each child's social, cultural, physical, emotional, intellectual, language and creative potential.</p> <p>(3) A licensee must ensure that a copy of the programme is prominently displayed in each indoor playing area at the place.</p> <p>Penalty: a fine of \$3 000.</p>
		WA	Section 84	<p><b>84. Play equipment and materials</b></p> <p>(1) A licensee must ensure that play equipment and materials are suitable:</p> <p>(a) for the development stages of the enrolled children;</p> <p>(b) for the number of enrolled children;</p> <p>(c) to provide for all areas of child development and play; and</p> <p>(d) for carrying out programmes.</p> <p>(2) A licensee must ensure that enrolled children using play equipment are supervised at all times.</p> <p>Penalty: a fine of \$2 000.</p>

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		WA	Section 32	<p><b>32. Play areas on place</b></p> <p>(1) A licensee must ensure that the place has an area of indoor space suitable for children’s play of at least:</p> <p>(a) 3.25 m<sup>2</sup> multiplied by the number equal to the maximum number of children who may attend a care session specified in the licence; and</p> <p>(b) 1 m<sup>2</sup> multiplied by the number equal to the number of enrolled children from 0 to 2 years of age present at the place during a care session.</p> <p>(2) A licensee must ensure that the place has an area of outdoor space suitable for children’s play of at least 9.3 m<sup>2</sup> multiplied by the number equal to the maximum number of children who may attend a care session specified in the licence.</p> <p>(3) When calculating the area of indoor space for the purposes of subregulation (1) the area of any built-in cupboard, bench, passageway, thoroughfare, bathroom, toilet or shower is not to be taken into account.</p> <p>(4) The CEO may waive or vary the outdoor space requirement under subregulation (2) if —(a) there is an equivalent area of playing space within walking distance for the enrolled children; or</p> <p>(b) the outdoor space available is augmented by a larger indoor space suitable for children’s play.</p>

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				Penalty: a fine of \$3 000.
	<b>Child Care Services (Family Day Care) Regulations 2006</b>	WA	Section 67	<p><b>67. Programme of activities</b></p> <p>(1) A licensee must ensure the provision of a programme of activities which is developmentally appropriate to the needs of the children attending the service.</p> <p>(2) A licensee must ensure that the programme:</p> <p>(a) meets the play and relaxation needs of children;</p> <p>(b) provides a balance of indoor and outdoor activities;</p> <p>(c) includes activities that a child may choose to participate in; and</p> <p>(d) is designed to stimulate and provide for the development of each child's social, cultural, physical, emotional, intellectual, language and creative potential. (3) A licensee must ensure that a copy of the programme is prominently displayed in the indoor playing area at the place.</p> <p>Penalty: a fine of \$3 000.</p>
		WA	Section 68	<p><b>68. Play equipment and materials</b></p> <p>(1) A licensee must ensure that play equipment and materials are suitable:</p> <p>(a) for the development stages of the enrolled children;</p> <p>(b) for the number of enrolled children;</p>

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				<p>(c) to provide for all areas of child development and play; and</p> <p>(d) for carrying out programmes.</p> <p>(2) A licensee must ensure that enrolled children using play equipment are supervised at all times.</p> <p>Penalty: a fine of \$2 000.</p>
	<p><b>Education and Care Services National Regulations 2012</b></p>	<p>WA</p>	<p>Schedule 1</p>	<p><b>Schedule 1—National Quality Standard</b></p> <p>Notes:</p> <p>1 The National Quality Standard is used to assess education and care services to determine rating levels under Part 5 of the Law.</p> <p>2 The Regulatory Authority may suspend a service approval if an education and care service is rated under Part 5 of the Law as not meeting the National Quality Standard, there has been no improvement in that rating and a service waiver or temporary waiver does not apply — see section 70(1)(d) of the Law.</p> <p><b>Quality area 1— Educational program and practice</b></p> <p>The educational program and practice is stimulating, engaging and enhances children’s learning and development. In services for children over preschool age the program nurtures the development of life skills and complements children’s experiences, opportunities and relationships at</p>

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				<p>school, at home and in the community.</p> <p><b>Standard 1.1</b> An Approved Learning Framework informs the development of a curriculum that enhances each child's learning and development.</p> <p><b>Element 1.1.1</b> Curriculum decision making contributes to each child's learning and development outcomes in relation to their identity, connection with community, wellbeing, confidence as learners and effectiveness as communicators.</p> <p><b>Element 1.1.2</b> Each child's current knowledge, ideas, culture, abilities and interests are the foundation of the program.</p> <p><b>Element 1.1.3</b> The program, including routines, is organised in ways that maximise opportunities for each child's learning.</p> <p><b>Element 1.1.4</b> The documentation about each child's program and progress is available to families.</p> <p><b>Element 1.1.5</b> Every child is supported to participate in the program.</p> <p><b>Element 1.1.6</b> Each child's agency is promoted, enabling them to make choices and decisions and influence events and their world.</p> <p><b>Standard 1.2</b> Educators and co-ordinators are focused, active and reflective in designing and delivering the program for each child.</p> <p><b>Element 1.2.1</b> Each child's learning and development is</p>



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				<p>assessed as part of an ongoing cycle of planning, documentation and evaluation.</p> <p><b>Element 1.2.2</b> Educators respond to children’s ideas and play and use intentional teaching to scaffold and extend each child’s learning.</p> <p><b>Element 1.2.3</b> Critical reflection on children’s learning and development, both as individuals and in groups, is regularly used to implement the program.</p> <p>For the purposes of Quality area 1:</p> <p>'<b>agency</b>' involves being able to make choices and decisions, to influence events and to have an impact on one’s world;</p> <p>'<b>intentional teaching</b>' involves educators being deliberate, purposeful and thoughtful in their decisions and actions. Intentional teaching is the opposite of teaching by rote or continuing with traditions simply because things have <i>always</i> been done that way;</p> <p>'<b>scaffold</b>' means the educators’ decisions and actions that build on children’s existing knowledge and skills to enhance their learning.</p> <p><b>Quality area 2 — Children’s health and safety</b></p> <p>Every child’s health and wellbeing is safeguarded and promoted.</p> <p><b>Standard 2.1</b> Each child’s health is promoted.</p>

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				<p><b>Element 2.1.1</b> Each child’s health needs are supported.</p> <p><b>Element 2.1.2</b> Each child’s comfort is provided for and there are appropriate opportunities to meet each child’s need for sleep, rest and relaxation.</p> <p><b>Element 2.1.3</b> Effective hygiene practices are promoted and implemented.</p> <p><b>Element 2.1.4</b> Steps are taken to control the spread of infectious diseases and to manage injuries and illness, in accordance with recognised guidelines.</p> <p><b>Standard 2.2</b> Healthy eating and physical activity are embedded in the program for children.</p> <p><b>Element 2.2.1</b> Healthy eating is promoted and food and drinks provided by the service are nutritious and appropriate for each child.</p> <p><b>Element 2.2.2</b> Physical activity is promoted through planned and spontaneous experiences and is appropriate for each child.</p> <p><b>Standard 2.3</b> Each child is protected.</p> <p><b>Element 2.3.1</b> Children are adequately supervised at all times.</p> <p><b>Element 2.3.2</b> Every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.</p>

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				<p><b>Element 2.3.3</b> Plans to effectively manage incidents and emergencies are developed in consultation with relevant authorities, practised and implemented.</p> <p><b>Element 2.3.4</b> Educators, co-ordinators and staff members are aware of their roles and responsibilities to respond to every child at risk of abuse or neglect.</p> <p><b>Quality area 3 — Physical environment</b></p> <p>The physical environment is safe, suitable and provides a rich and diverse range of experiences which promote children’s learning and development.</p> <p><b>Standard 3.1</b> The design and location of the premises is appropriate for the operation of a service.</p> <p><b>Element 3.1.1</b> Outdoor and indoor spaces, buildings, furniture, equipment, facilities and resources are suitable for their purpose.</p> <p><b>Element 3.1.2</b> Premises, furniture and equipment are safe, clean and well maintained.</p> <p><b>Element 3.1.3</b> Facilities are designed or adapted to ensure access and participation by every child in the service and to allow flexible use, and interaction between indoor and outdoor space.</p> <p><b>Standard 3.2</b> The environment is inclusive, promotes competence, independent exploration and learning through play.</p>

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				<p><b>Element 3.2.1</b> Outdoor and indoor spaces are designed and organised to engage every child in quality experiences in both built and natural environments.</p> <p><b>Element 3.2.2</b> Resources, materials and equipment are sufficient in number, organised in ways that ensure appropriate and effective implementation of the program and allow for multiple uses.</p> <p><b>Standard 3.3</b> The service takes an active role in caring for its environment and contributes to a sustainable future.</p> <p><b>Element 3.3.1</b> Sustainable practices are embedded in service operations.</p> <p><b>Element 3.3.2</b> Children are supported to become environmentally responsible and show respect for the environment.</p> <p><b>Quality area 4 — Staffing arrangements</b></p> <p>Staffing arrangements create a safe and predictable environment for children and support warm, respectful relationships. Qualified and experienced educators and co-ordinators encourage children’s active engagement in the learning program. Positive relationships among educators, co-ordinators and staff members contribute to an environment where children feel emotionally safe, secure and happy.</p> <p><b>Standard 4.1</b> Staffing arrangements enhance children’s learning and development and ensure their safety and wellbeing.</p>

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				<p><b>Element 4.1.1</b> Educator-to-child ratios and qualification requirements are maintained at all times.</p> <p><b>Standard 4.2</b> Educators, co-ordinators and staff members are respectful and ethical.</p> <p><b>Element 4.2.1</b> Professional standards guide practice, interactions and relationships.</p> <p><b>Element 4.2.2</b> Educators, co-ordinators and staff members work collaboratively and affirm, challenge, support and learn from each other to further develop their skills, to improve practice and relationships.</p> <p><b>Element 4.2.3</b> Interactions convey mutual respect, equity and recognition of each other’s strengths and skills.</p> <p><b>Quality area 5 — Relationships with children</b></p> <p>Relationships that are responsive, respectful and promote children’s sense of security and belonging free them to explore the environment and engage in learning.</p> <p><b>Standard 5.1</b> Respectful and equitable relationships are developed and maintained with each child.</p> <p><b>Element 5.1.1</b> Interactions with each child are warm, responsive and build trusting relationships.</p> <p><b>Element 5.1.2</b> Every child is able to engage with educators in meaningful, open interactions that support the acquisition of skills for life and learning.</p>

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				<p><b>Element 5.1.3</b> Each child is supported to feel secure, confident and included.</p> <p><b>Standard 5.2</b> Each child is supported to build and maintain sensitive and responsive relationships with other children and adults.</p> <p><b>Element 5.2.1</b> Every child is supported to work with, learn from and help others through collaborative learning opportunities.</p> <p><b>Element 5.2.2</b> Each child is supported to manage their own behaviour, respond appropriately to the behaviour of others and communicate effectively to resolve conflicts.</p> <p><b>Element 5.2.3</b> The dignity and rights of every child are maintained at all times.</p> <p><b>Quality area 6 — Collaborative partnerships with families and communities</b></p> <p>Collaborative relationships with families are fundamental to achieve quality outcomes for children. Community partnerships that focus on active communication, consultation and collaboration also contribute to children’s learning and wellbeing.</p> <p><b>Standard 6.1</b> Respectful, supportive relationships with families are developed and maintained.</p> <p><b>Element 6.1.1</b> There is an effective enrolment and orientation process for families.</p>

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				<p><b>Element 6.1.2</b> Families have opportunities to be involved in the service and contribute to service decisions.</p> <p><b>Element 6.1.3</b> Current information about the service is available to families.</p> <p><b>Standard 6.2</b> Families are supported in their parenting role and their values and beliefs about child rearing are respected.</p> <p><b>Element 6.2.1</b> The expertise of families is recognised and they share in decision making about their child’s learning and wellbeing.</p> <p><b>Element 6.2.2</b> Current information is available to families about community services and resources to support parenting and family wellbeing.</p> <p><b>Standard 6.3</b> The service collaborates with other organisations and service providers to enhance children’s learning and wellbeing.</p> <p><b>Element 6.3.1</b> Links with relevant community and support agencies are established and maintained.</p> <p><b>Element 6.3.2</b> Continuity of learning and transitions for each child are supported by sharing relevant information and clarifying responsibilities.</p> <p><b>Element 6.3.3</b> Access to inclusion and support assistance is facilitated.</p> <p><b>Element 6.3.4</b> The service builds relationships and engages</p>

