

Serial 96
Community Welfare Amendment Bill 2002
Mrs Aagaard

**A BILL
for
AN ACT**

to amend the *Community Welfare Act*

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NORTHERN TERRITORY OF AUSTRALIA
COMMUNITY WELFARE AMENDMENT ACT 2002

No. of 2002

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. of 2002

AN ACT

to amend the *Community Welfare Act*

[Assented to 2002]

[Second reading 2002]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Community Welfare Amendment Act 2002*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Community Welfare Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 4 of the Principal Act is amended –

- (a) by inserting after the definition of "child" in subsection (1) the following:
" 'Clerk' means a Clerk of the Family Matters Court;";
- (b) by omitting from subsection (2)(a) "him" and substituting "him or her";
- (c) by omitting from subsection (2)(c) "he" and substituting "he or she";

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- (d) by omitting from subsection (2)(d) "he" and "his" and substituting "he or she" and "his or her" respectively;
- (e) by omitting from subsection (2)(e) "he" and substituting "he or she";
- (f) by omitting from subsection (3)(a) "he" and "him" and substituting "he or she" and "him or her" respectively;
- (g) by omitting from subsection (3)(b) "he has suffered", "he belongs", "his" and "he is living" and substituting "he or she has suffered", "he or she belongs", "his or her" and "he or she is living" respectively;
- (h) by omitting from subsection (3)(c) "he has suffered", "his" and "he is living" and substituting "he or she has suffered", "his or her" and "he or she is living" respectively; and
- (i) by omitting from subsection (3)(d) "he", "his", "custody of him" and "protect him" and substituting "he or she", "his or her", "custody of him or her" and "protect him or her" respectively.

5. New Division

Part VI of the Principal Act is amended by adding at the end the following:

"Division 4 – Warrant for return of child to Territory

"50A. Definition

"In this Division –

'child protection order' means –

- (a) an order made by the Court under section 43 other than an order transferring the sole rights in relation to the guardianship of a child declared to be in need of care to a person other than the Minister; or
- (b) an order made by the Court under section 47.

"50B. Child subject to order not to be out of Territory without Minister's consent

"(1) If a child protection order is in force in respect of a child, the child must not be taken out of or leave the Territory except in accordance with this section.

"(2) Subject to subsection (3), a person must not take a child to whom a child protection order applies out of the Territory unless the person has applied to

the Minister for consent to do so and the Minister has given his or her consent in writing to the person.

"(3) A child to whom a child protection order applies must not of his or her own volition leave the Territory unless the child has applied to the Minister for consent to do so and the Minister has given his or her consent in writing to the child.

"(4) The Minister may give his or her consent under subsection (2) or (3) subject to conditions.

"(5) The person or child to whom the consent is given must comply with the conditions of the consent.

"50C. Warrant to apprehend and return child who is out of Territory without Minister's consent

"(1) If—

- (a) a child is outside the Territory without the written consent of the Minister under section 50B; or
- (b) where the Minister consents under section 50B to a child being taken out of or leaving the Territory – the person or child to whom the consent is given fails to comply with the conditions of the Minister's consent,

the Minister may apply to the Court for a warrant to apprehend the child and bring the child back to the Territory.

"(2) If, on an application made under subsection (1), the Court is satisfied that—

- (a) the Minister did not consent to the child being outside the Territory; or
- (b) the Minister gave his or her consent to the child being taken out of or leaving the Territory but the person or child to whom the consent was given is not complying or has failed to comply with the conditions of the consent,

the Court must issue to the Minister a warrant to apprehend the child and bring the child back to the Territory.

"50D. Warrant enforceable under *Service and Execution of Process Act 1992* of Commonwealth

"A warrant issued under section 50C may be enforced under the *Service and Execution of Process Act 1992* of the Commonwealth."

6. Authorized person to visit child

Section 53 of the Principal Act is amended –

- (a) by inserting in subsection (1) "and who is residing in the Territory" after "applies";
- (b) by omitting from subsection (2) "to whom this Part applies" and substituting "referred to in subsection (1)"; and
- (c) by omitting from subsection (3) "his" and substituting "his or her".

7. Repeal

Sections 57 and 58 of the Principal Act are repealed.

