

## Keep Them Safe

### *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009*

Sections	Changes	Proclaimed
<b><i>Children and Young Persons (Care and Protection) Act 1988</i></b>		
<b><i>Reporting threshold – “risk of significant harm”</i></b>		
Section 23 – grounds for making report  Schedule 1.1 [1] – [4]	<ul style="list-style-type: none"> <li>Raises the ‘risk of harm’ reporting threshold by inserting the word “significant” before the word harm.</li> <li>Expands the grounds for making a report to include where parents or caregivers fail to ensure a child or young person does not attend school”.</li> <li>Makes it clear that ‘risk of significant harm’ may relate to a single act or omission or to a series of acts or omissions.</li> </ul>	24 Jan 2010
Section 24 – making a report Schedule 1.1 [5]	<ul style="list-style-type: none"> <li>Changes the reference to the term ‘risk of harm’ to ‘at risk of significant harm’</li> </ul>	24 Jan 2010
Section 25 – prenatal reports Schedule 1.1 [5]	<ul style="list-style-type: none"> <li>Changes the reference to the term ‘risk of harm’ to ‘at risk of significant harm’</li> </ul>	24 Jan 2010
Section 27 – requirement to report Schedule 1.1 [5] – [7]	<ul style="list-style-type: none"> <li>Inserts the word ‘significant before ‘harm’</li> <li>Provides it will no longer be an offence if the person does not report a matter to CS, but it will still be a duty to make the report.</li> </ul>	24 Jan 2010
<b><i>Alternate reporting arrangements – Child Wellbeing Units</i></b>		
Section 27 – requirement to report Schedule 1.1 [8]	Insert new section 27A which authorises: <ul style="list-style-type: none"> <li>Staff of NSW Health Services; the Department of Health; Teaching Service, NSW Police; Housing; the Departments of Education &amp; Training; Juvenile Justice and Ageing; TAFE Disability; and Home Care to refer reports to their Child Wellbeing Units (CWU) and any other agency or organisation prescribed by the Regulations.</li> <li>CWU to make referrals to the Helpline</li> </ul>	24 Jan 2010

Sections	Changes	Proclaimed
Section 28 – Record of reports & subsequent action Schedule 1.2 [8]	<ul style="list-style-type: none"> <li>Modifies the requirement for the Director General to keep records in relations to reports made to Community Services and in particular requires keeping of records on any action taken by Community Services as a direct consequence of the report and which has a significant impact on the child or young person.</li> </ul>	24 Jan 2010
Section 29 – Protection of persons who make reports Schedule 1.2 [9] and [10]	<ul style="list-style-type: none"> <li>Making a referral to the CWU attracts the same protections and safeguards as if the reporter had made a report to Community Services.</li> <li>Will permit the disclosure of the identity of reporter to NSW or interstate law enforcement agencies for the purposes of investigating a serious offence against a child or young person, provided the requirements set out are met.</li> </ul>	24 Jan 2010
<b>Modification to objects and principles of Act</b>		
Section 8 and 9 – Objects and Principles of the Act Schedule 1.2 [2] and [3]	<ul style="list-style-type: none"> <li>Modifies the objects and principles to be applied in the administration of the Act, by separating the overriding principle of the <i>Care Act</i> (i.e. the safety, welfare and well being of a child or young person is paramount in all decisions) from the other principles.</li> </ul>	24 Jan 2010
<b>Minor drafting amendments arising from modification to objects and principles of the Care Act</b>		
Section 149B(2) – Definitions Section 231M (d) – Children’s Court to have regard to certain matters Schedule 1.2 [29]	<ul style="list-style-type: none"> <li>Amendments to section 9 references</li> </ul>	24 Jan 2010
Section 231E – Director General to have regard to certain matters Schedule 1.2 [30]	<ul style="list-style-type: none"> <li>Minor amendment to refer to section 9 principles when determining whether to transfer a child protection order to a participating State under Part 2.</li> </ul>	24 Jan 2010
Section 231J (2)(a) – Children’s Court to have regard to certain matters Section 231M (a) - Children’s Court to have regard to certain matters Schedule 1.2 [31]	<ul style="list-style-type: none"> <li>Minor amendment to refer to principles</li> </ul>	24 Jan 2010
<b>Requests for assistance and obligations to co-operate</b>		
Section 18 – Obligation to cooperate Schedule 1.2 [4] and [5]	<ul style="list-style-type: none"> <li>Clarifies the extent of a non-government agency’s obligations to cooperate with requests from Community Services</li> </ul>	24 Jan 2010