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				<p>with their local community.</p> <p><b>Quality area 7 — Leadership and service management</b></p> <p>Effective leadership contributes to sustained quality relationships and environments that facilitate children’s learning and development. Well documented policies and practices that are developed and regularly evaluated in partnership with educators, co-ordinators, staff members and families contribute to the ethical management of the service. There is a focus on continuous improvement.</p> <p><b>Standard 7.1</b> Effective leadership promotes a positive organisational culture and builds a professional learning community.</p> <p><b>Element 7.1.1</b> Appropriate governance arrangements are in place to manage the service.</p> <p><b>Element 7.1.2</b> The induction of educators, co-ordinators and staff members is comprehensive.</p> <p><b>Element 7.1.3</b> Every effort is made to promote continuity of educators and co-ordinators at the service.</p> <p><b>Element 7.1.4</b> Provision is made to ensure a suitably qualified and experienced educator or co-ordinator leads the development of the curriculum and ensures the establishment of clear goals and expectations for teaching and learning.</p> <p><b>Element 7.1.5</b> Adults working with children and those engaged in management of the service or residing on the</p>



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				<p>premises are fit and proper.</p> <p><b>Standard 7.2</b> There is a commitment to continuous improvement.</p> <p><b>Element 7.2.1</b> A statement of philosophy is developed and guides all aspects of the service's operations.</p> <p><b>Element 7.2.2</b> The performance of educators, co-ordinators and staff members is evaluated and individual development plans are in place to support performance improvement.</p> <p><b>Element 7.2.3</b> An effective self-assessment and quality improvement process is in place.</p> <p><b>Standard 7.3</b> Administrative systems enable the effective management of a quality service.</p> <p><b>Element 7.3.1</b> Records and information are stored appropriately to ensure confidentiality, are available from the service and are maintained in accordance with legislative requirements.</p> <p><b>Element 7.3.2</b> Administrative systems are established and maintained to ensure the effective operation of the service.</p> <p><b>Element 7.3.3</b> The Regulatory Authority is notified of any relevant changes to the operation of the service, of serious incidents and any complaints which allege a breach of legislation.</p> <p><b>Element 7.3.4</b> Processes are in place to ensure that all grievances and complaints are addressed, investigated fairly</p>

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				<p>and documented in a timely manner.</p> <p><b>Element 7.3.5</b> Service practices are based on effectively documented policies and procedures that are available at the service and reviewed regularly.</p>

## 7. Northern Territory

### 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 31:</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Adoption of Children Act</b></p>	<p>NT</p>	<p>Schedule 1</p>	<p><b>Schedule 1 Matters of ethnicity and religion</b></p> <p>section 8(2)</p> <p>With regard to the matters of ethnicity and religion in determining the welfare and interests of a child, the Minister and the Court shall take into account the following principles:</p> <p>(1) it is preferable that the child should be placed with a family that has the same ethnic and cultural origins as the child's birth parents in order to facilitate an environment that will promote the child's cultural heritage and identity;</p> <p>(2) where the child is an Aboriginal child, recognition is to be given to:</p> <p>(i) the absence of adoption in customary Aboriginal child care arrangements, arrangements for the custody and guardianship of the child being made within the child's extended family or with other Aboriginal people who have the correct relationship under customary Aboriginal law; and</p> <p>(ii) the desire and effort of the Aboriginal community to preserve the integrity of its culture and kinship relationships so that efforts must be made to find placements within families, kin groups or ethnic communities as appropriate;</p> <p>(3) there should be appropriate consultation with the child's</p>

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				<p>parents or other relatives, or representatives of appropriate associations, organisations or groups, in order to ascertain what is the best course of action to promote the ethnic welfare and development of the child;</p> <p>(4) where it is the express wish of the birth parents of a child that the child be placed with a family that has particular religious convictions, preference is to be given to the placement of the child with such a family.</p>
	<b>Anti-discrimination Act</b>	NT	Section 19	<p>Prohibition of discrimination</p> <p>(1) Subject to subsection (2), a person shall not discriminate against another person on the ground of any of the following attributes:</p> <p>...</p> <p>(d) age;</p> <p>...</p> <p>(2) It is not unlawful for a person to discriminate against another person on any of the attributes referred to in subsection (1) if an exemption under Part 4 or 5 applies.</p>
	<b>Anti-discrimination Act</b>	NT	Section 20	<p><b>20 Discrimination</b></p> <p>(1) For the purposes of this Act, discrimination includes:</p> <p>(a) any distinction, restriction, exclusion or preference made on the basis of an attribute that has the effect of nullifying or</p>

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				<p>impairing equality of opportunity; and</p> <p>(2) Without limiting the generality of subsection (1), discrimination takes place if a person treats or proposes to treat another person who has or had, or is believed to have or had:</p> <p>(a) an attribute; or</p> <p>(b) a characteristic imputed to appertain to an attribute; or</p> <p>(c) a characteristic imputed to appertain generally to persons with an attribute,</p> <p>less favourably than a person who has not, or is believed not to have, such an attribute.</p>
	<b>Anti-discrimination Act</b>	NT	Section 41	<p><b>Discrimination in goods, services and facilities area</b></p> <p>(1) A person who supplies goods, services or facilities (whether or not for reward or profit) shall not discriminate against another person:</p> <p>(a) by failing or refusing to supply the goods, services or facilities; or</p> <p>(b) in the terms and conditions on which the goods, services or facilities are supplied; or</p> <p>(c) in the way in which the goods, services or facilities are supplied; or</p>

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				<p>(d) by treating the other person less favourably in any way in connection with the supply of the goods, services or facilities.</p> <p>(2) Subsection (1) does not apply to an association that:</p> <p>(a) is established for social, literary, cultural, political, sporting, athletic, recreational or community service purposes or other similar lawful purposes; and</p> <p>(b) does not carry out its purposes for the purpose of making a profit.</p>
	<b>Anti-discrimination Act</b>	NT	Section 43	<p><b>Exemptions – cultural or religious sites</b></p> <p>A person may restrict access to land, a building or place of cultural or religious significance by people who are not of a particular sex, age, race or religion if the restriction:</p> <p>(a) is in accordance with the culture or the doctrine of the religion; and</p> <p>(b) is necessary to avoid offending the cultural or religious sensitivities of people of the culture or religion.</p>
	<b>Anti-discrimination Act</b>	NT	Section 44	<p><b>Exemptions – age-based benefits</b></p> <p>A person may supply benefits and concessions on the basis of age with respect to a matter that is otherwise prohibited under this Division.</p>
	<b>Anti-discrimination Act</b>	NT	Section 45	<p><b>Exemptions – child to be accompanied by adult</b></p>

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	Act			A person may require, as a term of supplying goods, services or facilities to a child, that the child be accompanied by an adult if there is a reasonable risk that a child could cause a disruption or endanger himself or herself, or others, if not accompanied by an adult.
	Anti-discrimination Act	NT	Section 46	<p><b>Discrimination in club membership and club activities</b></p> <p>(1) A club, the committee of management of a club or a member of the committee of management shall not discriminate against a person who is not a member of the club:</p> <p>(a) by failing or refusing to accept the person's application for membership of the club; or</p> <p>(b) in refusing or rejecting a person's membership of the club; or</p> <p>(c) in the terms and conditions on which the club is prepared to admit the person to membership of the club.</p> <p>(2) A club, the committee of management of a club or a member of the committee of management shall not discriminate against a member of the club:</p> <p>(a) in the terms and conditions of membership that are afforded to the member; or</p> <p>(b) by failing or refusing to accept the member's application for a particular class or type of membership of the club; or</p>

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				<p>(c) by failing or refusing to grant the member access, or limiting the member's access, to any benefit provided by the club; or</p> <p>(d) by depriving the member of membership or varying the terms and conditions of membership of the club; or</p> <p>(e) by treating the member less favourably in any way in connection with membership of the club.</p>
	<b>Anti-discrimination Act</b>	NT	Section 47	<p><b>Exemptions</b></p> <p>(1) A club, the committee of management of a club or a member of the committee of management may exclude applicants for membership of the club who are not members of the group of people with an attribute for whom the club was established if the club operates wholly or mainly:</p> <p>(a) to preserve a minority culture; or</p> <p>(b) to prevent or reduce disadvantage suffered by people of that group.</p> <p>(2) A club, the committee of management of a club or a member of the committee of management may discriminate against a person on the ground of age in membership of the club if the club provides association wholly or mainly for people of a specific age or age group.</p> <p>...</p> <p>(4) In determining a matter relating to the application of</p>



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				<p>subsection (3)(b) regard shall be had to:</p> <ul style="list-style-type: none"> <li>(a) the purposes for which the club is established; and</li> <li>(b) the membership of the club, including any class or type of membership; and</li> <li>(c) the nature of the benefits provided by the club; and</li> <li>(d) the opportunities for the use and enjoyment of those benefits by men and women; and</li> <li>(e) any other relevant circumstances.</li> </ul>
	<p><b>Anti-discrimination Act</b></p>	<p>NT</p>	<p>Section 50</p>	<p><b>Legal incapacity</b></p> <p>A person may discriminate against another person who is subject to a legal incapacity if that incapacity is relevant to the transaction in which they are involved.</p> <p>(1) A person may restrict participation in a competitive sporting activity:</p> <ul style="list-style-type: none"> <li>(a) to either men or women, if the restriction is reasonable having regard to the strength, stamina or physique requirements of the activity; or</li> <li>(b) to people who can effectively compete; or</li> <li>(c) to people of a specified age or age group; or</li> <li>(d) to people with a general or specific impairment.</li> </ul>

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				<p>(2) Subsection (1)(a) does not apply to a sporting activity for children who have not attained 12 years of age.</p> <p>(3) In this section, competitive sporting activity does not include:</p> <ul style="list-style-type: none"> <li>(a) the coaching of people engaged in a sporting activity; or</li> <li>(b) the umpiring or refereeing of a sporting activity; or</li> <li>(c) the administration of a sporting activity; or</li> <li>(d) a prescribed sporting activity.</li> </ul>
	<b>Anti-discrimination Act</b>	NT	Section 56	<p><b>Sport</b></p> <p>(1) A person may restrict participation in a competitive sporting activity:</p> <ul style="list-style-type: none"> <li>(a) to either men or women, if the restriction is reasonable having regard to the strength, stamina or physique requirements of the activity; or</li> <li>(b) to people who can effectively compete; or</li> <li>(c) to people of a specified age or age group; or</li> <li>(d) to people with a general or specific impairment.</li> </ul> <p>(2) Subsection (1)(a) does not apply to a sporting activity for children who have not attained 12 years of age.</p> <p>(3) In this section, competitive sporting activity does not</p>

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				<p>include:</p> <ul style="list-style-type: none"> <li>(a) the coaching of people engaged in a sporting activity; or</li> <li>(b) the umpiring or refereeing of a sporting activity; or</li> <li>(c) the administration of a sporting activity; or</li> <li>(d) a prescribed sporting activity.</li> </ul>
	<b>Care and Protection of Children Act</b>	NT	Section 8	<p><b>Role of family</b></p> <p>(1) The family of a child has the primary responsibility for the care, upbringing and development of the child.</p> <p>(2) 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>(3) A child may be removed from the child's family only if there is no other reasonable way to safeguard the wellbeing of the child.</p> <p>(4) As far as practicable, and consistent with section 10, if a child is removed from the child's family:</p> <ul style="list-style-type: none"> <li>(a) contact between the child and the family should be encouraged and supported; and</li> <li>(b) the child should eventually be returned to the family.</li> </ul>
	<b>Care and Protection</b>	NT	Section 9	Treating child with respect