8. New Part

The Principal Act is amended by inserting after Part VII the following:

PART VIIA – INTERSTATE TRANSFER OF CHILD PROTECTION ORDERS AND CHILD PROTECTION PROCEEDINGS

Division 1 – Preliminary

"62A. Definitions

"In this Part, unless the contrary intention appears –

'child protection order' means an order (other than an interim transfer order) that –

- (a) is made under a child welfare law; and
- (b) gives a minister, government department, statutory authority or other organisation, or the chief executive officer or other officer of a government department, statutory authority or other organisation, responsibility in relation to the guardianship or custody (however described) of the child;

'child protection proceeding' means a proceeding commenced in a Court under a child welfare law for –

- (a) a finding that the child is in need of care or protection or any other finding that is, under the child welfare law, a prerequisite to the exercise by the Court of a power to make a child protection order; or
- (b) a child protection order or an interim transfer order, a variation or revocation of the child protection order or

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interim transfer order or an extension of the period for which a child protection order or an interim transfer order is in force;

'child welfare law' means –

- (a) the law of a State that substantially corresponds to Part VI; or
- (b) a law of a State prescribed under section 62B(a) to be a child welfare law;

'Court' means a court of a State with jurisdiction to hear and determine a child protection proceeding at first instance;

'home order' means an order made by the Family Matters Court under Part VI;

'home proceeding' means a proceeding commenced in the Family Matters Court under Part VI;

'interim transfer order' means –

- (a) an order made under section 62R;
- (b) an order made by the Supreme Court under section 62T that has the same effect as an order that may be made under section 62R; or
- (c) an order by a Court under an interstate law that has the same effect as an order that may be made under section 62R;

'interstate law' means –

- (a) the law of a State that substantially corresponds to this Part; or
- (b) a law of a State prescribed under section 62B(b) to be an interstate law;

'interstate officer' means –

- (a) the person holding, acting in or performing the duties of an office or position held or established by or under a child welfare law of a State that has principal responsibility for the supervision and protection of children in the State who are in need of care (however described); or

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- (b) the person holding, acting in or performing the duties of an office or position prescribed under section 62B(c) to be an interstate office;

'interstate order' means –

- (a) a decision under an interstate law that substantially corresponds with Division 2, Subdivision 1 to transfer a child protection order to the Territory;
- (b) an order of a Court under an interstate law for the transfer of a child protection order or a child protection proceeding to the Territory; or
- (c) an interim transfer order made by a Court under an interstate law;

'parent', in relation to a child to whom a home order or home proceeding relates, means a parent, guardian or other person having the custody of the child but does not include a person who is the child's foster parent;

'receiving State' means a State in which an interstate law is in force to which the Minister transfers or proposes to transfer a home order or a home proceeding under this Part;

'sending State' means a State in which an interstate law is in force from which an interstate officer transfers or proposes to transfer a child protection order or child protection proceeding to the Territory under the interstate law;

'State' means a State or another Territory of the Commonwealth or New Zealand;

'working day' means a day on which the registry of the Supreme Court is open for business.

"62B. Minister to prescribe child welfare laws, interstate laws and interstate officers

"The Minister may, by notice in the *Gazette*, prescribe –

- (a) a law of a State to be a child welfare law;
- (b) a law of a State to be an interstate law; or
- (c) an office or position held or established under a child welfare law to be an interstate office.

"Division 2 – Transfer of child protection orders

"Subdivision 1 – Transfer by Minister

"62C. Minister may transfer home order

"(1) If a child to which a home order relates is residing or is about to reside in a State in which an interstate law is in force, the Minister may transfer the home order to the State.

"(2) The Minister must not transfer the home order –

- (a) if the home order is subject to an appeal in the Supreme Court;
- (b) if an application has been made to the Family Matters Court for the transfer of the home order under Subdivision 2;
- (c) if the Minister is satisfied that the welfare of the child will be adversely affected by the transfer, taking into account the wishes of the child, each of the child's parents and any other person who has access to the child under the home order;
- (d) unless in the opinion of the Minister a child protection order that has the same or a similar effect as the home order may be made under the child welfare law of the receiving State and it is desirable that a child protection order that has the same or a similar effect as the home order be registered in that State;
- (e) unless the Minister considers that an interstate officer in the receiving State is or will be in a better position to exercise powers and functions under a child protection order relating to the child than he or she is or will be under the home order;
- (f) subject to section 62D, unless the Minister has proposed the terms of the child protection order that, on the transfer, will apply in the receiving State and the relevant interstate officer has consented in writing to the transfer and to the terms of the child protection order; and
- (g) unless each person whose consent to the transfer is required under section 62E has consented to the transfer.