Sections	Changes	Proclaimed
Section 21 – Request for assistance by a parent by funded non-government agency Schedule 1.2 [6]	<ul style="list-style-type: none"> <li>Permits a NGO in receipt of government funding to make a request for assistance from Community Services on behalf of a child or young person in respect of whom the agency is providing services.</li> </ul>	24 Jan 2010
Section 22 – Director-General’s response to requests for assistance Schedule 1.2 [7]	<ul style="list-style-type: none"> <li>In response to a request for assistance from an NGO, Community Services may provide advice, material assistance, make a referral or take other necessary action.</li> <li>Clarifies that the Director-General is not required to take any action other than to assess the request.</li> </ul>	24 Jan 2010
<b>Children Court powers and processes</b>		
Section 45 - Prompt application to Children’s Court for care order Schedule 2.1 [1]	<ul style="list-style-type: none"> <li>Application to Children’s Court for care order</li> <li>The requirement to file a care application where there has been an emergency removal or assumption of care responsibility is to be extended from less than 24 hours to no later than 72 hours.</li> </ul>	24 Jan 2010
Section 61 – Applications for care orders Schedule 2.1 [2]	<ul style="list-style-type: none"> <li>Amend section 61(2) so that care applications can be accompanied by a written report that summarises why the child is in need of care and protection, instead of an affidavit. It also removes the requirement that Community Services is to file all material relied upon in care proceedings at the beginning of the proceedings.</li> </ul>	24 Jan 2010
Section 58 – Provision of assessment reports Schedule 1.2 [11] and [12]	<ul style="list-style-type: none"> <li>Removes the discretion of the Children’s Court Clinic to refuse to prepare an assessment report if ‘unwilling’.</li> <li>Enables the Children’s Court to order the Children’s Court Clinic or other identified person under subsection 2 to prepare an assessment report for the Children’s Court.</li> </ul>	24 Jan 2010
Section 65A – Referral of matters to Alternate Dispute Resolution Schedule 1.2 [13]	<ul style="list-style-type: none"> <li>Insert new section 65A authorising the Children’s Court to send parties to a care application to attend an Alternate Dispute Resolution service in relation to any aspect of proceedings.</li> </ul>	24 Jan 2010
Section 71 – Grounds for care orders Schedule 1.2 [14] and [15]	<ul style="list-style-type: none"> <li>Makes it clear that the reasons specified in s.71 for which the Court can make care orders are not exhaustive.</li> <li>However, if the Children’s Court makes a care order in relation to a reason not listed in s71 (1), the Court may only do so if the Director General pleads the reason in the care application.</li> </ul>	24 Jan 2010
Section 71A – Effect of Conduct outside New South Wales Schedule 1.2 [16]	<ul style="list-style-type: none"> <li>Makes a minor technical drafting amendment.</li> </ul>	24 Jan 2010
Section 78 – Care Plans Schedule 1.2 [17]	<ul style="list-style-type: none"> <li>Minor drafting amendment to section to support the permanency planning amendments that a permanency plan does not require details of exact placement (see amendments to section 78A)</li> </ul>	24 Jan 2010
Section 78A – Permanency	<ul style="list-style-type: none"> <li>Minor drafting amendment to reflect amendment to principles of Act.</li> </ul>	24 Jan 2010

Sections	Changes	Proclaimed
Planning Schedule 1.2 [18]		
Section 78A(2) – permanency planning Schedule 1.2 [19]	<ul style="list-style-type: none"> <li>• Insert new section 78A(2A) that a permanency plan doesn't need to provide details as to the exact placement in the long-term but must be sufficiently clear and particularised so that the Children's Court can understand how the child/young persons needs, welfare and well-being will be met.</li> </ul>	24 Jan 2010
Section 79 – Order allocating parental responsibility Schedule 1.2 [20] and [21]	<ul style="list-style-type: none"> <li>• Insert after section 79(5) that the Children's Court cannot allocate parental responsibility to a designated agency, other than when an emergency care and protection orders is made under section 46(2).</li> <li>• Minor drafting amendment to reflect amendment to principles of Act.</li> </ul>	24 Jan 2010
Section 82 – Report on suitability of arrangements concerning parental responsibility. Schedule 1.2 [22]	<ul style="list-style-type: none"> <li>• The assessment report is to be provided within 12 months (not six).</li> <li>• It is to be provided to all other parties, unless otherwise ordered by the Court.</li> <li>• The Court must invite parties to an application to rescind or vary care orders under section 90. Parties must do so within 30 days of being notified by the Court.</li> <li>• The Court can not rescind or vary the order or make a new order allocating parental responsibility of its own motion.</li> </ul>	24 Jan 2010
Section 83 – Preparation of permanency plan Schedule 1.2 [23]	<ul style="list-style-type: none"> <li>• Insert new section 83(7A) that the permanency plan does not need to provide details as to the exact placement in the long term but must include sufficient information so that the Court, when making final orders, has a reasonably clear plan as to the child/young persons needs and how they are going to be met.</li> </ul>	24 Jan 2010
Section 86 – Contact orders Schedule 1.2 [24] and [25]	<ul style="list-style-type: none"> <li>• The Children's Court power to make contact orders is limited to making interim orders and where it has approved a permanency plan (section 83) involving restoration.</li> <li>• Where the Court cannot make a contact order, the regulations may provide for ADR services to address contact disputes.</li> </ul>	Not yet commenced
Section 90 – Rescission and variation of contact orders Schedule 1.2 [26] and [27]	<ul style="list-style-type: none"> <li>• The child or young person can make an application for the rescission or variation of a care order.</li> <li>• Before granting leave the Court must also consider sections 82 (parental responsibility), 85A or 150 reports (permanency plan involving restoration).</li> <li>• The Children's Guardian can not make an application for the rescission or variation of a care order. (See Schedule 1.4 [1])</li> </ul>	24 Jan 2010
Sections 248 – Collection of information by Director-General and Children's Court. Schedule 1.2 [32]	<ul style="list-style-type: none"> <li>• Insert new section 248A which provides that the Regulation may make provision for data collection in relation to all aspects of proceedings, pursuant to the <i>Children and Young Persons (Care and Protection) Act 1998</i> to be kept by Community Services and the Children's Court and made public.</li> </ul>	24 Jan 2010
<b>Compulsory Assistance</b>		
Chapter 7, Part 3 Compulsory Assistance	Removed because the: <ul style="list-style-type: none"> <li>• Provisions have never been proclaimed and suitable services do not exist.</li> </ul>	24 Jan 2010