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	<b>of Children Act</b>			<p>(1) 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>(2) Decisions involving a child should be made:</p> <p>(a) promptly having regard to the child's circumstances; and</p> <p>(b) in a way that is consistent with the cultural, ethnic and religious values and traditions relevant to the child; and</p> <p>(c) with the informed participation of the child, the child's family and other people who are significant in the child's life.</p>
	<b>Care and Protection of Children Act</b>	NT	Section 10	<p><b>Best interests of child</b></p> <p>(1) When a decision involving a child is made, the best interests of the child are the paramount concern.</p> <p>(2) Without limiting subsection (1), consideration should be given to the following matters in determining the best interests of a child:</p> <p>(a) the need to protect the child from harm and exploitation;</p> <p>(b) the capacity and willingness of the child's parents or other family members to care for the child;</p> <p>(c) the nature of the child's relationship with the child's family and other persons who are significant in the child's life;</p>

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				<p>(d) the wishes and views of the child, having regard to the maturity and understanding of the child;</p> <p>(e) the child's need for permanency in the child's living arrangements;</p> <p>(f) the child's need for stable and nurturing relationships;</p> <p>(g) the child's physical, emotional, intellectual, spiritual, developmental and educational needs;</p> <p>(h) the child's age, maturity, gender, sexuality and cultural, ethnic and religious backgrounds;</p> <p>(i) other special characteristics of the child;</p> <p>(j) the likely effect on the child of any changes in the child's circumstances.</p>
	<b>Care and Protection of Children Act</b>	NT	Section 12	<p><b>Aboriginal children</b></p> <p>(1) Kinship groups, representative organisations and communities of Aboriginal people have a major role, through self-determination, in promoting the wellbeing of Aboriginal children.</p> <p>(2) In particular, a kinship group, representative organisation or community of Aboriginal people nominated by an Aboriginal child's family should be able to participate in the making of a decision involving the child.</p> <p>(3) An Aboriginal child should, as far as practicable, be</p>

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				<p>placed with a person in the following order of priority:</p> <ul style="list-style-type: none"> <li>(a) a member of the child's family;</li> <li>(b) an Aboriginal person in the child's community in accordance with local community practice;</li> <li>(c) any other Aboriginal person;</li> <li>(d) a person who: <ul style="list-style-type: none"> <li>(i) is not an Aboriginal person; but</li> <li>(ii) in the CEO's opinion, is sensitive to the child's needs and capable of promoting the child's ongoing affiliation with the culture of the child's community (and, if possible, ongoing contact with the child's family).</li> </ul> </li> </ul> <p>(4) In addition, an Aboriginal child should, as far as practicable, be placed in close proximity to the child's family and community.</p>
	<p><b>Care and Protection of Children Act</b></p>	<p>NT</p>	<p>Section 184</p>	<p>Object of Part</p> <ul style="list-style-type: none"> <li>(1) The object of this Part is to ensure individuals who pose an unacceptable risk of harm or exploitation to children are prevented from contacting children through their employment.</li> <li>(2) The object is to be achieved by: <ul style="list-style-type: none"> <li>(a) prohibiting such individuals from being engaged in child-</li> </ul> </li> </ul>

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				<p>related employment; and</p> <p>(b) imposing related obligations on people:</p> <p>(i) who are engaged in child-related employment; or</p> <p>(ii) who engage others in child-related employment.</p>
	<p><b>Care and Protection of Children Act</b></p>	<p>NT</p>	<p>Section 185</p>	<p><b>185 Child-related employment</b></p> <p>(1) A person is engaged in child-related employment if the person is engaged to perform child-related work.</p> <p>(2) Child-related work is any work that involves or may potentially involve contact with children in connection with any of the following:</p> <p>(a) child protection services provided by or for the Department;</p> <p>(b) an education and care service operated under the Education and Care Services National Law (NT);</p> <p>(c) an educational facility for children, including a government school established under the Education Act and a school registered under Part VII of that Act, other than a facility prescribed by regulation;</p> <p>(d) juvenile detention centres;</p> <p>(e) refuges or other residential facilities used by children;</p> <p>(f) wards of hospitals or any other facilities for health</p>

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				<p>services in which children are ordinarily patients;</p> <p>(g) clubs, associations or movements (including those that are of a cultural, recreational or sporting nature) with significant child membership or involvement;</p> <p>(h) religious organisations;</p> <p>(i) babysitting or child-minding services;</p> <p>(j) fostering of children;</p> <p>(k) transportation services for children;</p> <p>(l) private tuition services for children;</p> <p>(m) counselling or other support services for children;</p> <p>(n) overnight camps for children;</p> <p>(o) road crossing services for school children;</p> <p>(p) any of the following services, activities or facilities that are provided or arranged for children:</p> <p>(i) gym or play facilities;</p> <p>(ii) photographic services;</p> <p>(iii) talent or beauty competitions;</p> <p>(iv) entertainment or party services;</p>



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				<p>(q) any other services, activities or facilities prescribed by regulation.</p> <p>(3) A person may be engaged in child-related employment under a contract of employment or any other contract or arrangement (whether written or unwritten and whether for a reward or not).</p> <p>(4) Anyone who enters into such a contract or arrangement for a person or body to perform child-related work must be regarded as someone who engages the person or body in child-related employment.</p> <p>(5) Without limiting subsections (1) to (4), any of the following is a person engaged in child-related employment:</p> <p>(a) anyone performing child-related work:</p> <p>(i) as a minister of religion or as part of a religious vocation; or</p> <p>(ii) as a student for the practical training of an educational or vocational course; or</p> <p>(iii) as a voluntary worker;</p> <p>(b) if a body is engaged to perform child-related work, any of the following:</p> <p>(i) for a body corporate as defined in the Corporations Act 2001 – an officer of the body corporate as defined in that Act;</p>

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				<p>(ii) for any other body corporate – anyone (however described) who takes part in the management of the body corporate;</p> <p>(iii) for any unincorporated body or association – a member of the committee of management (however described) of the body or association;</p> <p>(c) if a partnership is engaged to perform child-related work – a partner in the partnership.</p>
	<b>Care and Protection of Children Act</b>	NT	Section 187	<p><b>187 Obligations for child-related employment</b></p> <p>(1) An individual engaged in child-related employment must hold a clearance notice that is in force.</p> <p>(2) A person must not engage an individual in child-related employment unless the individual holds a clearance notice that is in force.</p> <p>(3) A person must not contravene subsection (1) or (2).</p> <p>Maximum penalty: 500 penalty units.</p>
	<b>Care and Protection of Children Act</b>	NT	Section 203	<p><b>203 Obligation of employers and parents</b></p> <p>(1) An employer of a child is guilty of an offence if:</p> <p>(a) the employer requires the child to perform any work at any time after 10 pm at night and before 6 am in the morning; and</p>

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				<p>(b) the child is less than 15 years of age.</p> <p>Maximum penalty: 400 penalty units.</p> <p>(2) An employer of a child must not require the child to perform any work that is harmful, or likely to be harmful, to the child's physical, mental or emotional wellbeing.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(3) An employer of a child must not require the child to perform any work that involves the exploitation of the child.</p> <p>Maximum penalty: 800 penalty units or imprisonment for 4 years.</p> <p>(4) A parent of a child is guilty of an offence if:</p> <p>(a) the parent permits or requires the child to perform any work at any time after 10 pm at night and before 6 am in the morning; and</p> <p>(b) the child is less than 15 years of age.</p> <p>Maximum penalty: 50 penalty units or imprisonment for 6 months.</p> <p>(5) A parent of a child must not permit or require the child to perform any work that is harmful, or likely to be harmful, to the child's physical, mental or emotional wellbeing.</p>

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				<p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(6) A parent of a child must not permit or require the child to perform any work that involves the exploitation of the child.</p> <p>Maximum penalty: 800 penalty units or imprisonment for 4 years.</p>
	<p><b>Care and Protection of Children Act</b></p>	<p>NT</p>	<p>Section 204</p>	<p><b>204 Inspections</b></p> <p>(1) For the purposes of monitoring compliance with this Part, an authorised officer may, at any reasonable time:</p> <p>(a) enter a place where the officer reasonably believes a child is employed; and</p> <p>(b) inspect the place and any facilities at the place; and</p> <p>(c) require any person at the place to give the officer specified information or produce to the officer specified records; and</p> <p>(d) operate any electronic equipment at the place to retrieve the records; and</p> <p>(e) make extracts or copies of the records.</p> <p>(2) A person must comply with a requirement given to the person for subsection (1).</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12</p>

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				<p>months.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.</p> <p>(4) If the officer enters the place without producing the officer's identity card when requested to do so:</p> <p>(a) the officer may not stay at the place; and</p> <p>(b) a person is not required to comply with a requirement given to the person for subsection (1).</p>
	<b>Care and Protection of Children Act</b>	NT	Section 205	<p><b>205 Authorised officer may require provision of information</b></p> <p>(1) An authorised officer may, by written notice, require a person who employs a child to give the officer specified information about the employment.</p> <p>(2) The person must comply with the requirement within 14 days after receiving the notice.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.</p>
	<b>Care and Protection of Children (Children's Services)</b>	NT	Section 11	<p><b>11 The following details about the service:</b></p> <p>(a) the philosophy;</p>

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	Regulations			<p>(b) the management structure;</p> <p>(c) the maximum number and ages of children for whom the service will be provided at any time;</p> <p>(d) the hours of operation;</p> <p>(e) how children will be placed in care groups (for example, by age) and the size of the care groups;</p> <p>(f) admission requirements and enrolment procedures for children;</p> <p>(g) procedures for the payment of fees;</p> <p>(h) the policy governing interaction between carers and children.</p> <p><b>12 Details about how the service will provide, and continuously improve in providing, a safe environment for children.</b></p> <p>13 The following details about the curriculum:</p> <p>(a) the degree and nature of parent participation in curriculum development;</p> <p>(b) how the individual special and developmental needs of children will be addressed;</p> <p>(c) how the curriculum will be relevant to the cultural backgrounds of children;</p>

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				<p>(d) how the curriculum will encourage independence and self-esteem in children;</p> <p>(e) behaviour management methodologies to be used;</p> <p>(f) how gender equity will be incorporated into the curriculum;</p> <p>(g) the nature and frequency of excursions from the premises.</p>
	<p><b>Care and Protection of Children (Children's Services) Regulations</b></p>	NT	Section 13	<p>Matters to be included in operating plan</p> <p>13 The following details about the curriculum:</p> <p>(a) the degree and nature of parent participation in curriculum development;</p> <p>(b) how the individual special and developmental needs of children will be addressed;</p> <p>(c) how the curriculum will be relevant to the cultural backgrounds of children;</p> <p>(d) how the curriculum will encourage independence and self-esteem in children;</p> <p>(e) behaviour management methodologies to be used;</p> <p>(f) how gender equity will be incorporated into the curriculum;</p> <p>(g) the nature and frequency of excursions from the</p>

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				premises.
	<b>Care and Protection of Children (Children's Services) Regulations</b>	NT	Section 19	<p><b>Play and rest areas</b></p> <p>(1) Play and rest areas must be provided for children.</p> <p>(2) The areas must be comfortable and organised and furnished in a way that is appropriate to the age and physical and intellectual needs of the children.</p>
	<b>Care and Protection of Children (Children's Services) Regulations</b>	NT	Section 26	<p><b>Safety of play equipment</b></p> <p>(1) Play equipment (whether fixed or not) used on the premises must not constitute a hazard to children for any reason, including because of:</p> <p>(a) the lack of soft surfaces under or around the equipment; or</p> <p>(b) the height from which a child could fall from the equipment; or</p> <p>(c) the likelihood that a child may be trapped, pinched or crushed by the equipment or struck by sharp or rough edges, projections or rust; or</p> <p>(d) lack of stability of the equipment.</p> <p>(2) Outdoor play equipment and soft fall surfacing must comply with relevant Australian Standards.</p>
	<b>Care and Protection</b>	NT	Section 31	<b>Children's room</b>



