

NORTHERN TERRITORY OF AUSTRALIA
YOUTH JUSTICE AMENDMENT (FAMILY RESPONSIBILITY) ACT 2008

Act No. 14 of 2008

TABLE OF PROVISIONS

1	Short title	1
2	Commencement	1
3	Act amended	1
4	Amendment of section 39 (Diversion of youth)	1
5	New Part 6A	2
	Part 6A	Responsible care and supervision within the family
	Division 1	Preliminary
	140A	Definitions
	140B	Guiding principles
	140C	How Agency acts for the purposes of this Part
	Division 2	Family responsibility agreements
	140D	Power to enter into family responsibility agreement
	140E	Family responsibility agreement
	140F	Family responsibility agreement not to give rise to enforceable obligations
	Division 3	Family responsibility orders
	140G	Inquiries into family circumstances
	140H	General provisions about inquiry
	140J	Family responsibility orders
	140K	Variation or revocation of family responsibility order
	140L	Explanation of orders
	140M	Non-compliance with family responsibility order
	Division 4	Miscellaneous
	140N	Enforcement of fine
	140P	Prohibition on publication of certain information
	140Q	Geographical limitation of jurisdiction
	140R	Review of this Part



NORTHERN TERRITORY OF AUSTRALIA

Act No. 14 of 2008

An Act to amend the *Youth Justice Act*

[Assented to 23 May 2008]
[Second reading 13 February 2008]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Youth Justice Amendment (Family Responsibility) Act 2008*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Act amended

This Act amends the *Youth Justice Act*.

4 Amendment of section 39 (Diversion of youth)

Section 39(3), (4) and (5)

omit, substitute

(3) Subsection (2) does not apply if:

- (a) the youth has left the Territory or the youth's whereabouts is unknown; or
- (b) the alleged offence is a serious offence; or

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- (c) the youth has, on 2 previous occasions, been dealt with by Youth Justice Conference or diversion program (or on one of the occasions by Youth Justice Conference and on the other by diversion program); or
 - (d) the youth has some other history that makes diversion an unsuitable option (including a history of previous diversion or previous convictions).
- (4) However, the Commissioner of Police (or the Commissioner's delegate) may authorise or require a police officer to deal with a youth by Youth Justice Conference or by referring the youth to a diversion program despite the fact that the case is covered by subsection (3).

5 **New Part 6A**

After section 140

insert

Part 6A Responsible care and supervision within the family

Division 1 Preliminary

140A Definitions

In this Part:

appropriate Agency means an Agency to which the Minister has assigned the administrative responsibilities of an appropriate Agency under this Part.

authorised officer means:

- (a) the person for the time being responsible for administering an appropriate Agency (whether described as the chief executive officer or in some other way); or
- (b) any other person authorised by an appropriate Agency to act on behalf of the Agency under this Part.

parent, of a youth, includes a person who is, in relation to the youth, a responsible adult.

publish means:

- (a) make accessible on the internet; or

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- (b) publish by newspaper, radio or television; or
 - (c) publish by any other form of public media.

140B Guiding principles

- (1) For the purposes of this Part, the best interests of the youth are to be treated as the paramount consideration.
- (2) Agencies with responsibilities related to the welfare of a youth must work together cooperatively and effectively to help parents:
 - (a) safeguard and promote the wellbeing of the youth; and
 - (b) exercise appropriate control over the behaviour of the youth; and
 - (c) comply with any relevant family responsibility agreement or order.

140C How Agency acts for the purposes of this Part

- (1) An appropriate Agency acts for the purposes of this Part through an authorised officer.
- (2) An appropriate Agency must issue to each of the Agency's authorised officers an identity card certifying the officer's authority to act on behalf of the Agency under this Part.

Division 2 Family responsibility agreements

140D Power to enter into family responsibility agreement

An appropriate Agency may enter into a family responsibility agreement with a parent, or the parents, of a youth if:

- (a) the youth has demonstrated behavioural problems; and

Examples

- 1 *Criminal behaviour.*
- 2 *Persistent truancy.*
- 3 *Anti-social behaviour.*

- (b) the youth's family circumstances may have caused, or contributed to, the behavioural problems; and
- (c) the Agency is of the opinion that the agreement may assist to resolve the problems.