<b>Sections</b>	<b>Changes</b>	<b>Proclaimed</b>
Schedule 1.2 [28]	<ul style="list-style-type: none"> <li>Supreme Court <i>parens patriae</i> is usually invoked and the Inquiry considers it sufficient.</li> </ul>	
Section 3 – Definitions Schedule 1.2 [1]	<ul style="list-style-type: none"> <li>Removes the definition of compulsory assistance as a consequential amendment to deleting Chapter 7, Part 3 Compulsory Assistance.</li> </ul>	24 Jan 2010
Section 250 (1) (b) – Delegation by Director-General Schedule 1.2 [33]	<ul style="list-style-type: none"> <li>Omits this section which granted a power to the Director-General to apply for compulsory assistance orders. Amendment made consequential to the removal of Chapter 7, Part 3 Compulsory Assistance.</li> </ul>	24 Jan 2010
<b><i>Out-of-Home Care</i></b>		
Section 13 – ATSI Child and Young Person Placement Principles Schedule 1.3 [1]	<ul style="list-style-type: none"> <li>In section 13(1) insert “statutory” before out-of-home care (OOHC) wherever occurring.</li> </ul>	24 Jan 2010
Section 16 – General role of the Director-General Schedule 1.3 [1]	<ul style="list-style-type: none"> <li>In section 16(3) (b) insert “statutory” before OOHC wherever occurring.</li> </ul>	24 Jan 2010
Section 14 – Records relating to ATSI Schedule 1.3 [2]	<ul style="list-style-type: none"> <li>Insert “statutory or supported” before OOHC wherever occurring.</li> </ul>	24 Jan 2010
Section 134 – Objects of this Chapter (OOHC) Schedule 1.3 [3]	<ul style="list-style-type: none"> <li>Replaces section 134(c) and the note at the end of the section with “to clarify the roles and responsibilities of those involved in the provision of OOHC”.</li> </ul>	24 Jan 2010
Section 135 – Definitions and types of OOHC Schedule 1.3 [4]	<ul style="list-style-type: none"> <li>Modifies the definition of OOHC by providing for three types of out of home care (1) statutory OOHC section 135A, (2) supported OOHC section 135B and (3) voluntary OOHC section 135C.</li> </ul>	24 Jan 2010
Section 135A – Statutory OOHC Schedule 1.3 [4]	<ul style="list-style-type: none"> <li>Statutory OOHC is defined as OOHC which is provided for more than 14 days, via Children’s Court care order or if the child/young person is protected person.</li> <li>Commences on the making of care order for more than 14 days or when a child/young person is placed with authorised carer.</li> </ul>	24 Jan 2010
Section 135B – Supported OOHC Schedule 1.3 [4]	<ul style="list-style-type: none"> <li>Supported OOHC is defined as OOHC that is a result of Community Services forming an opinion that child or young person is in need of care and protection. Care must be arranged, provided or supported by the Department.</li> </ul>	24 Jan 2010
Section 135C – Voluntary OOHC	<ul style="list-style-type: none"> <li>Voluntary OOHC is defined as OOHC that is arranged by a parent in a manner referred to in section</li> </ul>	24 Jan 2010