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	<p><b>of Children (Children's Services) Regulations</b></p>			<p>(1) This condition applies only to a standard service.</p> <p>(2) At least 1 children's room must be provided.</p> <p>(3) The floor area of each children's room must allow a clear space for each child being cared for in the room of at least 3.25 square metres, excluding the following:</p> <ul style="list-style-type: none"> <li>(a) a passageway or thoroughfare less than 3 metres wide;</li> <li>(b) a kitchen;</li> <li>(c) a toilet or shower area;</li> <li>(d) a cupboard or other storage area;</li> <li>(e) a door swing area;</li> <li>(f) a cot room or area permanently set aside for the use or storage of cots;</li> <li>(g) any other ancillary area.</li> </ul> <p>(4) Adequate natural lighting must be provided in each children's room.</p>
	<p><b>Care and Protection of Children (Children's Services) Regulations</b></p>	NT	Section 33	<p><b>33 Rest facilities</b></p> <p>(1) A rest area for children must be provided.</p> <p>(2) For a service other than an outside school hours care service:</p> <ul style="list-style-type: none"> <li>(a) 1 bed or mattress must be provided for each child who is</li> </ul>

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				<p>at least 2 years of age; and</p> <p>(b) 1 cot or other appropriate bedding must be provided for each child under 2 years of age; and</p> <p>(c) individual sheets and blankets must be provided for each child; and</p> <p>(d) the same bed linen must not be used for different children unless it is washed before each use; and</p> <p>(e) additional bedding must be provided for a sick child who must be isolated from other children.</p>
	<p><b>Care and Protection of Children (Children's Services) Regulations</b></p>	<p>NT</p>	<p>Section 40</p>	<p><b>40 Outdoor play space</b></p> <p>(1) This condition applies only to a standard service.</p> <p>(2) An outdoor play space must be provided that:</p> <p>(a) has a useable area of at least 14 square metres for each child, excluding the following:</p> <p>(i) a pathway or thoroughfare less than 3 metres wide;</p> <p>(ii) a car parking area;</p> <p>(iii) a storage shed or other fixed item that prevents children from using the space;</p> <p>(iv) any other ancillary area; and</p> <p>(b) includes features that enable each child to explore the</p>

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				<p>natural environment.</p> <p>(3) At least 20% of the outdoor play space (excluding verandahs attached to a building) must be shaded at all times children are being provided with the service.</p> <p>(4) The outdoor play space must be enclosed by a fence or barrier that:</p> <p>(a) is at least 1.5 metres high measured from ground level; and</p> <p>(b) a child cannot go through, over or under; and</p> <p>(c) is equipped with gates of the same height with a child-proof self-locking mechanism that is at least 1.4 metres high measured from ground level.</p>
	<b>Care and Protection of Children (Children's Services) Regulations</b>	NT	Section 41	<p><b>41 Sandpits</b></p> <p>If there is a sandpit on the premises:</p> <p>(a) it must be covered when not in use to prevent access by animals; and</p> <p>(b) it must be kept clean and free of anything that may harm a child.</p>
	<b>Care and Protection of Children (Children's Services)</b>	NT	Section 42	<p><b>42 Water safety</b></p> <p>(1) The <i>Swimming Pool Safety Act</i> must be complied with if there is a swimming pool (as defined in that Act) at the</p>

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	<b>Regulations</b>			premises.  (2) If there is a paddling pool at the premises, it must be emptied immediately after use, cleaned and stored in a way that prevents the collection of water.
	<b>Care and Protection of Children (Children's Services) Regulations</b>	NT	Section 44	<b>44 Appropriate supervision at all times</b>  (1) Children being provided with the service must be supervised by carers at all times, including while they are asleep.  (2) The level of supervision must be appropriate to the age and physical and intellectual development of the children and to the activities in which they are engaged.  (3) A carer on duty must not perform tasks other than caring for children except for minor tasks incidental to the care of the children.
	<b>Care and Protection of Children (Children's Services) Regulations</b>	NT	Section 65	<b>65 Interaction with children</b>  (1) Interactions between carers and children must be conducted in a way that ensures:  (a) the dignity and rights of each child are protected; and  (b) each child is encouraged to express opinions; and  (c) each child is given the opportunity to become self-reliant and develop self-esteem; and

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				<p>(d) each child is given guidance about positive and responsible behaviour; and</p> <p>(e) a child is not required to do anything inappropriate, having regard to the child's family and cultural values, age and physical and intellectual development; and</p> <p>(f) a child is not exposed to physical punishment, or other punishment that humiliates, frightens or threatens the child; and</p> <p>(g) a child is not required to sleep or rest against the child's wishes or needs; and</p> <p>(h) regardless of the physical, mental or language ability, gender, religion, culture, family structure or economic status of a child, the child is:</p> <p>(i) treated without bias; and</p> <p>(ii) encouraged to fully participate (with necessary help and support) in the educational and recreational programs of the service.</p>
	<p><b>Care and Protection of Children (Children's Services) Regulations</b></p>	NT	Section 66	<p><b>66 Educational and recreational programs</b></p> <p>(1) The educational and recreational programs of the service must be appropriate to the individual learning and developmental needs of each child.</p> <p>(2) Each child at the service must have access to adequate furniture, materials and equipment suitable for the stage of</p>

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				development of the child and the educational or recreational programs provided by the service.
	<b>Care and Protection of Children (Children's Services) Regulations</b>	NT	Section 68	<p><b>68 Program of activities</b></p> <p>The service must provide a program of activities that:</p> <ul style="list-style-type: none"> <li>(a) balances indoor and outdoor activities; and</li> <li>(b) facilitates each child's social, physical, emotional, cognitive, language and creative development; and</li> <li>(c) is capable of engaging the interest of children; and</li> <li>(d) allows children to independently select experiences.</li> </ul>
	<b>Care and Protection of Children (Placement Arrangement) Regulations</b>	NT	Section 13	<p><b>Care of child</b></p> <p>The carer must:</p> <ul style="list-style-type: none"> <li>(a) have interest in, and respect for, the child; and</li> <li>(b) provide a safe, caring and stable environment for the child; and</li> <li>(c) provide appropriate accommodation for the child; and</li> <li>(d) provide the child's material requirements; and</li> <li>(e) ensure the child receives appropriate medical attention when required; and</li> <li>(f) encourage the development of the child; and</li> </ul>

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				<p>(g) if the child is enrolled in school – ensure the child attends school; and</p> <p>(h) assist the child to maintain or recover his or her personal, familial and cultural identity; and</p> <p>(i) comply with, and assist with the implementation of, the care plan for the child; and</p> <p>(j) attend training or information sessions as directed by the CEO.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 40</p>	<p><b>40 Attendance of child at certain films – offence by parents and guardians</b></p> <p>(1) A parent or guardian of a child must not permit the child to attend the exhibition of a film in a public place if the film is:</p> <p>(a) classified RC, X 18+ or R 18+; or</p> <p>(b) unclassified but would, if classified, be classified RC, X 18+ or R 18+.</p> <p>Fault elements:</p> <p>(a) intentionally permitting the child to attend the exhibition; and</p> <p>(b) knowledge that the film is classified RC, X 18+ or R 18+ or unclassified.</p>

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				<p>Maximum penalty: 50 penalty units.</p> <p>(2) If the film is unclassified, absolute liability applies to the circumstance that the film would, if classified, be classified RC, X 18+ or R 18+.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 41</p>	<p><b>41 Attendance of child at certain films – offence by child</b></p> <p>A child who is at least 15 years of age must not attend the exhibition of a film classified RC, X 18+ or R 18+ in a public place.</p> <p>Fault elements:</p> <p>(a) intentionally attending the exhibition; and</p> <p>(b) knowledge that the film is classified RC, X 18+ or R 18+.</p> <p>Maximum penalty: 50 penalty units.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 42</p>	<p><b>42 Private exhibition of certain films in presence of child</b></p> <p>(1) A person must not exhibit a film in a private place if:</p> <p>(a) the film is:</p> <p>(i) classified RC, X 18+ or R 18+; or</p> <p>(ii) unclassified but would, if classified, be classified RC, X 18+ or R 18+; and</p> <p>(b) a child is present during any part of the exhibition.</p>



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				<p>Fault elements:</p> <p>(a) intentionally exhibiting the film; and</p> <p>(b) knowledge that, or recklessness as to whether, the film is classified RC, X 18+ or R 18+ or unclassified.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(2) Absolute liability applies to:</p> <p>(a) if the film is unclassified – the circumstance that the film would, if classified, be classified RC, X 18+ or R 18+; and</p> <p>(b) the circumstance that the person present is a child.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant believed, on reasonable grounds, that the child was an adult.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 43</p>	<p><b>43 Attendance of child at R 18+ films – offence by exhibitor</b></p> <p>(1) A person must not exhibit a film in a public place if:</p> <p>(a) the film is classified R 18+; and</p> <p>(b) a child is present during any part of the exhibition.</p> <p>Fault element: Intentionally exhibiting the film.</p>

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				<p>Maximum penalty: 50 penalty units.</p> <p>(2) Absolute liability applies to the circumstance that the person present is a child.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that:</p> <p>(a) the child produced to the defendant acceptable proof of age before the child was admitted to the public place; and</p> <p>(b) the defendant believed, on reasonable grounds, that the child was an adult.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 44</p>	<p><b>44 Attendance of child at MA 15+ films – offence by exhibitor</b></p> <p>(1) A person must not exhibit a film in a public place if:</p> <p>(a) the film is classified MA 15+; and</p> <p>(b) a child under 15 years of age is present during any part of the exhibition; and</p> <p>(c) the child is not accompanied by a parent or guardian of the child.</p> <p>Fault elements:</p> <p>(a) intentionally exhibiting the film; and</p> <p>(b) knowledge that the child is not accompanied by a parent</p>

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				<p>or guardian or recklessness as to that fact.</p> <p>Maximum penalty: 20 penalty units.</p> <p>(2) For subsection (1), a child is accompanied by a parent or guardian despite the temporary absence of the parent or guardian from the exhibition of the film.</p> <p>(3) Absolute liability applies to the circumstance that the person present is under 15 years of age.</p> <p>(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that:</p> <p>(a) the defendant took all reasonable steps to ensure the child was not present in contravention of the subsection; or</p> <p>(b) the defendant believed, on reasonable grounds, that the child was at least 15 years of age; or</p> <p>(c) the defendant believed, on reasonable grounds, that the person accompanying the child was a parent or guardian of the child.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 49</p>	<p><b>49 Display of X 18+ films for sale</b></p> <p>(1) A person must not display a film classified X 18+ for sale in a place that is not a restricted publications area.</p> <p>Fault elements:</p> <p>(a) intentionally displaying the film for sale; and</p>

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				<p>(b) knowledge that the place is not a restricted publications area or recklessness as to that fact; and</p> <p>(c) knowledge that, or recklessness as to whether, the film is classified X 18+.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(2) A person must not sell a film classified X 18+ to another person who has not made a direct request for the film.</p> <p>Fault elements:</p> <p>(a) intentionally selling the film; and</p> <p>(b) knowledge that the person has not made a direct request for the film or recklessness as to that fact; and</p> <p>(c) knowledge that, or recklessness as to whether, the film is classified X 18+.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(3) A person must not sell a film classified X 18+ that is not contained in a package made of opaque material.</p> <p>Fault elements:</p> <p>(a) intentionally selling the film; and (b) knowledge that, or recklessness as to whether, the film is classified X 18+.</p>

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	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	NT	Section 50	<p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p><b>Sale or delivery of certain films to child</b></p> <p>(1) A person must not sell or deliver a film to a child if:</p> <p>(a) the film is classified RC, X 18+ or R 18+; or</p> <p>(b) unclassified but would, if classified, be classified RC, X 18+ or R 18+.</p> <p>Fault elements:</p> <p>(a) intentionally selling or delivering the film; and</p> <p>(b) knowledge that, or recklessness as to whether, the film is classified RC, X 18+ or R 18+ or unclassified.</p> <p>Maximum penalty: For a film classified RC, or an unclassified film that would, if classified, be classified, RC:</p> <p>200 penalty units or imprisonment for 2 years.</p> <p>For another film:</p> <p>100 penalty units or imprisonment for 12 months.</p> <p>(2) Absolute liability applies to:</p> <p>(a) the circumstance that the person to whom the film is sold or delivered is a child; and</p> <p>(b) if the film is unclassified – the circumstance that the film</p>