"62D. Terms of proposed child protection order to be transferred

"(1) The Minister must determine and specify the period for which a proposed child protection order referred to in section 62C(2)(f) is to be in force.

"(2) The period is to be –

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- (a) if it is possible under the child welfare law of the receiving State for the proposed child protection order to be in force until the expiry of the period that the home order would, but for the transfer, be in force – the period that ends on the expiry of the home order; or
- (b) if that is not possible – the period expiring as close as possible to, but not later than, the day that the period for which the home order would, but for the transfer, be in force expires.

"(3) In determining the other terms of the proposed child protection order, the Minister may include any terms and conditions that may, under the child welfare law in force in the receiving State, be included in a child protection order having the same or similar effect as the home order to be transferred.

"62E. Certain persons required to consent to transfer of order

"(1) If the Minister proposes to transfer a home order that includes a direction referred to in section 43(5)(a) or (b), the Minister may not transfer the home order unless each parent of the child to whom the home order relates consents to the transfer of the home order.

"(2) If the Minister proposes to transfer a home order that includes a direction referred to in section 43(5)(c) or (d), the Minister may not transfer the home order unless each parent of the child to whom the home order relates and any other person who has access to the child under the home order consents to the transfer of the home order.

"(3) The Minister must ensure that, before a parent or other person consents or refuses to consent to a proposed transfer of a home order, the parent or other person is informed of the effect of consenting to the transfer and of refusing or failing to consent to the transfer (including being informed about the Minister's right to apply to the Court for an order for the transfer of the home order, the right of review under section 62G and the right of appeal to the Supreme Court under section 62S).

"(4) The Minister is not required to obtain the consent of a person referred to in this section to the transfer of a home order, or to inform such a person of the effect of consenting or refusing or failing to consent to the transfer of the home order, if the person cannot be found after reasonable inquiry.

"62F. Notification to child and his or her parents

"(1) If the Minister decides to transfer a home order to a State under section 62C, the Minister must give notice in writing of his or her decision to –

- (a) each parent of the child to whom the home order relates;

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- (b) each person (other than a parent of the child) who has access to the child under the home order; and
- (c) if the child is 10 or more years of age – the child.

"(2) The Minister must give the notice to the persons referred to in subsection (1), if any, within 3 days after making his or her decision.

"(3) The notice is to include –

- (a) details of the child protection order that will apply in relation to the child in the receiving State;
- (b) sufficient details to inform each person to whom the notice is given about his or her right of review under section 62G and how to apply for review of the Minister's decision; and
- (c) sufficient details to inform each person to whom the notice is given about the right of appeal to the Supreme Court under section 62S.

"(4) The Minister is not required to give notice to a person under this section if the person cannot be found after reasonable inquiry.

"62G. Review of decision

"(1) A person to whom the Minister gives notice under section 62F may, within 10 working days after the date of the notice, apply to the Family Matters Court for review of the Minister's decision to transfer the home order.

"(2) The application for review may be for review of the decision on the merits or on particular grounds specified in the application.

"(3) The operation of the Minister's decision is stayed until the review is concluded or is, for any reason, discontinued.

"(4) In reviewing a decision under this section, the Family Matters Court may confirm, vary or reverse the decision.

"Subdivision 2 – Transfers by Court

"62H. Family Matters Court may hear application for order to transfer home order

"(1) The Minister may apply to the Family Matters Court for an order for the transfer of the home order to the other State if –

- (a) a child to which a home order relates is residing or is about to reside in a State in which an interstate law is in force;
- (b) the home order is not subject to an appeal in the Supreme Court;

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- (c) the Minister is satisfied that the welfare of the child will not be adversely affected by the transfer, taking into account the wishes of the child, each of the child's parents and any other person who has access to the child under the home order;
- (d) the Minister considers that an interstate officer in the receiving State is or will be in a better position to exercise powers and functions under a child protection order relating to the child than he or she is or will be under the home order;
- (e) the Minister has proposed the terms of the child protection order that, on the transfer, will apply in the receiving State and the relevant interstate officer has consented in writing to the transfer and to the terms of the child protection order; and
- (f) any one or more of the following apply:
 - (i) a person required under section 62E to consent to the transfer of the home order by the Minister has refused or failed to do so;
 - (ii) in the opinion of the Minister it is desirable that the child protection order that would, on the transfer, be registered in that State contains terms (being terms that may be made under the child welfare law of the receiving State) that are not the same or do not have a similar effect as the terms of the home order;
 - (iii) in the opinion of the Minister it is likely that, if he or she were to decide to transfer the home order to that State, the child (if entitled to seek review of the Minister's decision under section 62G) would seek review of the decision;
 - (iv) other circumstances relating to the transfer of the home order cause the Minister to consider that it is appropriate that the Family Matters Court hears and determines whether the home order be transferred to that State.