Sections	Changes	Proclaimed
Schedule 1.3 [4]	156A.	
Section 136 – Restrictions on who may provide statutory OOHC Schedule 1.3 [5]	<ul style="list-style-type: none"> <li>Provides that statutory OOHC can only be provided by an authorised carer.</li> <li>Creates an offence of 200 penalty units for providing care by a non-authorised person.</li> </ul>	24 Jan 2010
Section 137 – Authorised carers Schedule 1.3 [6]	<ul style="list-style-type: none"> <li>Inserts a new section 137(1A).</li> <li>Prevents a parent from being given care responsibility, or being authorised as a carer for a child/young person subject to a care order, where the Court has accepted that there is no possibility of restoration (unless the Court’s decision is rescinded under section 90).</li> </ul>	24 Jan 2010
Section 137 – Authorised carers Schedule 3.3 [1]	<ul style="list-style-type: none"> <li>Inserts new section 137(2) requiring authorised carers who are authorised by a designated agency to notify the designated agency of any person (other than the carer) who is of or above the age of 18, residing at the carer’s home on a regular basis and has been doing so for a period of at least 3 months.</li> <li>The notification is for the purpose of background checks under the CCYP Act 1998.</li> </ul>	31 March 2010
Section 138 – Persons who may arrange for provision of OOHC Schedule 1.3 [7]	<ul style="list-style-type: none"> <li>Amend the section so that it only refers to statutory or supported OOHC.</li> </ul>	24 Jan 2010
Chapter 8, Parts 3 and 3A Schedule 1.3 [8]	<ul style="list-style-type: none"> <li>Replace Part 3 and 3A with new provisions relating to supported and voluntary OOHC.</li> </ul>	24 Jan 2010
Section 151 – Making of temporary care arrangements Schedule 1.3 [8]	<ul style="list-style-type: none"> <li>Community Services can make a temporary care arrangement for children/young persons in need of care and protection</li> <li>The Director-General has care responsibility for a child/young person who is the subject of a temporary care arrangement, and can only delegate this to an authorised carer.</li> <li>A temporary care arrangement cannot be made unless a parent consents and a permanency plan involving restoration is in place, or the parents are incapable of consenting.</li> </ul>	24 Jan 2010
Section 152 – Duration, renewal and review of temporary care arrangements Schedule 1.3 [8]	<ul style="list-style-type: none"> <li>A temporary care arrangement is to have duration of 3 months and can be renewed for a further 3 months, if the child or young person is still in need of care and protection [section 152(2)] but cannot be renewed if it was not initially made with the parent’s consent.</li> <li>A temporary care arrangement can be terminated if the person who made the arrangements requests termination ; the YP turns 18; the agreed time elapse ;a care application is made or if child or young person is no longer in need of care and protection [section 152(5)(b)] .</li> </ul>	24 Jan 2010
Section 153 – Operation of other supported out of home care arrangements Schedule 1.3 [8]	<ul style="list-style-type: none"> <li>Support may be provided for an OOHC placement that has been arranged otherwise than as a temporary care arrangement.</li> <li>A child/young person cannot remain in such OOHC placements for more than 21 days unless the child has been assessed and the supervising designated agency is satisfied that the child/young person cannot remain with their parent(s).</li> </ul>	24 Jan 2010

Sections	Changes	Proclaimed
	<ul style="list-style-type: none"> <li>• A permanency plan involving restoration or care plan must be implemented within seven days after the end of the 21 day period.</li> </ul>	
Section 154 – Restrictions on who can provide supported OOHC Schedule 1.3 [8]	<ul style="list-style-type: none"> <li>• Supported OOHC can only be provided by the Director-General or an authorised carer.</li> </ul>	24 Jan 2010
Section 155 – Review of supported OOHC arrangements Schedule 1.3 [8]	<ul style="list-style-type: none"> <li>• If a child/young person has been in supported OOHC for a period or aggregate, of more than three months in any 12-month period, the placement must be reviewed every 12 months.</li> <li>• The annual review must consider a number of factors, i.e. number and total time spent in supported OOHC, number and outcome of previous reviews, legal status of the child/young person and the appropriateness of making a care application.</li> <li>• At the end of the annual review the designated agency is to determine whether restoration is possible or whether a care application is required.</li> <li>• Reviews are required within 21 days of the death of an authorised carer, before a planned placement change and within 21 days of an unplanned placement change.</li> </ul>	24 Jan 2010
Section 156 – VOOHC Preliminary Schedule 1.3 [8]	<ul style="list-style-type: none"> <li>• Defines “relevant agency” for Part 3A relating to Voluntary Out of Home Care (VOOHC) arrangements</li> <li>• Creates regulation making power in respect of voluntary arrangements and the registration of organisations for the purposes of VOOHC.</li> </ul>	24 Jan 2010
Section 156A – Voluntary arrangements for OOHC Schedule 1.3 [8]	<ul style="list-style-type: none"> <li>• A parent can arrange with a relevant agency for a child/young person to be placed in an OOHC voluntary arrangement.</li> <li>• A voluntary arrangement cannot continue for more than three months in a 12-month period unless the care is supervised by a designated agency.</li> <li>• The voluntary arrangement cannot continue for more than 180 days in any period of 12 months unless the designated agency has prepared a plan that meets the needs of the child/young person in accordance with the guidelines issued by the Children’s Guardian.</li> <li>• The Children’s Guardian is to develop intake, assessment and interagency coordination procedures to ensure that voluntary arrangements don’t occur when adequate services exist to support them at home and there is proper case planning.</li> </ul>	24 Jan 2010
Chapter 8, Part 5 – Arrangements during OOHC Schedule 1.3 [9] and [10]	<ul style="list-style-type: none"> <li>• Inserts ‘statutory or supported’ into the heading</li> <li>• Insert section 159A as it applies only to statutory or supported OOHC.</li> </ul>	24 Jan 2010
Section 161 – Financial assistance for children and young persons in OOHC Schedule 1.3 [11]	<ul style="list-style-type: none"> <li>• Remove section 161(2) as it applies only to statutory or supported OOHC.</li> </ul>	24 Jan 2010