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				<p>would, if classified, be classified RC, X 18+ or R 18+.</p> <p>(3) Subsection (1) does not apply if:</p> <p>(a) the film is classified R 18+; and</p> <p>(b) the child is at least 15 years of age; and</p> <p>(c) the person who sells or delivers the film to the child is a parent or guardian of the child. (4) It is a defence to a prosecution for an offence against subsection (1) if:</p> <p>(a) the defendant proves that:</p> <p>(i) the child produced to the defendant acceptable proof of age before the defendant sold or delivered the film to the child; and</p> <p>(ii) the defendant believed, on reasonable grounds, that the child was an adult; or</p> <p>(b) for the delivery of a film classified R 18+ – the defendant proves that the child was employed by the defendant and the delivery took place in the course of employment.</p> <p>(5) A child commits an offence if:</p> <p>(a) the child is at least 15 years of age; and</p> <p>(b) the child buys a film classified RC, X 18+ or R 18+.</p> <p>Fault element: Knowledge that the film is classified RC, X</p>

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				<p>18+ or R 18+.</p> <p>Maximum penalty: 50 penalty units.</p> <p>(6) A person must not sell or deliver a film to a child under 15 years of age if the film is:</p> <p>(a) classified MA 15+; or</p> <p>(b) unclassified but would, if classified, be classified MA 15+.</p> <p>Fault elements:</p> <p>(a) intentionally selling or delivering the film; and</p> <p>(b) knowledge that, or recklessness as to whether, the film is classified MA 15+ or unclassified.</p> <p>Maximum penalty: 50 penalty units.</p> <p>(7) Absolute liability applies to:</p> <p>(a) the circumstance that the person to whom the film is sold or delivered is under 15 years of age; and</p> <p>(b) if the film is unclassified – the circumstance that the film would, if classified, be classified MA 15+.</p> <p>(8) Subsection (6) does not apply if the person who sells or delivers the film to the child is a parent or guardian of the child.</p>

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				<p>(9) It is a defence to a prosecution for an offence against subsection (6) if the defendant proves that the defendant believed, on reasonable grounds, that:</p> <p>(a) the child was at least 15 years of age; or</p> <p>(b) a parent or guardian of the child had consented to the sale or delivery.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 52</p>	<p><b>52 Leaving films in certain places</b></p> <p>(1) A person must not leave a film in a public place or, without the occupier's permission, in a private place, if the film is:</p> <p>(a) classified RC, X 18+, R 18+ or MA 15+; or</p> <p>(b) unclassified but would, if classified, be classified RC, X 18+, R 18+ or MA 15+.</p> <p>Fault elements:</p> <p>(a) intentionally leaving the film in the place; and</p> <p>(b) if the film is left in a private place – knowledge that the occupier has not given permission to leave the film in the place or recklessness as to that fact; and</p> <p>(c) knowledge that, or recklessness as to whether, the film is classified RC, X 18+, R 18+ or MA 15+ or unclassified.</p> <p>Maximum penalty: For a film classified RC, X 18+ or R 18+,</p>



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				<p>or an unclassified film that would, if classified, be classified RC, X 18+ or R 18+:</p> <p>200 penalty units or imprisonment for 2 years.</p> <p>For a film classified MA 15+, or an unclassified film that would, if classified, be classified MA 15+:</p> <p>50 penalty units.</p> <p>(2) If the film is unclassified, absolute liability applies to the circumstance that the film would, if classified, be classified RC, X 18+, R 18+ or MA 15+.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 53</p>	<p><b>Possession of films with intention to publish</b></p> <p>(1) A person must not possess a film with the intention of publishing the film if the film is:</p> <p>(a) classified RC or X 18+; or</p> <p>(b) unclassified but would, if classified, be classified RC or X 18+.</p> <p>Fault elements:</p> <p>(a) intention to publish the film; and</p> <p>(b) knowledge that, or recklessness as to whether, the film is classified RC or X 18+ or unclassified.</p> <p>Maximum penalty: 200 penalty units or imprisonment for 2</p>

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				<p>years.</p> <p>(2) If the film is unclassified, absolute liability applies to the circumstance that the film would, if classified, be classified RC or X 18 +.</p> <p>(3) Subsection (1) does not apply to a person who possesses a film for classification or law enforcement purposes.</p> <p>(4) If a person possesses 10 or more copies of a film, it is presumed, unless the contrary is proved, that the person intended to publish the film.</p> <p>(5) In this section:</p> <p><b>'publish'</b> includes publish outside the Territory.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 60</p>	<p><b>Sale of certain publications to a child</b></p> <p>(1) A person must not sell or deliver a publication classified Category 1 restricted or Category 2 restricted to a child.</p> <p>Fault elements:</p> <p>(a) intentionally selling or delivering the publication; and</p> <p>(b) knowledge that, or recklessness as to whether, the publication is classified Category 1 restricted or Category 2 restricted.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p>

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				<p>(2) Absolute liability applies to the circumstance that the person to whom the publication is sold or delivered is a child.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that:</p> <p>(a) the child produced to the defendant acceptable proof of age before the defendant sold or delivered the publication to the child; and</p> <p>(b) the defendant believed, on reasonable grounds, that the child was an adult.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 65</p>	<p><b>Sale or demonstration of unclassified and RC computer games</b></p> <p>(1) A person must not sell a computer game, or demonstrate a computer game in a public place, if the game is:</p> <p>(a) classified RC; or</p> <p>(b) unclassified but would, if classified, be classified RC.</p> <p>Fault elements:</p> <p>(a) intentionally selling or demonstrating the game; and</p> <p>(b) knowledge that, or recklessness as to whether, the game is classified RC or unclassified.</p> <p>Maximum penalty: 200 penalty units or imprisonment for 2 years.</p>

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				<p>(2) If the game is unclassified, absolute liability applies to the circumstance that the game would, if classified, be classified RC.</p> <p>(3) A child who is at least 15 years of age must not buy a computer game classified RC.</p> <p>Fault element: Knowledge that the game is classified RC.</p> <p>Maximum penalty: 50 penalty units.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	<p>NT</p>	<p>Section 66</p>	<p><b>Demonstration of MA 15+ computer games</b></p> <p>A person must not demonstrate a computer game classified MA 15+ in a public place unless:</p> <p>(a) the determined markings relevant to the game's classification are exhibited before the game can be played; and</p> <p>(b) entry into the place is restricted to adults or to children who are accompanied by a parent or guardian while in the public place.</p> <p>Fault element: Strict liability offence.</p> <p>Maximum penalty: 20 penalty units.</p>
	<p><b>Classification of Publications, Films and Computer</b></p>	<p>NT</p>	<p>Section 68</p>	<p><b>Private demonstration of RC computer games in presence of child</b></p> <p>(1) A person must not demonstrate a computer game in a</p>

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	<b>Games Act</b>			<p>private place if:</p> <p>(a) the game is:</p> <p>(i) classified RC; or</p> <p>(ii) unclassified but would, if classified, be classified RC; and</p> <p>(b) a child is present during any part of the demonstration.</p> <p>Fault elements:</p> <p>(a) intentionally demonstrating the game; and</p> <p>(b) knowledge that, or recklessness as to whether, the game is classified RC or unclassified.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(2) Absolute liability applies to:</p> <p>(a) if the game is unclassified – the circumstance that the game would, if classified, be classified RC; and</p> <p>(b) the circumstance that the person present is a child.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant believed, on reasonable grounds, that the child was an adult.</p>

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	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	NT	Section 71	<p><b>71 Sale or delivery of certain computer games to child</b></p> <p>(1) A person must not sell or deliver a computer game to a child if the game is:</p> <p>(a) classified RC; or</p> <p>(b) unclassified but would, if classified, be classified RC.</p> <p>Fault elements:</p> <p>(a) intentionally selling or delivering the game; and</p> <p>(b) knowledge that, or recklessness as to whether, the game is classified RC or unclassified.</p> <p>Maximum penalty: 200 penalty units or imprisonment for 2 years.</p> <p>(2) Absolute liability applies to:</p> <p>(a) the circumstance that the person to whom the game is sold or delivered is a child; and</p> <p>(b) if the game is unclassified – the circumstance that the game would, if classified, be classified RC.</p> <p>(3) A person must not sell or deliver a computer game classified MA 15+ to a child under 15 years of age.</p> <p>Fault elements:</p>

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				<p>(a) intentionally selling or delivering the game; and</p> <p>(b) knowledge that, or recklessness as to whether, the game is classified MA 15+.</p> <p>Maximum penalty: 50 penalty units.</p> <p>(4) Absolute liability applies to the circumstance that the person to whom the game is sold or delivered is under 15 years of age.</p> <p>(5) Subsection (3) does not apply if the person who sells or delivers the game to the child is a parent or guardian of the child.</p> <p>(6) It is a defence to a prosecution for an offence against subsection (3) if the defendant proves that the defendant believed, on reasonable grounds, that:</p> <p>(a) the child was at least 15 years of age; or</p> <p>(b) a parent or guardian of the child had consented to the sale or delivery.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	NT	Section 78	<p><b>Restricted material</b></p> <p>(1) A person must not use a computer service to transmit or make restricted material available to a child.</p> <p>Fault elements:</p> <p>(a) intentionally transmitting or making the material</p>

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				<p>available; and</p> <p>(b) knowledge that, or recklessness as to whether, the material is restricted material; and</p> <p>(c) knowledge that, or recklessness as to whether, the recipient or intended recipient of the material is a child.</p> <p>Maximum penalty: 200 penalty units or imprisonment for 2 years.</p> <p>(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves that the defendant:</p> <p>(a) complied with a code of practice; or</p> <p>(b) took all reasonable steps to avoid a contravention of the subsection; or</p> <p>(c) believed, on reasonable grounds, that:</p> <p>(i) the person to whom the defendant transmitted the restricted material was not a child; or</p> <p>(ii) the restricted material would not be made available to a child.</p>
	<p><b>Classification of Publications, Films and Computer Games Act</b></p>	NT	Section 105	<p><b>Restricted publications area – offences</b></p> <p>(1) A person must not employ a child in a restricted publications area.</p> <p>Fault element: Recklessness in relation to the circumstance</p>



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				<p>that the person employed is a child.</p> <p>Maximum penalty: 100 penalty units or imprisonment for 12 months.</p> <p>(2) The manager of a restricted publications area must not allow a child to enter the area.</p> <p>Fault element: Absolute liability offence.</p> <p>Maximum penalty: 50 penalty units.</p> <p>(3) It is a defence to a prosecution for an offence against subsection (2) if the defendant proves that:</p> <p>(a) the child produced to the defendant acceptable proof of age before the child was admitted to the area; and</p> <p>(b) the defendant believed, on reasonable grounds, that the child was an adult.</p> <p>(4) The manager of a restricted publications area must not exhibit or allow the exhibition of a film classified R 18+ or X 18+ in the area except by way of a slot-machine operated by a coin or token.</p> <p>Fault elements:</p> <p>(a) intentionally exhibiting the film or knowledge that the film is exhibited (or recklessness as to that fact); and</p> <p>(b) knowledge that, or recklessness as to whether, the film is</p>

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				classified R 18+ or X 18+.  Maximum penalty: 50 penalty units.
	<b>Education Act</b>	NT	Section 20G	<p><b>20G Child may be withdrawn from specified course</b></p> <p>(1) A parent of a child enrolled in a Government school may request the principal of the school to withdraw the child from the whole or a specified part of a specified course of instruction provided for the child at the school.</p> <p>(2) The principal:</p> <p>(a) may agree to the request and make the necessary arrangements to comply with it if satisfied it is appropriate to do so; and</p> <p>(b) must make the necessary arrangements to comply with the request if:</p> <p>(i) the course of instruction specified in the request is a course of religious instruction; or</p> <p>(ii) the parent claims to have a conscientious objection to the child attending the course or part of the course and the course is not an essential part of the curriculum.</p>
	<b>Education Act</b>	NT	Section 61B	<p><b>61B Consistency with basic principles</b></p> <p>The philosophy and objects of the governing body of a non-Government school and the school's educational programs (including the way in which they are provided) must be</p>