140E Family responsibility agreement

- (1) A family responsibility agreement may provide as follows:
 - (a) it may require a parent to undertake counselling or therapy directed at helping the parent to overcome addictive, destructive or damaging behaviour;
 - (b) it may require a parent to:
 - (i) undertake counselling to provide guidance in the effective discharge of the parent's parental responsibilities; or
 - (ii) join and participate in the activities of an appropriate support group; or
 - (iii) undertake any other relevant course or program of personal development (including, if appropriate, a residential course or program);
 - (c) it may require a parent to exercise proper care and supervision of the youth and, in particular, to take all reasonable steps to ensure that:
 - (i) the youth attends school; and
 - (ii) the youth keeps away from, and avoids contact with, persons named or described in the agreement; and
 - (iii) the youth keeps away from places described in the agreement;
 - (d) it may contain any other provisions, relevant to the effective care and supervision of the youth, that are agreed between the parties.
- (2) A family responsibility agreement remains in force for a term stated in the agreement but the term cannot:
 - (a) exceed 12 months; or
 - (b) extend beyond the date on which the youth turns 18.
- (3) Before entering into a family responsibility agreement, the appropriate Agency must ensure that facilities and services reasonably required by the parent or parents to comply with the agreement are reasonably available to the parent or parents in the relevant region.

140F Family responsibility agreement not to give rise to enforceable obligations

A family responsibility agreement does not give rise to enforceable obligations.

Division 3 Family responsibility orders

140G Inquiries into family circumstances

- (1) The Court may, on application, conduct an inquiry into the family circumstances of a youth:
 - (a) where a parent, or the parents, of the youth have entered into a family responsibility agreement but the youth has continued to exhibit behavioural problems; or
 - (b) where a parent or the parents of the youth have been invited to enter into a family responsibility agreement but have not done so; or
 - (c) where a parent or the parents of the youth have entered into a family responsibility agreement but have not complied with its terms; or
 - (d) where the youth has been charged with an offence or has breached a condition of bail.
- (2) The application:
 - (a) if based on subsection (1)(a), (b) or (c) – must be made by an appropriate Agency; and
 - (b) if based on subsection (1)(d) – must be made by a member of the police force.
- (3) For the purposes of the inquiry:
 - (a) the Court may issue a summons requiring the youth, a parent or parents of the youth, or any other person who may be able to assist the Court in conducting the inquiry, to appear before the court at a specified time and place; and
 - (b) if a person fails to appear as required by the summons, the Court may issue a warrant to have the person arrested and brought before the Court.
- (4) The Chief Magistrate may make rules of Court, or issue practice directions, regulating the practice and procedure of the Court on an inquiry under this Division.

140H General provisions about inquiry

- (1) The purpose of an inquiry under this Part is to ascertain:
 - (a) whether unstable or otherwise unsatisfactory family circumstances might have caused or contributed to the youth's behavioural problems; and
 - (b) if so, whether the situation is likely to be improved by a family responsibility order.
- (2) The Court is not bound by the rules of evidence in conducting an inquiry under this Part and may inform itself in any way it considers appropriate.

140J Family responsibility orders

- (1) If, on an inquiry under this Part, the Court forms the opinion that an order under this Part (a **family responsibility order**) is likely to improve the youth's family situation, the Court may make such an order.
- (2) Before the Court makes a family responsibility order, it must consider such of the following matters as may be relevant in the circumstances of the particular case:
 - (a) the circumstances of the youth's family and the likely effect of the order on the family;
 - (b) whether the youth, or a parent of the youth, suffers from a physical or mental disability or condition that causes or contributes to the youth's behavioural problems;
 - (c) the extent the youth's parents have attempted to manage or control the youth's behaviour;
 - (d) whether a parent has unreasonably refused to enter into a family responsibility agreement or, in the case of a parent who has entered into such an agreement, the extent the parent has attempted to comply with the agreement;
 - (e) whether the appropriate Agency has made reasonable attempts to help and encourage the parents to manage the youth's behaviour appropriately and to improve their parenting skills;
 - (f) the extent the appropriate Agency has complied with obligations under a responsible parenting agreement to provide assistance to the youth's parents;