"(2) The Family Matters Court must not hear an application for an order for the transfer of a home order unless –

- (a) it is satisfied that the Minister is entitled to make the application under subsection (1); and
- (b) the Minister has prepared and given to the Court a report in relation to the application that includes –
 - (i) a history of the care of the child by the Minister;

- (ii) details of any offences committed by the child and any sentence imposed on the child for committing those offences;
- (iii) details of any offences the child has been charged with committing and any criminal proceedings pending against the child;
- (iv) details of any sentencing order under this Act that is in force in respect of the child at the time of making the application;
- (v) the recommendations of the Minister concerning the order for the transfer of the home order; and
- (vi) the prescribed information, if any.

"62J. Procedure

"Sections 36(2), (3) and (4), 37, 38, 39(2) and (3), 40, 41, 44(1) and (4), 45, 46 and 47 apply, to the extent necessary and with the necessary changes, to and in relation to an application to the Family Matters Court under section 62H(1) for the transfer of a home order as if the application were an application to the Court that a child be found to be in need of care.

"62K. Court to have regard to certain matters in determining application

"(1) In determining whether to make an order for the transfer of a home order, the Family Matters Court must have regard to the following matters:

- (a) the place of residence or likely place of residence of the child, each parent of the child and any other person who is significant to the child;
- (b) whether the welfare and interests of the child will be promoted or adversely affected by the transfer of the home order;
- (c) whether it is desirable that a child protection order relating to the child be registered in the receiving State;
- (d) any wishes expressed by the child, each parent of the child and any other person who has access to the child under the home order;
- (e) whether the child protection order proposed by the Minister for transfer and registration in the receiving State may be made under a child welfare law of the other State;
- (f) the terms to be included in the child protection order that will be in force in the receiving State;

- (g) whether an interstate officer in the receiving State is or will be in a better position to exercise powers and functions in relation to the guardianship and custody of the child under a child protection order relating to the child than the Minister is or will be under the home order.

"(2) The Family Matters Court must consider and have regard to the report from the Minister referred to in section 62H(2)(b).

"62L. Order of Court

"(1) On determining the application, the Family Matters Court may make an order –

- (a) for the transfer of the home order to the receiving State; or
- (b) dismissing the application.

"(2) If the Court makes an order under subsection (1)(a), the order must specify the terms of the proposed child protection order, including the period that the order is to be in force in the receiving State.

"(3) The period the proposed child protection order is to be in force in the receiving State is to be any period, commencing on the date of its registration in the receiving State and expiring not later than the date on which the home order would (but for the transfer) have expired, for which the order may be in force under the child welfare law of that State.

"(4) In determining the other terms of the proposed child protection order, the Court may include any terms that –

- (a) may, under the child welfare law of the receiving State, be included in a child protection order relating to the child (whether or not having the same or similar effect as the home order to be transferred); and
- (b) the Court considers promote the welfare and interests of the child.

"Division 3 – Transfer of child protection proceedings

"62M. Family Matters Court may hear application for order to transfer child protection proceeding

"(1) If a child to which a home proceeding relates is residing or is about to reside in a State in which an interstate law is in force, the Minister may apply to the Family Matters Court for an order for the transfer of the proceeding to the Court of the State.

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"(2) The Family Matters Court must not hear an application for the transfer of a home proceeding unless –

- (a) the relevant interstate officer in the receiving State has consented in writing to the transfer of the home proceeding; and
- (b) the Minister has prepared and given to the Court a report in relation to the application that includes –
 - (i) details of any offences committed by the child and any sentence imposed on the child for committing those offences;
 - (ii) details of any offences the child has been charged with committing and any criminal proceedings pending against the child;
 - (iii) details of any sentencing order under this Act that is in force in respect of the child at the time of making the application;
 - (iv) the recommendations of the Minister concerning the order for the transfer of the home proceeding; and
 - (v) the prescribed information, if any.

"62N. Procedure

"Sections 36(2), (3) and (4), 37, 38, 39(2) and (3), 40, 41, 44(1) and (4), 45, 46 and 47 apply, to the extent necessary and with the necessary changes, to and in relation to an application to the Family Matters Court for the transfer of a home proceeding as if the application were an application to the Court that a child be found to be in need of care.