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				<p>consistent with the following principles:</p> <p>...</p> <p>(c) there should be freedom of religion, freedom of speech and freedom of association;</p> <p>(d) there should be tolerance of diverse religious, political, social and cultural beliefs and practices, to the extent to which they are consistent with civilised values.</p>
	<b>Education Act</b>	NT	Section 63B	<p><b>63B Matters to be addressed in application</b></p> <p>(1) The application must set out the proposal for the school in relation to all of the following:</p> <p>...</p> <p>(b) how the governing body's philosophy and objects (including any particular cultural or religious interest connected with the philosophy or objects) and the school's educational programs will be consistent with the principles mentioned in section 61B;</p> <p>...</p> <p>(d) a description of the following:</p> <p>...</p> <p>(ii) the school's educational programs and the year levels and number of its students;</p>

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				<p>...</p> <p>(k) the school's curriculum and methods of student assessment;</p> <p>(l) the school's procedures for financial management, performance management and accountability, including, for example, procedures for the following:</p> <p>...</p> <p>(iv) the reporting on the school's performance to the community and Chief Executive Officer (including complying with the requirements in sections 67A, 67B and 67C);</p> <p>(m) the school's policy in relation to the age of school entry for its students;</p> <p>...</p>
	<b>Education and Care Services (National Uniform Legislation) Act 2011</b>	NT	Section 3	<p><b>3 Objectives and guiding principles</b></p> <p>(1) The objective of this Law is to establish a national education and care services quality framework for the delivery of education and care services to children.</p> <p>(2) The objectives of the national education and care services quality framework are:</p> <p>(a) to ensure the safety, health and wellbeing of children</p>

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				<p>attending education and care services; and</p> <p>(b) to improve the educational and developmental outcomes for children attending education and care services; and</p> <p>(c) to promote continuous improvement in the provision of quality education and care services; and</p> <p>(d) to establish a system of national integration and shared responsibility between participating jurisdictions and the Commonwealth in the administration of the national education and care services quality framework; and</p> <p>(e) to improve public knowledge, and access to information, about the quality of education and care services; and</p> <p>(f) to reduce the regulatory and administrative burden for education and care services by enabling information to be shared between participating jurisdictions and the Commonwealth.</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;</p> <p>(b) that children are successful, competent and capable learners;</p> <p>(c) that the principles of equity, inclusion and diversity</p>

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				<p>underlie this Law;\</p> <p>(d) that Australia's Aboriginal and Torres Strait Islander cultures are valued;</p> <p>(e) that the role of parents and families is respected and supported;</p> <p>(f) that best practice is expected in the provision of education and care services.</p>
	<p><b>Summary Offences Act</b></p>	<p>NT</p>	<p>Section 53</p>	<p><b>53 Obscenity</b></p> <p>(1) Any person who:</p> <p>(a) in a public place, or within the view or hearing of any person passing therein:</p> <p>(i) sings any obscene song or ballad, or writes or draws any indecent or obscene word, figure or representation, or uses any profane, indecent or obscene language,</p> <p>shall be guilty of an offence.</p> <p>(9) The penalty for an offence against this section is a fine not exceeding \$2,000 or imprisonment for a term not exceeding 6 months, or both.</p> <p>(10) The Court hearing a complaint for an offence against this section shall not award costs against the complainant unless the Court considers that the complaint was unreasonably made.</p>

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	<b>Summary Offences Act</b>	NT	Section 53A	<p><b>53A Undue noise at social gathering after midnight</b></p> <p>(1) A member of the Police Force may, in response to a complaint from a person that undue noise is coming from any premises or part of premises where a social gathering is being held, being a complaint in respect of noise made after midnight on any night and where he considers that such noise constitutes undue noise, direct:</p> <p>(a) the person who is the occupier of the premises or part of the premises, as the case may be; or</p> <p>(b) if that person cannot be ascertained, the person responsible for the noise or in charge of the property producing the noise,</p> <p>to stop or abate the noise.</p> <p>(2) Where, at any time during the period of 12 hours immediately after a person has been directed under subsection (1) to stop or abate undue noise (other than the period of 10 minutes after the direction is given), undue noise comes from the premises or part of the premises in respect of which the complaint was made, the person to whom the direction was given is guilty of an offence.</p> <p>Penalty: \$2,000.</p>
	<b>Summary Offences Act</b>	NT	Section 53B	<p><b>53B Undue noise</b></p> <p>(1) A member of the Police Force may, in response to a complaint from a person that undue noise is coming from any</p>

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				<p>premises or part of premises and where he considers that such noise constitutes undue noise, direct:</p> <p>(a) the person making or causing or permitting the noise to be made; or</p> <p>(b) the person apparently at the time in charge of the premises or part of the premises, as the case may be, to stop or abate the noise.</p> <p>(2) A member of the Police Force may, in response to a complaint from a person that undue noise is coming from any unoccupied land and where he considers that such noise constitutes undue noise, direct the person making the noise or causing or permitting the noise to be made to stop or abate the noise.</p> <p>(2A) A direction under subsection (1) or (2):</p> <p>(a) may be given by reference to a period of hours during which, or specific times when, the noise is to be stopped or abated; and</p> <p>(b) in any event, shall remain in force for not more than 48 hours.</p> <p>(3) A person who has been directed under subsection (1) or (2) to stop or abate undue noise and who, other than during the period of 10 minutes immediately after being so directed:</p> <p>(a) continues to make the noise or continues to cause or</p>



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				<p>permit the noise to be made; or</p> <p>(b) does not abate the noise,</p> <p>in contravention of the direction is guilty of an offence.</p> <p>Penalty: \$2,000.</p>
	<p><b>Summary Offences Act</b></p>	<p>NT</p>	<p>Section 76</p>	<p><b>Playing musical instruments so as to annoy</b></p> <p>(1) Every householder personally, or by his servant, or by any member, may require any street musician to depart from the neighbourhood of his house, on account of the illness of any inmate of the house or for any reasonable cause.</p> <p>(2) Every person who sounds or plays upon any musical instrument in any thoroughfare near to and so as to be heard at the house, after being so required to depart, shall be guilty of an offence.</p> <p>Penalty: 200 dollars.</p> <p>(3) Every person who sounds or plays upon any musical instrument, and against whom an information has been laid by any inhabitant who is annoyed by the sounding or playing of the musical instrument, or by any member upon the written complaint of the inhabitant, shall be guilty of an offence.</p> <p>Penalty: 200 dollars.</p>
	<p><b>Tennant Creek (Swimming Centre)</b></p>	<p>NT</p>	<p>Section 7</p>	<p><b>7 Control of premises</b></p>

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	<b>By-laws</b>			<p>(1) A person shall obey all reasonable directions of the manager with regard to that person's conduct in or in relation to the centre, or with regard to children who have not attained the age of 8 years and who are within that person's custody and control.</p> <p>(2) A person in the centre shall not obstruct, interfere with or hinder or permit a child who has not attained the age of 8 years and is within that person's custody and control to obstruct, interfere with or hinder the manager in the exercise of the manager's powers or the discharge of the manager's duties under these By-laws.</p> <p>Penalty: \$200.</p>
	<b>Tennant Creek (Swimming Centre) By-laws</b>	NT	Section 8	<p><b>Offences</b></p> <p>...</p> <p>(3) A person shall not:</p> <p>...</p> <p>(u) leave at the centre a child who has not attained the age of 8 years, unless the child is in the custody and control of an adult who has undertaken to the person leaving the child to be responsible for the safety and good behaviour of the child while the child is in the centre.</p> <p>...</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>(4) Where an adult:</p> <p>(a) accompanies into the centre; or</p> <p>(b) within the centre takes or has the custody or control of, a child who has not attained the age of 8 years, the adult shall:</p> <p>(c) ensure that the child obeys these By-laws; and</p> <p>(d) ensure, or make provision for, the safety of the child while in the centre.</p> <p>...</p> <p>Penalty: \$200.</p>
	<p><b>Youth Justice Regulations</b></p>	<p>NT</p>	<p>Section 18</p>	<p><b>Rest and meal breaks</b></p> <p>(1) A youth required to work for a full day of 8 hours under a community work order is entitled to the following breaks:</p> <p>(a) a 10 minute rest break in the morning;</p> <p>(b) a meal break of one hour;</p> <p>(c) a 10 minute rest break in the afternoon.</p> <p>(2) The time spent in the breaks is counted as time worked by the youth under the order.</p>

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	Youth Justice Regulations	NT	Section 22	<p><b>Application of Part</b></p> <p>This Part applies in relation to a youth who is subject to an alternative detention order.</p>
	Youth Justice Regulations	NT	Section 25	<p><b>Youth attending other places</b></p> <p>(1) The youth must not leave the premises or place specified in the alternative detention order except as approved by the Director to attend:</p> <p>(a) the youth's place of employment to engage in that employment; or</p> <p>(b) a place:</p> <p>(i) of religious worship; or</p> <p>(ii) of business; or</p> <p>(iii) that is an educational or rehabilitation centre.</p> <p>(2) Subsection (1) does not prevent the youth from attending a place to obtain urgent medical or dental treatment.</p> <p>(3) The youth must notify a surveillance officer, as soon as practicable, of any absence from the premises or place to receive medical or dental treatment.</p> <p>(4) The youth must proceed directly, and by the shortest practicable route, to and from a place the youth is authorised by this regulation to attend.</p>

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	<b>Youth Justice Regulations</b>	NT	Section 43	<p><b>Individual management plan</b></p> <p>(1) If a medical practitioner assesses the detainee as being at risk of self-harm, the medical practitioner must formulate and document an individual management plan for the detainee.</p> <p>(2) The plan must be culturally appropriate for the detainee.</p> <p>(3) The medical practitioner must consult, as practicable, with:</p> <p>(a) persons having relevant knowledge of the detainee; and</p> <p>(b) persons likely to play a key role in the management of the detainee.</p> <p>(4) The plan must be updated as appropriate after each time a health professional has contact with the detainee.</p>
	<b>Youth Justice Regulations</b>	NT	Section 47	<p><b>Visits by legal representative or interpreter</b></p> <p>(1) A legal representative or interpreter for a detainee may, together or separately, visit the detainee at any reasonable time.</p> <p>(2) A visit by the detainee's legal representative must not be monitored.</p> <p>(3) Despite subregulation (2), the Superintendent may direct that the visit must take place within the view, but not within the hearing, of a member of staff.</p>

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	<b>Youth Justice Regulations</b>	NT	Section 62	<p><b>Detainee dietary requirements</b></p> <p>(1) The Superintendent must ensure food supplied to detainees meets the dietary requirements of developing youths.</p> <p>(2) If the Superintendent determines that, because of religious or personal beliefs, a detainee requires special dietary consideration, the Superintendent must ensure those requirements are met to the extent practicable.</p> <p>(3) If the Superintendent has been informed of a detainee's special dietary requirements by a medical practitioner, the Superintendent must ensure those dietary requirements are met.</p>
	<b>Youth Justice Regulations</b>	NT	Section 63	<p><b>Access to ministers of religion</b></p> <p>The Superintendent must ensure:</p> <p>(a) detainees have access to an appropriate minister of religion if required; and</p> <p>(b) detainees may pursue their religious beliefs to the extent practicable.</p>
	<b>Youth Justice Regulations</b>	NT	Section 61	<p><b>Detainee clothing</b></p> <p>(1) The Superintendent must ensure that, on admission to the detention centre, a detainee is issued with sufficient clothing:</p> <p>(a) to allow the detainee to have a clean change each day;</p>

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				<p>and</p> <p>(b) that is appropriate for the climatic conditions prevailing in the region; and</p> <p>(c) that is appropriate for participation in sporting and recreation activities; and</p> <p>(d) other than for the purpose of sporting activities, that is of varying colours and styles so as not to represent a uniform.</p> <p>(2) The detainee must also be issued with footwear appropriate for the various activities in which a detainee would normally participate.</p>