Sections	Changes	Proclaimed
Chapter 8, Part 6 - Arrangements on leaving OOHC Schedule 1.3 [12] and [13]	<ul style="list-style-type: none"> <li>Insert section 165A as it applies only to statutory OOHC.</li> </ul>	24 Jan 2010
Section 171 - Removal of children and young persons from unauthorised OOHC Schedule 1.3 [14]	<ul style="list-style-type: none"> <li>Applies only to statutory or supported OOHC.</li> </ul>	24 Jan 2010
Section 172 - Notification of deaths of children and young persons in out-of-home care Schedule 1.3 [14]	<ul style="list-style-type: none"> <li>Applies only to statutory or supported OOHC.</li> </ul>	24 Jan 2010
Section 172A – Prohibition on parents placing children or young persons in out-of-home care provided by unauthorised organisations Schedule 1.3 [15]	<ul style="list-style-type: none"> <li>Inserts section 172A which prohibits parents placing children/young persons in OOHC provided by unauthorised organisations</li> <li>Creates an offence of 200 penalty units</li> </ul>	Not yet commenced
<b>Information exchange and coordination of services</b>		
Insert new Chapter 16A – Exchange of information and coordination of services		
Section 245A – Objects and principles of Chapter Schedule 1.5	<p>The Object is to facilitate the provision of services to children/young people by agencies that have responsibility relating to the safety, welfare or wellbeing of children/young persons by:</p> <ul style="list-style-type: none"> <li>Authorising government and non-government agencies to provide and receive information</li> <li>Requiring relevant agencies to take reasonable steps to coordinate provision of services.</li> </ul> <p>The Act's Principles seek that government and non-government agencies:</p> <ul style="list-style-type: none"> <li>work collaboratively</li> <li>communicate with each other about children and young people where there are concerns for the child or young person's safety, welfare or wellbeing</li> <li>in communicating, place the safety, welfare and wellbeing of a child or young person ahead of concerns about an individual's privacy.</li> </ul>	30.10. 2009
Section 245B – Interpretation Schedule 1.5	<ul style="list-style-type: none"> <li>The organisations that are prescribed bodies for the purposes of the exchange of information provisions are set out in section 248(6) and the Regulation.</li> </ul>	30.10.2009

Sections	Changes	Proclaimed
Section 245C – Provision of information Schedule 1.5	<ul style="list-style-type: none"> <li>A prescribed body (defined under section 248 and further under the Regulations) may provide information relating to the safety, welfare or wellbeing of a child/young person (or class of children and/or young people) to another prescribed body if the information would assist with making a decision, assessment, investigation or service delivery. An agency may also provide information on its own initiative where it relates to the safety, welfare or wellbeing of a child or young person for the above purposes.</li> </ul>	30.10.2009
Section 245D – Request for information Schedule 1.5	<ul style="list-style-type: none"> <li>A prescribed body may ask another prescribed body for information relating to the safety, welfare or wellbeing of a child/young person to assist with making a decision, assessment, investigation or service delivery.</li> <li>A prescribed body can refuse to provide information if it would prejudice an investigation of a contravention of a law, a coronial inquest/inquiry, care proceedings or legal profession/client legal privilege.</li> </ul>	30.10.2009
Section 245E – Coordination of services Schedule 1.5	<ul style="list-style-type: none"> <li>Prescribed bodies are to take reasonable steps to coordinate decision-making and delivery of services.</li> </ul>	30.10.2009
Section 245F – Restriction on use of information Schedule 1.5	<ul style="list-style-type: none"> <li>Prescribed bodies are not able to use the supplied information or disclose the information for any purpose that is not associated with the safety, welfare or wellbeing of a child/young person.</li> </ul>	30.10.2009
245G –Protection from liability for providing information Schedule 1.5	<ul style="list-style-type: none"> <li>A person, who provides information in good faith in accordance with Chapter 16A, will not be liable for any civil, criminal action or professional disciplinary action.</li> </ul>	30.10.2009
245H – Interaction with other laws Schedule 1.5	<ul style="list-style-type: none"> <li>Any other Act or law that prohibits or restricts the disclosure of information does not prevent the provision of information under Chapter 16A.</li> <li>Chapter 16 does not limit the operation of sections 185 and 248.</li> </ul>	30.10.2009
245I – Commonwealth agencies Schedule 1.5	<ul style="list-style-type: none"> <li>The requirements set out in Chapter 16A does not apply to the Federal Court, Federal Magistrates Court, Centrelink or DIMIA.</li> </ul>	30.10.2009
<b>Children’s Guardian</b>		
Section 90 – Rescission and variation of contact orders Schedule 1.4 [1] and [2]	<ul style="list-style-type: none"> <li>The Children’s Guardian cannot make an application for the rescission or variation of a care order.</li> </ul>	24 Jan 2010
Section 105 – Publication of names and identifying information Schedule 1.4 [3]	<ul style="list-style-type: none"> <li>The Director-General, rather than the Children’s Guardian, will hold the right to consent to the publication/broadcast of the name of a child or young person who is under the Parental Responsibility of the Minister where this is to the benefit of the child or young person.</li> </ul>	24 Jan 2010