"62P. Court to have regard to certain matters in determining application

"(1) In determining whether to make an order for the transfer of a home proceeding, the Family Matters Court must have regard to the following matters:

- (a) the place of residence or likely place of residence of the child, each parent of the child and any other person who is significant to the child;
- (b) whether the welfare and interests of the child will be promoted or adversely affected by the transfer of the home proceeding;
- (c) whether any other proceedings relating to the child have been commenced, are pending or have been heard and determined under this Act or the child welfare law of the receiving State;

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- (d) whether it is desirable that a child protection order relating to the child be made under the child welfare law of the receiving State and registered in that State;
- (e) any wishes of the child and each parent of the child;
- (f) the place where any of the matters giving rise to the home proceeding arose;
- (g) whether the Minister or an interstate officer in the receiving State is or will be in the better position to exercise powers and functions in relation to the guardianship and custody of the child.

"(2) The Court must consider and have regard to the report from the Minister referred to in section 62M(2)(b).

"62Q. Order of Court

"(1) On determining the application, the Family Matters Court may make an order –

- (a) for the transfer of the home proceeding to the receiving State; or
- (b) dismissing the application.

"(2) If the Family Matters Court makes an order under subsection (1)(a), the proceeding commenced in the Family Matters Court is discontinued on the filing of a copy of the order in the Court of the receiving State for registration.

"62R. Interim transfer order

"(1) If the Family Matters Court makes an order under section 62Q(1)(a), the Court may also make an order –

- (a) releasing the child from or placing the child into the care of a person; and
- (b) giving the control and supervision of the care of the child to an interstate officer in the receiving State or another person in that State to whom responsibility for the control and supervision of the care of the child may be given under the child welfare law of that State.

"(2) An order under subsection (1) –

- (a) remains in force for the period not exceeding 30 days specified in the order; and

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- (b) may be subject to any conditions the Family Matters Court considers just and specifies in the order.

"Division 4 – Appeals to Supreme Court

"62S. Right of appeal

"The following persons may appeal to the Supreme Court against the decision on a review under section 62G or an order of the Family Matters Court under section 62L, 62Q or 62R:

- (a) the Minister;
- (b) a parent of the child to whom the decision or order relates;
- (c) a person (other than a parent of the child to whom the decision or order relates) who has or, before the decision or order was made, had access to the child under the home order the subject of the decision or order;
- (d) if the child is 10 or more years of age – the child.

"62T. Procedure

"(1) An appeal under section 62S is to be filed in the Supreme Court within 10 working days after the date the decision or order to which the appeal relates is made.

"(2) The operation of the decision or order is stayed until the appeal is concluded or is, for any reason, discontinued.

"(3) The Supreme Court –

- (a) may not extend the time fixed for making the appeal;
- (b) in determining the appeal has all the powers of the Family Matters Court; and
- (c) may, in the manner it considers appropriate –
 - (i) affirm, vary or reverse the decision or order appealed against;
 - (ii) if the appeal is against an order of the Family Matters Court – remit the matter to the Family Matters Court for further hearing or re-hearing; and
 - (iii) make any other orders, including an interim transfer order and orders as to costs, that it considers just.

"62U. Control of persons present at hearing and publications about appeal

"(1) The Supreme Court must order a person who is not directly interested in an appeal under section 62S and who does not have sufficient reason why he or she should be present at the hearing of the appeal not to remain in or enter a room or place in which the appeal is being heard or not to remain within the hearing of the Court.

"(2) A person must not remain in or enter a room or place, or remain within the hearing of the Court, in contravention of an order under subsection (1).

Penalty: 100 penalty units or imprisonment for 6 months.

"(3) A person must not publish a report of an appeal under section 62S or the result of the appeal unless he or she does so –

- (a) with the leave of the Supreme Court; or
- (b) in good faith under or for the purposes of the administration of this Act.

Penalty: If the offender is a natural person – 100 penalty units or imprisonment for 6 months.

If the offender is a body corporate – 500 penalty units.

"Division 5 – Registration etc. of orders and proceedings

"Subdivision 1 – Orders and proceedings transferred to Territory

"62W. Filing and registration of interstate orders

"(1) If –

- (a) an interstate order is made to transfer a child protection order or a child protection proceeding to the Territory;
- (b) both the time for seeking review of the interstate order, if any, and the time for commencing an appeal against the interstate order under the interstate law have expired; and
- (c) the decision by the interstate officer or the order of the Court to transfer the interstate order to the Territory is not subject to a review or appeal or otherwise stayed because of a review of or appeal,

the Minister must file a copy of the interstate order in the Family Matters Court for registration as soon as possible.