## 8. Tasmania

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

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<p><b>ARTICLE 31</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Children, Young Persons and Their Families Act 1997</b></p>	<p>TAS</p>	<p>8</p>	<p>(1) The administration of this 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;</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 under Division 2 of Part 5;</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>(2) In any exercise of powers under this Act in relation to a child:</p> <p>(a) the best interests of the child must be the paramount consideration; and</p> <p>(b) serious consideration must be given to the desirability of:</p> <p>(i) keeping the child within his or her family; and</p> <p>(ii) preserving and strengthening family relationships between the child and the child's guardians and other family members, whether or not the child is to reside within his or</p>



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				<p>her family; and</p> <p>(iii) not withdrawing the child unnecessarily from the child's familiar environment, culture or neighbourhood; and</p> <p>(iv) not interrupting unnecessarily the child's education or employment; and</p> <p>(v) 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>(vi) preserving the child's name; and</p> <p>(vii) not subjecting the child to unnecessary, intrusive or repeated assessments; and</p> <p>(c) the powers, wherever practicable and reasonable, must be exercised in a manner that takes into account the views of all persons concerned with the welfare of the child.</p> <p>(3) In any exercise of powers under this Act in relation to a child, if a child is able to form and express views as to his or her ongoing care and protection, those views must be sought and given serious consideration, taking into account the child's age and maturity.</p> <p>(4) In any proceeding under this Act that may lead to any separation of a child from his or her family, other than a proceeding under Part 4, the child's family and other persons interested in the child's wellbeing must be given the</p>

CRC Article Number & Description	Relevant Australian Legislation	Cth/ State	Relevant Provisions of the Australian Legislation	Summary/Description of Relevant Provision
				<p>opportunity to present their views in respect of the child's wellbeing.</p> <p>(5) In any proceeding under this Act in relation to a child, the child's family and other persons interested in the child's wellbeing should be provided with information sufficient to enable them to participate fully in the proceeding.</p> <p>(6) All proceedings under this Act must be dealt with expeditiously, with due regard to the degree of urgency of each particular case.</p>
			9	<p>(1) A decision or order as to where or with whom an Aboriginal child will reside may not be made under this Act except where a recognised Aboriginal organisation has first been consulted.</p> <p>(2) In making any decision or order under this Act in relation to an Aboriginal child, a person or the Court must, in addition to complying with the principles set out in section 8:</p> <p>(a) have regard to any submissions made by or on behalf of a recognised Aboriginal organisation consulted in relation to the child; and</p> <p>(b) if a recognised Aboriginal organisation has not made any submissions, have regard to Aboriginal traditions and cultural values (including kinship rules) as generally held by the Aboriginal community; and</p> <p>(c) have regard to the general principle that an Aboriginal</p>

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				child should remain within the Aboriginal community.
	<b>Magistrates Court (Children's Division) Act 1998</b>	TAS	7	<p>The Court has a duty, as far as practicable:</p> <ul style="list-style-type: none"> <li>(a) to ensure that parties to proceedings before the Court understand the nature and purpose of the proceedings; and</li> <li>(b) to respect the cultural identity of a child to whom proceedings before the Court relate; and</li> <li>(c) to consider the opinion of a child to whom proceedings before the Court relate if the Court considers the child able: <ul style="list-style-type: none"> <li>(i) to understand the proceedings and their consequences; and</li> <li>(ii) to form a rational opinion.</li> </ul> </li> </ul>
	<b>Youth Justice Act 1997</b>	TAS	4	<p>The main objectives of this Act are:</p> <ul style="list-style-type: none"> <li>(a) to provide for the administration of youth justice; and</li> <li>(b) to provide how a youth who has committed, or is alleged to have committed, an offence is to be dealt with; and</li> <li>(c) to specify the general principles of youth justice; and</li> <li>(d) to ensure that a youth who has committed an offence is made aware of his or her rights and obligations under the law and of the consequences of contravening the law; and</li> </ul>

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				<p>(e) to ensure that a youth who has committed an offence is given appropriate treatment, punishment and rehabilitation; and</p> <p>(f) to enhance and reinforce the roles of guardians, families and communities in:</p> <p>(i) minimising the incidence of youth crime; and</p> <p>(ii) punishing and managing youths who have committed offences; and</p> <p>(iii) rehabilitating youths who have committed offences and directing them towards the goal of becoming responsible citizens; and</p> <p>(g) to ensure that, whenever practicable, a youth who has committed, or is alleged to have committed, an offence is dealt with in a manner that is culturally appropriate and recognises and enhances his or her cultural identity; and</p> <p>(h) to ensure that, whenever practicable, a youth who has committed, or is alleged to have committed, an offence is dealt with in a manner that takes into account the youth's social and family background and that enhances the youth's capacity to accept personal responsibility for his or her behaviour.</p>
			5	(1) The powers conferred by this Act are to be directed towards the objectives mentioned in section 4 with proper regard to the following principles:

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				<p>(a) that the youth is to be dealt with, either formally or informally, in a way that encourages the youth to accept responsibility for his or her behaviour;</p> <p>(b) that the youth is not to be treated more severely than an adult would be;</p> <p>(c) that the community is to be protected from illegal behaviour;</p> <p>(d) that the victim of the offence is to be given the opportunity to participate in the process of dealing with the youth as allowed by this Act;</p> <p>(e) guardians are to be encouraged to fulfil their responsibility for the care and supervision of the youth and should be supported in their efforts to fulfil this responsibility;</p> <p>(f) guardians should be involved in determining the appropriate sanction as allowed by this Act;</p> <p>(g) detaining a youth in custody should only be used as a last resort and should only be for as short a time as is necessary;</p> <p>(h) punishment of a youth is to be designed so as to give him or her an opportunity to develop a sense of social responsibility and otherwise to develop in beneficial and socially acceptable ways;</p> <p>(i) punishment of a youth is to be appropriate to the age,</p>

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				<p>maturity and cultural identity of the youth;</p> <p>(j) punishment of a youth is to be appropriate to the previous offending history of the youth.</p> <p>(2) Effect is to be given to the following principles so far as the circumstances of the individual case allow:</p> <p>(a) compensation and restitution should be provided, where appropriate, for victims of offences committed by youths;</p> <p>(b) family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened;</p> <p>(c) a youth should not be withdrawn unnecessarily from his or her family environment;</p> <p>(d) there should be no unnecessary interruption of a youth's education or employment;</p> <p>(e) a youth's sense of racial, ethnic or cultural identity should not be impaired.</p>
			29	<p>(1) The Court has a duty, as far as practicable:</p> <p>(a) to ensure that the youth before the Court and the guardian, if present, understand:</p> <p>(i) the nature and purpose of the proceedings; and</p> <p>(ii) the right of the youth to have legal representation; and</p>

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				<p>(iii) the rights of the youth in relation to entering a plea and the consequences of entering a plea; and</p> <p>(iv) the rights of the youth to have a copy of any report, or record of previous offending history, relating to the youth and to comment on any such report or record; and</p> <p>(v) the right to make, and the importance of making, a plea in mitigation if the youth is guilty of the offence; and</p> <p>(b) to respect the cultural identity of the youth before the Court.</p> <p>(2) In any proceedings under this Act, the Court has a duty to take into account the objectives specified in section 4 and the principles specified in section 5.</p>
			75	<p>In giving directions to a youth in relation to the youth's performance of community service, the assigned youth justice worker must:</p> <p>(a) avoid, if practicable:</p> <p>(i) conflicts with the religious and cultural beliefs and practices of the youth or his or her parent; and</p> <p>(ii) interference with the youth's attendance at a place of employment or a school or other educational or training establishment; and</p> <p>(b) take all steps necessary to ensure that the youth, if practicable, is kept apart from any adult under sentence for an</p>

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				offence while performing the community service.
			129	<p>(1) A detainee is entitled:</p> <p>(a) to have his or her developmental needs catered for; and</p> <p>(b) subject to section 135, to receive visits from guardians, relatives, legal practitioners and other persons; and</p> <p>(c) to have reasonable efforts made to meet his or her medical, religious and cultural needs including, in the case of a detainee who is an Aboriginal person, his or her needs as a member of the Aboriginal community; and</p> <p>(d) to complain to the Secretary or the Ombudsman about the standard of care, accommodation or treatment he or she is receiving in the detention centre.</p> <p>(2) The Secretary must ensure that the rights of a detainee under sections 127 and 128 and this section are not infringed.</p>
			130	<p>(1) By written notice provided to a detainee, the Secretary may allow the detainee to take a temporary leave of absence from the detention centre for one or more of the following purposes:</p> <p>(a) to seek or engage in paid or unpaid employment;</p> <p>(b) to attend any place for educational or training purposes;</p> <p>(c) to visit the detainee's family, relatives or friends;</p>



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				<p>(d) to take part in any sport, recreation, cultural event or entertainment in the community;</p> <p>(e) to attend any place for medical examination or treatment;</p> <p>(f) to attend a funeral;</p> <p>(g) any other purpose that the Secretary considers appropriate.</p> <p>(2) A leave of absence is to be:</p> <p>(a) for the period specified in the notice allowing the leave; and</p> <p>(b) only for the purpose specified in that notice; and</p> <p>(c) subject to any conditions specified in that notice.</p> <p>(3) If a detainee contravenes a condition to which a leave of absence is subject, other than a condition with respect to returning to a detention centre, the Secretary may, by written notice provided to the detainee:</p> <p>(a) vary the conditions to which the leave of absence is subject; or</p> <p>(b) cancel the leave of absence.</p> <p>(4) If a detainee is granted leave of absence:</p> <p>(a) the detainee remains in the legal custody of the Secretary</p>

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				<p>during the period of leave; and</p> <p>(b) the period of leave counts as part of the detainee's period of detention.</p> <p>(5) A police officer may arrest a detainee who has been granted leave of absence if the police officer has reasonable grounds for believing that the detainee has failed to return, without reasonable excuse, to the detention centre by the end of the period of that leave of absence.</p> <p>(6) A police officer may return a detainee arrested under subsection (5) to the detention centre from which the detainee was granted leave of absence.</p>

## 9. Australian Capital Territory

### 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 31</b></p> <p>1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.</p> <p>2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.</p>	<p><b>Adoption Act 1993</b></p>	<p>ACT</p>	<p>4</p>	<p>The main objects of this Act include:</p> <p>(a) ensuring that the best interests of the child or young person are the paramount consideration in the adoption of a child or young person; and</p> <p>(b) providing an adoption process that promotes the wellbeing and care of children and young people in a way that recognises the child's or young person's right:</p> <p>(i) to grow in a safe and stable environment; and</p> <p>(ii) to be cared for by a suitable family and to establish enduring relationships; and</p> <p>(iii) to know about family background and culture and have the opportunity to maintain or develop cultural identity; and</p> <p>(c) ensuring that the Aboriginal and Torres Strait Islander people are included and participate in any adoption of an Aboriginal or Torres Strait Islander child or young person; and</p> <p>(d) ensuring that adoption is centred on the needs of the child or young person rather than an adult wanting to care for a child or young person; and</p> <p>(e) consulting with the child or young person throughout the</p>

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				<p>adoption process and, wherever possible, taking the child's or young person's views into account; and</p> <p>(f) recognising a birth parent's involvement in making decisions about their child's future; and</p> <p>(g) providing for adoption plans to recognise the intentions of parties in an adoption; and</p> <p>(h) ensuring that equivalent standards apply for a child or young person adopted from the ACT and a child or young person adopted from overseas; and</p> <p>(i) ensuring that the adoption process in the ACT complies with Australia's international obligations, in particular the obligations arising under the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.</p>
			6	<p>In addition to section 5, a person making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person must:</p> <p>(a) take into account the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or Torres Strait Islander community; and</p> <p>(b) seek and consider submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the</p>

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				<p>child or young person or the child's or young person's family; and</p> <p>(c) take into account Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child's or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.</p>
	<b>Children and Young People Act 2008</b>	ACT	7	<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:</p> <p>(i) recognises their right to grow in a safe and stable environment; and</p> <p>(ii) takes into account the responsibilities of parents, families, the community and the whole of government for them; 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</p>