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- (g) whether the facilities and services reasonably necessary for the parents to comply with the order will be available to them;
 - (h) the assistance the appropriate Agency and other Agencies are prepared to provide to assist the parents to comply with the order.
- (3) A family responsibility order may provide as follows:
- (a) it may require a parent to undertake counselling or therapy directed at helping the parent to overcome addictive, destructive or damaging behaviour;
 - (b) it may require a parent to:
 - (i) undertake counselling to provide guidance in the effective discharge of the parent's family responsibilities; or
 - (ii) join and participate in the activities of an appropriate support group; or
 - (iii) undertake any other relevant course or program of personal development (including, if appropriate, a residential course or program);
 - (c) it may require a parent to exercise proper care and supervision of the youth and, in particular, to take all reasonable steps to ensure that:
 - (i) the youth attends school; and
 - (ii) the youth keeps away from, and avoids contact with, persons named or described in the order; and
 - (iii) the youth keeps away from places described in the order;
 - (d) it may impose any other requirements, relevant to the effective care and supervision of the youth, that the Court considers justified in the circumstances.
- (4) A family responsibility order:
- (a) cannot be made for a youth under the age of 10 years; and
 - (b) remains in force for a term stated in the order but the term cannot:
 - (i) exceed 12 months; or

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- (ii) extend beyond the date on which the youth turns 18.

140K Variation or revocation of family responsibility order

- (1) The Court may, if satisfied that the variation or revocation of a family responsibility order would be consistent with the best interests of the youth, vary or revoke the order accordingly.
- (2) The Court may exercise its powers under this section:
 - (a) on the Court's own initiative; or
 - (b) on application by:
 - (i) a party to the proceedings in which the order was made; or
 - (ii) any other person with a proper interest in the matter.

140L Explanation of orders

- (1) If the Court makes a family responsibility order, or an order varying or revoking a family responsibility order, the Court must explain the order to the parents and the youth in a language and manner they are likely to understand, having regard to their respective ages, maturity, cultural background and English language skills.
- (2) The Court must explain:
 - (a) the purpose and effect of the order; and
 - (b) the consequences of non-compliance; and
 - (c) if appropriate, that the Court has power to review the order.
- (3) Failure to explain a family responsibility order as required by this section does not invalidate the order.

140M Non-compliance with family responsibility order

- (1) A person who fails, without reasonable excuse, to comply with a family responsibility order commits an offence.

Maximum penalty: 20 penalty units.

- (2) A prosecution for an offence against this section may only be commenced with the approval of the appropriate Agency.
- (3) An appropriate Agency may only approve the prosecution if it has made reasonable attempts to secure compliance with the order without resorting to prosecution but those attempts have failed.

Division 4 Miscellaneous**140N Enforcement of fine**

A fine imposed for non-compliance with a family responsibility order may only be enforced:

- (a) by execution against goods that are not necessary for the maintenance of a modest life-style or for earning a livelihood;
or
- (b) by a community work order.

140P Prohibition on publication of certain information

A person must not publish information that identifies another as:

- (a) a party to proceedings for a family responsibility order, or as a youth for whom such an order has been, or may be, made; or
- (b) a person named or identified in a family responsibility order.

Maximum penalty: 200 penalty units or imprisonment for
1 year.

140Q Geographical limitation of jurisdiction

Regulations may be made limiting the exercise of the power to make family responsibility order to particular regions or parts of the Territory.

140R Review of this Part

- (1) The Minister will have a review of this Part carried out.
- (2) The review is to commence around 12 months after the commencement of this Part.
- (3) Within 6 sitting days after receiving the report on the review, the Minister must table the report in the Legislative Assembly.