"(2) The Clerk receiving the copy of the interstate order must register the interstate order in the Family Matters Court.

"62X. Effect of registration of interstate orders

"(1) On the registration in the Family Matters Court of an interstate order –

- (a) if the interstate order is for the transfer of a child protection order to the Territory – subject to subsection (2), the child protection order is taken for all purposes to be a home order of the same type made by the Family Matters Court on the day on which it is registered and it may be dealt with under this Act or any other law of the Territory as if it were a home order; or
- (b) if the interstate order is for the transfer of a child protection proceeding to the Territory – the child protection proceeding is taken to be a proceeding under Part VI that is commenced in the Family Matters Court on the day on which the order is registered.

"(2) No proceedings may be brought under section 62G or 62S in respect of an interstate order referred to in subsection (1)(a).

"62Y. Revocation of registration

"(1) Any of the following persons may apply to the Family Matters Court for the revocation of the registration of an interstate order:

- (a) the Minister;
- (b) if the child to whom the interstate order relates is 10 or more years of age – the child;
- (c) a parent of the child;
- (d) any other party to the proceeding in the Court that resulted in the making of the interstate order.

"(2) On the making of an application for revocation under subsection (1), a Clerk must send a copy of the application to the relevant interstate officer and each party referred to in that subsection (other than the applicant).

"(3) The Family Matters Court may only revoke the registration of an interstate order if it is satisfied that at the time it was registered –

- (a) the time under the interstate law for seeking review or commencing an appeal against the interstate order had not expired; or

- (b) the interstate order was subject to review or appeal or was otherwise stayed because of a review or appeal.

"(4) The revocation of the registration of an interstate order under this section does not prevent the registration of the order at a later time.

"62Z. Duties of Clerk of Family Matters Court

"(1) On the registration of an interstate order under section 62W, a Clerk must notify the Court in the sending State of the registration.

"(2) On the revocation of the registration of an interstate order under section 62Y, a Clerk must –

- (a) notify the Court in the sending State of the revocation; and
- (b) return to that Court all documents filed in the Family Matters Court in relation to the registration of the interstate order.

"Subdivision 2 – Orders and proceedings transferred from Territory

"62ZA. Effect of registration and revocation of registration of home order in receiving State

"(1) On the registration in the Court of the receiving State of a decision by the Minister under section 62C to transfer a home order, the home order ceases to have effect.

"(2) On the registration in the Court of the receiving State of an order of the Family Matters Court under section 62G or 62L, or of the Supreme Court under section 62T, to transfer a home order, the home order ceases to have effect.

"(3) If the registration in the Court of the receiving State of the order to transfer the home order is revoked under the interstate law of that State, the home order revives on that revocation.

"(4) A home order revived under subsection (3) continues in force until the date it would, but for its registration under the interstate law, have expired under this Act.

"62ZB. Effect of registration and revocation of registration of home proceeding in receiving State

"(1) On the registration in the Court of the receiving State of an order of the Family Matters Court under section 62Q, or the Supreme Court under section 62T, to transfer a home proceeding, the home proceeding is discontinued.

"(2) If the registration in the Court of the receiving State of the order to transfer the home proceeding is revoked under the interstate law of that State, on

that revocation, the home proceeding continues before the Family Matters Court, and the Family Matters Court may hear the home proceeding and exercise its powers under Part VI in relation to the child the subject of the home proceeding, as if the order to transfer the home proceeding had not been made.

"62ZC. Transfer of Court file

"(1) On the transfer of a home order or home proceeding from the Territory, a Clerk must send all documents filed in or otherwise held by or at the Family Matters Court in connection with the home order or home proceeding to the Court of the receiving State.

"(2) The Clerk must not comply with subsection (1) –

- (a) unless the time for seeking review of, and commencing an appeal against, the transfer of the home order or home proceeding has expired; or
- (b) if the decision by the Minister to transfer the home order or the order of the Family Matters Court for the transfer of the home order or home proceeding is subject to a review or appeal or is otherwise stayed because of a review of or an appeal.