Sections	Changes	Proclaimed
Section 181 - Functions relating to parental responsibility Schedule 1.4 [4]	<ul style="list-style-type: none"> <li>• Remove sections 181(1) (a) and (d) so that the functions of the Children’s Guardian no longer include:               <ul style="list-style-type: none"> <li>• exercising parental responsibilities</li> <li>• reviewing case plans or</li> <li>• case plan review reports</li> </ul> </li> </ul>	24 Jan 2010
Section 183 – Power of Children’s Guardian to resolve disputes Schedule 1.4 [5]	<ul style="list-style-type: none"> <li>• The Children’s Guardian no longer has power to resolve disputes.</li> </ul>	24 Jan 2010
Section 186 – Delegation of Functions Schedule 1.4 [6]	<ul style="list-style-type: none"> <li>• Allows the Children’s Guardian to delegate all functions other than the power to delegate.</li> </ul>	24 Jan 2010
<b><i>Other miscellaneous and consequential amendments</i></b>		
Section 3 – Definitions Schedule 1.6 [1]	<ul style="list-style-type: none"> <li>• Inserts definition of Children’s Court Clinic, tying it to section 153 of the <i>Children’s Court Act 1987</i>.</li> </ul>	24 Jan 2010
Section 19 – Interagency co-operation and exchange of information Schedule 1.6 [2]	<ul style="list-style-type: none"> <li>• Provides that the provisions of this Part do not limit operation of Chapter 16A or section 248.</li> </ul>	30 Oct 2009
Chapter 3 – Request for assistance and reports Schedule 1.6 [3]	<ul style="list-style-type: none"> <li>• Omits the diagrams at the beginning of the Chapter.</li> </ul>	24 Jan 2010
Section 39 – Action for removal of child or young person or exercise of other functions Section 40 – Application for certain orders Section 41 – Temporary Care Arrangements Schedule 1.6 [4]	<ul style="list-style-type: none"> <li>• Sections omitted from the Act.</li> </ul>	24 Jan 2010
Schedule 3 – Savings, transitional and other provisions Schedule 1.6 [6]	<ul style="list-style-type: none"> <li>• Provides that the regulations may contain provisions of a savings and transitional nature consequent on the enactment of the Wood legislation to the extent that it amends the Act.</li> </ul>	30 Oct 2009
Section 107 - Examination and cross-examination of witnesses	<ul style="list-style-type: none"> <li>• Amends reference to authorised Magistrate to refer to President of the Children’s Court.</li> </ul>	Repealed (was to

<b>Sections</b>	<b>Changes</b>	<b>Proclaimed</b>
Schedule 2.1 [3]	NB: This amendment was repealed by the <i>Courts and Crimes Legislation Amendment Act 2009</i> .	commence 1.6.09)
Section 109 – Definitions Schedule 2.1 [4]	<ul style="list-style-type: none"> <li>Clarifies that a reference to a Children’s Magistrate includes a reference to the President of the Children’s Court.</li> </ul>	1 June 2009
<b>Children’s Services</b>		
Section 220 - Regulations Schedule 1.6 [5]	<ul style="list-style-type: none"> <li>Amends regulation making power for probity checks in respect of Children’s Services.</li> </ul>	31 March 2010
Section 209 – Conditions of licences Schedule 3.3 [2]	<ul style="list-style-type: none"> <li>Makes it a condition of a licence for a family day care children’s service or home-based service that the licensee must notify the Director General of any person (other than the carer) who is of or above the age of 18, is residing at the carer’s home on a regular basis and has been doing so for a period of at least 3 months.</li> </ul>	31 March 2010
Amendment of Children’s Services Regulation 2004 Schedule 3.4	<ul style="list-style-type: none"> <li>Omits clauses from the Children’s Services Regulation in respect of probity checks i.e. clauses 117, 119 – 121 and 122F to reflect the transfer of these functions to the <i>Commission for Children and Young People Act 1998</i>.</li> </ul>	31 March 2010
<b>Children’s Court Act 1987</b>		
Section 3 – Definitions Schedule 2.2 [1]	<ul style="list-style-type: none"> <li>Remove the definition of Senior Children’s Magistrate and replace with “President” of the Children’s Court.</li> </ul>	1 June 2009
Section 6 - Composition of the Court Schedule 2.2 [2]	Removes section 6 and replaces with new provisions that: <ul style="list-style-type: none"> <li>establishes that the Children’s Court is to be comprised of the President and Children’s Magistrates [section. 6].</li> <li>details concerning qualifications, appointment and services of the President [section 6A]</li> <li>acting arrangements during a vacancy [section 6B]</li> </ul>	1 June 2009
Section 7 – Appointment of Children’s Magistrates Schedule 2.2 [3] – [5]	<ul style="list-style-type: none"> <li>Can only be appointed in consultation with the President [section 7(1A)]</li> <li>In addition to the Chief Magistrate, the President’s opinion about a candidate’s suitability is required. [ section 7(2)(b) and section 7(2A)]</li> </ul>	1 June 2009
Sections 8, 9 and 17 Schedule 2.2 [6]	<ul style="list-style-type: none"> <li>Sections omitted.</li> </ul>	1 June 2009
Section 10A – Children’s Registrars Schedule 2.2 [7]	<ul style="list-style-type: none"> <li>Requires that a person to be employed as a Children’s Registrar must be an Australian lawyer.</li> </ul>	24 Jan 2010