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				<p>are included and participate in:</p> <ul style="list-style-type: none"> <li>(i) providing for, and promoting, the wellbeing, care and protection of Aboriginal and Torres Strait Islander children and young people; and</li> <li>(ii) preventing the abuse and neglect of Aboriginal and Torres Strait Islander children and young people; and</li> <li>(iii) rehabilitating and reintegrating Aboriginal and Torres Strait Islander young offenders; and</li> </ul> <p>(e) ensuring that services provided by, or for, government for the wellbeing, care and protection of children and young people:</p> <ul style="list-style-type: none"> <li>(i) are centred on the needs of children and young people; and</li> <li>(ii) are informed by processes which engage children and young people, wherever possible, and take their views and wishes into account; and</li> <li>(iii) foster and promote the health, education, developmental needs, spirituality, self-respect, self-reliance and dignity of children and young people; and</li> <li>(iv) respect the individual race, ethnicity, religion, disability, sexuality and culture of children and young people; and</li> </ul> <p>(f) ensuring that young offenders:</p>

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				<ul style="list-style-type: none"> <li>(i) receive positive support and opportunities to become rehabilitated and reintegrated community members; and</li> <li>(ii) share responsibility for rehabilitation and reintegration with their parents and families, the community and the government in partnership; and</li> <li>(g) imposing standards that must be complied with for the delivery of services to children and young people; and</li> <li>(h) ensuring the protection of children and young people in employment.</li> </ul>
			10	<p>In making a decision under this Act in relation to an Aboriginal or Torres Strait Islander child or young person, in addition to the matters in section 8 and section 9, the decision-maker must take into account the following:</p> <ul style="list-style-type: none"> <li>(a) the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or Torres Strait Islander community;</li> <li>(b) submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the child or young person or the child's or young person's family;</li> <li>(c) Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child's or young person's family and kinship</li> </ul>

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				<p>relationships and the community with which the child or young person has the strongest affiliation.</p> <p><i>Note</i> For decisions about placement of an Aboriginal or Torres Strait Islander child or young person with an out-of-home carer, see s 513 (Priorities for placement with out-of-home carer—Aboriginal or Torres Strait Islander child or young person).</p>
			171	<p>(1) Without limiting section 143 (Youth detention policies and operating procedures), the director-general must make a youth detention policy or operating procedure providing for different treatment of convicted young detainees and non-convicted young detainees.</p> <p><b>Example:</b> A youth detention policy or operating procedure, in accordance with the United Nations Rules for the Protection of Juveniles Deprived of Liberty, for non-convicted young detainees to:</p> <p>be provided, if possible, with opportunities to pursue work with remuneration and to continue education and training (r 18)</p> <p>receive and retain materials for their leisure and recreation that are compatible with the interests of the administration of justice (r 18)</p> <p><i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p>



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				<p>(2) For chapter 8, a young detainee's entitlement in relation to treatment in detention includes anything expressed to be an entitlement in a youth detention policy or operating procedure made for subsection (1).</p> <p>(3) In this section: convicted young detainee means a young detainee whose detention is because of the young detainee's conviction for an offence.</p>
			183	<p>(1) The director-general must ensure, as far as practicable, that provision is made at detention places for the religious, spiritual and cultural needs of young detainees.</p> <p><b>Examples</b> of religious, spiritual or cultural needs</p> <p>observances and practices relating to religious or spiritual beliefs, including Aboriginal or Torres Strait Islander spiritual beliefs</p> <p>observances or practices arising because a person belongs to a particular culture</p> <p><i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p> <p>(2) In particular, the director-general must ensure, as far as practicable, that young detainees have reasonable access to:</p> <p>(a) ministers of religion and other people with standing in a particular culture whom young detainees wish to see for</p>

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				<p>religious, spiritual or cultural purposes; and</p> <p>(b) religious services at the detention place; and</p> <p>(c) books and other articles associated with their religious, spiritual or cultural practices.</p> <p>(3) However, the director-general may give directions denying or limiting a young detainee's access under subsection (1) or (2) if the director-general suspects on reasonable grounds that it may:</p> <p>(a) undermine security or good order at a detention place; or</p> <p>(b) revictimise a victim; or</p> <p>(c) circumvent any process for investigating complaints or reviewing decisions under this Act; or</p> <p>(d) have the purpose of causing community distress.</p> <p>(4) A young detainee must not be required to receive a visit from anyone representing a particular religion, spiritual belief or culture, or attend any related service or practice, if the young detainee does not wish to do so.</p> <p>(5) For chapter 8, subsections (1) and (2) are taken to provide an entitlement for each young detainee in relation to religious, spiritual and cultural needs.</p> <p>(6) In this section: <b>'minister of religion'</b> means:</p>

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				<p>(a) a person registered under the <i>Marriage Act 1961</i> (Cwlth), part 4.1 (Authorised celebrants); or</p> <p>(b) a person prescribed by regulation.</p>
			349	<p>(1) For the care and protection chapters, in deciding what is in the best interests of a child or young person, a decision-maker must consider each of the following matters that are relevant to the child or young person:</p> <p>(a) the need to ensure that the child or young person is not at risk of abuse or neglect;</p> <p>(b) any views or wishes expressed by the child or young person;</p> <p>(c) the nature of the child's or young person's relationship with each parent and anyone else;</p> <p>(d) the likely effect on the child or young person of changes to the child's or young person's circumstances, including separation from a parent or anyone else with whom the child has been living;</p> <p>(e) the practicalities of the child or young person maintaining contact with each parent and anyone else with whom the child or young person has been living or with whom the child or young person has been having substantial contact;</p> <p>(f) the capacity of the child's or young person's parents, or anyone else, to provide for the child's or young person's</p>

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				<p>needs including emotional and intellectual needs;</p> <p>(g) for an Aboriginal or Torres Strait Islander child or young person—that it is a high priority to protect and promote the child’s or young person’s cultural and spiritual identity and development by, wherever possible, maintaining and building the child’s or young person’s connections to family, community and culture;</p> <p>(h) that it is important for the child or young person to have settled, stable and permanent living arrangements;</p> <p>(i) for decisions about placement of a child or young person—the need to ensure that the earliest possible decisions are made about a safe, supportive and stable placement;</p> <p>(j) the attitude to the child or young person, and to parental responsibilities, demonstrated by each of the child’s or young person’s parents or anyone else;</p> <p>(k) any abuse or neglect of the child or young person, or a family member of the child or young person;</p> <p>(l) any court order that applies to the child or young person, or a family member of the child or young person.</p> <p>(2) For the care and protection chapters, in deciding what is in the best interests of a child or young person, a decision-maker may also consider any other fact or circumstance the decision-maker considers relevant.</p>

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			503	<p>(1) If the director-general has parental responsibility for a child or young person, the director-general may provide any of the following for the child or young person:</p> <ul style="list-style-type: none"> <li>(a) placement with an out-of-home carer;</li> <li>(b) financial support;</li> <li>(c) counselling;</li> <li>(d) appropriate education, training and employment opportunities;</li> <li>(e) health care treatment;</li> <li>(f) recreational opportunities;</li> <li>(g) a care plan;</li> <li>(h) an explanation, in a way the child or young person can understand, of the aim of care plans.</li> </ul> <p>(2) If the director-general stops having parental responsibility for a child or young person (for any reason), the director-general may arrange for financial or other assistance to be provided to, or for, the child or young person on the conditions the director-general considers appropriate.</p> <p><i>Note</i> If a young person was previously in out-of-home care, the director-general may provide further assistance (see pt 15.5).</p>

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			513	<p>(1) If the director-general is placing an Aboriginal or Torres Strait Islander child or young person with an out-of-home carer under section 512, the director-general must place the child or young person with the first of the options mentioned in subsection (2) that:</p> <ul style="list-style-type: none"> <li>(a) is available; and</li> <li>(b) to which the child or young person does not object; and</li> <li>(c) is consistent with any Aboriginal or Torres Strait Islander cultural plan in force for the child or young person.</li> </ul> <p>(2) The director-general may place an Aboriginal or Torres Strait Islander child or young person with any of the following out-of-home carers:</p> <ul style="list-style-type: none"> <li>(a) a kinship carer;</li> <li>(b) a foster carer who is a member of the child's or young person's Aboriginal or Torres Strait Islander community in a relationship of responsibility for the child or young person according to local custom and practice;</li> <li>(c) a foster carer who is a member of the child's or young person's community;</li> <li>(d) an Aboriginal or Torres Strait Islander foster carer;</li> <li>(e) a non-Aboriginal or Torres Strait Islander foster carer who:</li> </ul>

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				<p>(i) the director-general believes on reasonable grounds is sensitive to the child's or young person's needs; and</p> <p>(ii) the director-general believes on reasonable grounds is capable of promoting the child's or young person's ongoing contact with the child's or young person's Aboriginal or Torres Strait Islander family, community and culture; and</p> <p>(iii) if family reunion or continuing contact with the child's or young person's Aboriginal or Torres Strait Islander family, community or culture is a consideration in the placement— lives near the child's or young person's Aboriginal or Torres Strait Islander family or community.</p> <p>(3) In this section:</p> <p><b>'Aboriginal or Torres Strait Islander cultural plan'</b>, for an Aboriginal or Torres Strait Islander child or young person, means a care plan developed for the child or young person by the director-general under section 455 (What is a <i>care plan</i>?) that includes proposals for the preservation and enhancement of the identity of the child or young person as an Aboriginal or Torres Strait Islander person.</p>
	<b>Education Act 2004</b>	ACT	7	<p>(1) Everyone involved in the administration of this Act, or in the school or home education of children in the ACT, is to apply the principle that every child has a right to receive a high-quality education.</p> <p>(2) Without limiting subsection (1), a high-quality education is based on the following principles:</p>

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				<p>(a) school education and home education provide a foundation for a democratic society;</p> <p>(b) school education and home education should:</p> <p>(i) aim to develop every child's potential and maximise educational achievements; and</p> <p>(ii) promote children's enthusiasm for lifelong learning and optimism for the future; and</p> <p>(iii) encourage parents to take part in the education of their children, and recognise their right to choose a suitable educational environment; and</p> <p>(iv) promote respect for and tolerance of others; and</p> <p>(v) recognise the social, religious, physical, intellectual and emotional needs of all students; and</p> <p>(vi) aim over time to improve the learning outcomes of students so that the outcomes are free from disadvantage because of economic, social, cultural or other causes; and</p> <p>(vii) encourage all students to complete their senior secondary education; and</p> <p>(viii) provide access to a broad education; and</p> <p>(ix) recognise the needs of Indigenous students;</p> <p>(c) innovation, diversity and opportunity within and among</p>



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				<p>schools should be encouraged;</p> <p>(d) effective quality assurance mechanisms should be applied to school education;</p> <p>(e) government funding should be directed to students through their schools or school system;</p> <p>(f) the partnership between the home, community and educational providers should be recognised;</p> <p>(g) school communities should be given information about the operation of their schools.</p> <p>(3) Everyone involved in the administration of this Act, or in the school education of children in the ACT, is to apply the principle that school education:</p> <p>(a) recognises the individual needs of children with disabilities; and</p> <p>(b) should make appropriate provision for those needs, unless it would impose unjustifiable hardship on the provider of the school education.</p> <p>(4) Corporal punishment is not allowed in ACT schools.</p>
	<b>Human Rights Act 2004</b>	ACT	11	<p>(1) The family is the natural and basic group unit of society and is entitled to be protected by society.</p> <p>(2) Every child has the right to the protection needed by the child because of being a child, without distinction or</p>

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				<p>discrimination of any kind.</p> <p><b>Examples of distinction or discrimination</b></p> <p>Distinction or discrimination because of race, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, property, birth, disability or other status.</p> <p><i>Note</i> An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).</p>
			27	<p>Anyone who belongs to an ethnic, religious or linguistic minority must not be denied the right, with other members of the minority, to enjoy his or her culture, to declare and practise his or her religion, or to use his or her language.</p>