"Division 6 – Miscellaneous

"62ZD. Hearing and determination of transferred proceeding

"In hearing and determining a child protection proceeding transferred to the Family Matters Court under an interstate law, the Family Matters Court –

- (a) is not bound by any finding of fact made in the proceeding in the Court of the sending State before the proceeding was transferred to the Territory; and
- (b) may have regard to the transcript of and any evidence adduced in the proceeding in the Court of the sending State before it was transferred.

"62ZE. Disclosure of information

"Despite sections 97 and 97A and any other contrary intention in this Act, the Minister may authorise a person to disclose to an interstate officer any information that has come to his or her notice in exercising his or her powers or performing his or her functions under this Act if the Minister considers that it is necessary to do so to enable the interstate officer to exercise powers or perform functions under a child welfare law or an interstate law.

"62ZF. Minister may consent or refuse to consent to transfer to Territory

"If there is a proposal to transfer a child protection order or a child protection proceeding from a State to the Territory, the Minister may –

- (a) where the proposal is to transfer a child protection order – consent or refuse to consent to the transfer and to the terms of the child protection order proposed to apply in the Territory; or
- (b) where the proposal is to transfer a child protection proceeding – consent or refuse to consent to the transfer of the proceeding.

"62ZG. Interstate officer's decision not reviewable in Territory

"No proceedings seeking the grant of any relief or remedy in the nature of certiorari, prohibition, mandamus or quo warranto, or the grant of a declaration or an injunction (whether on the ground of absence of jurisdiction or any other ground) may be commenced in a court of the Territory against an interstate officer in respect of consent given or the failure or refusal to consent to the transfer of an interstate order to the Territory."

9. Savings and transitional

(1) In this section, "Principal Act" means the *Community Welfare Act* as in force immediately before the commencement of this Act.

(2) On the commencement of this Act, a child who was placed in the guardianship of the Minister under section 57 of the Principal Act continues to be under the guardianship of the Minister, and the Minister continues to have custody and be the lawful guardian of the child to the exclusion of any other person or authority, for the period the child remains in the Territory or for the period the child would, but for the placement of the child in the guardianship of the Minister, have remained subject to the custody of the authority from which the Minister received him or her (whichever first expires) as if that section had not been repealed.

(3) On the commencement of this Act, any arrangements in respect of the guardianship of a child made by the Minister under section 57 or 58 of the Principal Act continue to have effect while the child remains subject to the custody of the Minister or the authority of the State or other Territory, as the case may be, as if those sections had not been repealed.

(4) On the commencement of this Act, the suspension under section 58 of the Principal Act of the functions of the Minister or other persons in relation to a child placed under the guardianship of an authority of a State or another Territory continues to have effect for the period the child remains in the State or other Territory or for the period the child would, but for the placement of the child under the guardianship of the authority, have remained subject to the

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custody of the Minister (whichever first expires) as if that section had not been repealed.

10. Further amendments

The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 10

Provision	Amendment	
	omit	substitute
Section 6(1)	his	his or her
Section 8(2)	he may	he or she may
	he thinks	he or she thinks
Section 8(4)	he	he or she
Section 9	his powers	his or her powers
	his main	his or her main
Section 9(b)	his opinion	his or her opinion
Section 10	he	he or she
Section 10(a)	he	he or she
Section 10(c)	he	he or she
Section 11(1) and (2)	he	he or she
Section 12	he	the person
	his	his or her
Section 13(1)	he	he or she
	his	his or her
Section 13(2)	he shall	he or she shall
	his investigations	his or her investigations

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	if he	if he or she
	his belief	his or her belief
Section 14(1)	his	his or her
	\$500	200 penalty units
Section 16(1)	he shall	he or she shall
	he thinks	he or she thinks
Section 16(2)	his	his or her
Section 18	he	the Minister
Section 18(a)	his	his or her
Section 18(b)	his	his or her
Section 18(c)	his	his or her
Section 19	his	his or her
	him	him or her
Section 20(2)	where he	if he or she
Section 20(3)	his team	the team
	he	he or she
	his absence	the Chairman's absence
Section 22(2)(b)	him	the person
Section 31(2)	him	him or her
Section 32(1)	he	he or she
Section 32(2)	the words after "Penalty:"	100 penalty units or imprisonment for 6 months
Section 33	the words after "Penalty:"	If the offender is a natural person – 400 penalty units or imprisonment for 2 years.