Sections	Changes	Proclaimed
Section 13 – Single member to exercise jurisdiction of the Court Schedule 2.2 [8]	<ul style="list-style-type: none"> <li>The Court’s jurisdiction can be exercised by a single member i.e. by President or Children’s Magistrate.</li> </ul>	1 June 2009
Sections 15A (2), 18 and 22 (a) Schedule 2.2 [9]	<ul style="list-style-type: none"> <li>Replaces references to ‘Senior Children’s Magistrate’ with ‘President.’</li> </ul>	1 June 2009
Section 16 – Functions of the Senior Children’s Magistrate Schedule 2.2 [11]	<ul style="list-style-type: none"> <li>Omits the sections and sets out the functions of the President.</li> </ul>	1 June 2009
Section 22A Schedule 2.2 [12]	<ul style="list-style-type: none"> <li>Inserts a new section regarding appeals in relation to decisions of the Presidential Children’s Court.</li> </ul>	1 June 2009
Sections 23A and 23B Schedule 2.2 [13]	<ul style="list-style-type: none"> <li>Inserts sections regards practice notes and provides that the court may give directions in circumstances not covered by rules or practice notes.</li> </ul>	1 June 2009
Schedule 1 – Provisions relating to Children’s Magistrates Schedule 2.2 [14]	<ul style="list-style-type: none"> <li>Inserts reference to the President of the Children’s Court.</li> </ul>	1 June 2009
Schedule 2 - Savings and transitional provisions Schedule 2.2 [15]	<ul style="list-style-type: none"> <li>Provides that the regulations may contain provisions of a savings and transitional nature consequent on the enactment of the Wood legislation to the extent that it amends the Act.</li> </ul>	1 June 2009
Schedule 2, Part 3 Provisions consequent on enactment of Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 Schedule 2.2 [16]	<ul style="list-style-type: none"> <li>Makes provisions which relate to the abolished office of Senior Children’s Magistrate and the Children’s Court Clinic.</li> </ul> <p>NB: Clause 8 which refers to the Children’s Court Clinic has not been commenced.</p>	<p>1 June 2009 (For clauses 6 and 7)</p> <p>Clause 8 not yet commenced</p>
<b>Children’s Court Rule 2000</b>		
Clauses 10(b) and (c), 11, 18A, 30(3) and 37 (1) (a) and (c) (i) Schedule 2.6 [1]	<ul style="list-style-type: none"> <li>Replaces references to “Senior Children’s Magistrate” with President.</li> </ul>	1 June 2009
Clause 17 – Practice directions of the Court	<ul style="list-style-type: none"> <li>Omits the clause from the rule.</li> </ul>	1 June 2009