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		If the offender is a body corporate – 2 000 penalty units.
Section 36(1)	himself	himself or herself
Section 36(2)	he	he or she
Section 38	\$500	200 penalty units or imprisonment for 2 years
Section 45(1)	\$500	If the offender is a natural person – 200 penalty units or imprisonment for 12 months.
		If the offender is a body corporate – 1 000 penalty units.
Section 45(2)(a)	he is required	he or she is required
	he thinks	he or she thinks
Section 46(1) and (4)	him	the child
Section 49(5)	his	his or her
Section 54	his	his or her
Section 61(5)	him	him or her
Section 62(6)	his	his or her
Section 62(6)(b)	he	the Minister
	so return him	return the child to the custody of the person
Section 63(2)(e)	his identity	his or her identity
	his own	his or her own
	his parents	his or her parents
Section 64(1)	he	he or she

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Section 66	he	he or she
	his	his or her
Section 68	he	he or she
Section 69(b)	his	the Minister's
Section 69(c)(v)	its own kin	his or her own kin
	its own culture	his or her own culture
Section 72	himself	himself or herself
Section 73(2)	him	him or her
Section 74	\$100	20 penalty units
Section 75(1)	the words after "Penalty:"	If the offender is a natural person – 500 penalty units. If the offender is a body corporate – 2 500 penalty units.
Section 76(1)	he	the Minister
Section 76(2)	he has given	the Minister has given
	his intention	his or her intention
	his reasons	his or her reasons
	he does	he or she does
	he has considered	he or she has considered
Section 77	he	the licensee
	received by him	received by him or her
	ascertained by him	ascertained by him or her
Section 77(c)	his	his or her
Section 78(2)	he	the licensee

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Section 79(1)	he	he or she
	the words after "Penalty:"	100 penalty units or imprisonment for 6 months
Section 79(2)	\$500	20 penalty units
Section 80	him	him or her
Section 83(2)	him	him or her
Section 85	the words after "Penalty:"	If the offender is a natural person – 100 penalty units or imprisonment for 6 months. If the offender is a body corporate – 500 penalty units.
Section 87	him	the licensee
Section 88(2)	he	the licensee
Section 89(1)	his	his or her
	\$100	If the offender is a natural person – 100 penalty units. If the offender is a body corporate – 500 penalty units.
Section 89(2)	\$250	If the offender is a natural person – 100 penalty units. If the offender is a body corporate – 500 penalty units.
Section 90(1)	\$100	If the offender is a natural person – 20 penalty units.

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		If the offender is a body corporate – 100 penalty units.
Section 91	he	he or she
Section 92	the words after "Penalty:"	If the offender is a natural person – 100 penalty units or imprisonment for 6 months. If the offender is a body corporate – 500 penalty units.
Section 93	the words after "Penalty:"	If the offender is a natural person – 100 penalty units or imprisonment for 6 months. If the offender is a body corporate – 500 penalty units.
Section 94	his powers	his or her powers
	his functions	his or her functions
	the words after "Penalty:"	100 penalty units or imprisonment for 6 months
Section 95	himself	himself or herself
	the words after "Penalty:"	400 penalty units or imprisonment for 2 years
Section 96(1)	the words after "Penalty:"	200 penalty units or imprisonment for 12 months
Section 96(2)	he	he or she
Section 97(1)	his	his or her

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Section 97(2)	except in the performance of his duties, or in the exercise of his powers or the performance of his functions	except in the performance of his or her duties, or in the exercise of his or her powers or the performance of his or her functions
	he is	he or she is
	he ceases	he or she ceases
	acquired by him in the performance of his duties or in the exercise of his powers or the performance of his duties	acquired by him or her in the performance of his or her duties or in the exercise of his or her powers or the performance of his or her duties
	the words after "Penalty:"	If the offender is a natural person – 400 penalty units or imprisonment for 2 years. If the offender is a body corporate – 2 000 penalty units.
Section 97(3)	his possession	his or her possession
	his control	his or her control
	his notice	his or her notice
	his duties	his or her duties
Section 97(4)	his notice	his or her notice
	his possession	his or her possession
	his duties	his duties
Section 97(5)	it or he	it, he or she
	his duties as such	the duties of an authorized person

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Section 97A	the words after "Penalty:"	If the offender is a natural person – 400 penalty units or imprisonment for 2 years. If the offender is a body corporate – 2 000 penalty units.
Section 98(2)	\$1,000	100 penalty units
Section 99(m)	\$1,000	100 penalty units
Section 100(1)	he shall	he or she shall
	he would	he or she would
Section 100(2)	he	he or she
	him	him or her
	his	his or her