<b>Sections</b>	<b>Changes</b>	<b>Proclaimed</b>
Schedule 2.6 [2]		
Clause 21 – Report to accompany care applications Schedule 2.6 [3]	<ul style="list-style-type: none"> <li>• Previous clause omitted and replaced by clause “report to accompany care applications.” Clause details particulars to be included in the report which accompanies a care application.</li> </ul>	24 Jan 2010
Clause 33 – Composition of Children’s Court Clinic Schedule 2.6 [4]	<ul style="list-style-type: none"> <li>• Replaces reference to “Attorney General” with “Minister for Health.”</li> </ul>	Not yet commenced
Clause 40 – Deputies Schedule 2.6 [5]	<ul style="list-style-type: none"> <li>• Omits reference to deputy of the Director of the Children’s Court Clinic from clause 40(1).</li> </ul>	24 Jan 2010
<b><i>Commission for Children and Young People Act 1988</i></b>		
<b><i>Background checks</i></b>		
Section 11(i) – Principal functions of Commission Schedule 3.1 [1]	<ul style="list-style-type: none"> <li>• Removes reference to ‘child related employment’ from section 11(i).</li> </ul>	31 March 2010
Sections 11(k), 15(1) and 15A(1) Schedule 3.1 [2] and [3]	<ul style="list-style-type: none"> <li>• Consequential amendments resulting from the transfer of the Child Death Review Team from the Commission to the Ombudsman.</li> </ul>	Not yet commenced
Section 31 – Object of Part Schedule 3.1 [4]	<ul style="list-style-type: none"> <li>• Removes reference to ‘child related employment’ from section 31(b).</li> </ul>	31 March 2010
Section 33 – Definitions Schedule 3.1 [5]	<p>The insertion of section 33(1)(a1) expands the definition of child-related employment to include:</p> <ul style="list-style-type: none"> <li>• people who manage and/or control prescribed children’s service</li> <li>• an authorised supervisor of a prescribed children’s service (s.199 of Care and Protection Act]</li> <li>• Child Wellbeing Unit assessment officers [section 27A]</li> <li>• Principal officer of a section 139 designated agency</li> <li>• Principal officer of accredited adoption service provider</li> <li>• Contractors whose work involves direct unsupervised contact with children.</li> </ul>	31 March 2010
Section 33 – Definitions Schedule 3.1 [6], [7] and [8]	<ul style="list-style-type: none"> <li>• Amendments to section 33(1) to expand the definition of employer to include persons who manage or control prescribed children’s services.</li> <li>• Inserts definitions of prescribed children’s service and relevant agency.</li> </ul>	31 March 2010
Section 37 - Background checking for certain short-term employees Schedule 3.1 [9]	<p>Background checking mandatory for preferred applicants for certain child-related employment. Include the definition of primary child-related employment at section 37(6) that captures:</p> <ul style="list-style-type: none"> <li>• students working for CS</li> </ul>	31 March 2010

Sections	Changes	Proclaimed
	<ul style="list-style-type: none"> <li>volunteers mentoring disadvantaged children</li> <li>volunteers providing intimate personal care to children with disabilities.</li> </ul>	
Section 45 – Application of background checking provisions to adult persons residing with authorised carers or children’s services providers Schedule 3.1 [10]	<ul style="list-style-type: none"> <li>New section 45 applies background checking provisions to adults who live with (for more than three months) an authorised carer or children’s service provider.</li> </ul>	31 March 2010
Sections 45B, 45C, 45E to 45H , 45N, 45S and 45U – Child Death Review Team (CDRT) Schedule 3.1 [11] – [18]	<ul style="list-style-type: none"> <li>The Child Death Review Team is now convened by the NSW Ombudsman, and the Office provides secretariat and research functions.</li> </ul>	Not yet commenced
Schedule 3 – Savings, transitional and other provisions Schedule 3.1 [19]	<ul style="list-style-type: none"> <li>Provides that the regulations may contain provisions of a savings and transitional nature consequent on the enactment of the Wood legislation to the extent that it amends the Act.</li> </ul>	31 March 2010
<b>Community Services (Complaints, Reviews and Monitoring) Act 1993</b>		
Section 8A – Provision of information to Children’s Guardian Schedule 3.2 [1]	<ul style="list-style-type: none"> <li>Requires Official Community Visitors to provide the Children’s Guardian with information obtained by the Visitor that the Children’s Guardian specifies as being relevant to the Children’s Guardian’s functions in accrediting organisations as designated agencies under the Care Act.</li> </ul>	24 Jan 2010
Section 35 – Application of Part Schedule 3.2 [2]	<ul style="list-style-type: none"> <li>Provides that the death of a child (or a child who is the sibling of a child) who was the subject of a risk of harm report under the Care Act within the period of three years before the child’s death will not be a death that is subject to review by the ombudsman under part 6 of Community Services (<i>Complaints Review and Monitoring</i>) Act 1993.</li> </ul>	1 July 2009
Section 43 – Reports Schedule 3.2 [3]	<ul style="list-style-type: none"> <li>Provides that the Ombudsman is to report to Parliament every two years, instead of annually, on the Ombudsman’s work and activities in relation to reviewable deaths of children and other persons in care.</li> </ul>	1 July 2009
Section 43(2)(a) Schedule 3.2 [4]	<ul style="list-style-type: none"> <li>Amendment related to requirement of Ombudsman to report to Parliament every two years, instead of annually.</li> </ul>	1 July 2009
Section 43(4)	<ul style="list-style-type: none"> <li>Amendment related to requirement of Ombudsman to report to Parliament every two years, instead of</li> </ul>	1 July 2010

Sections	Changes	Proclaimed
Schedule 3.2 [5]	annually.	

This table does not include references to the amendments made by Schedule 2.3, 2.4 and 2.5 of the Wood Legislation, which commenced on 1 June 2009. These schedules amended the following Acts to make appropriate references to the President of the Children’s Court and to deal with the abolished office of Senior Children’s Magistrate:

- *Constitution Act 1902*
- *Judicial Officers Act 1986*
- *Statutory and Other Offices Remuneration Act 1975*