

Consequential amendments

286. On the coming into operation of an item in Schedule 2 the Act referred to in that item is amended as set out in that item.

Savings and transitionals

287. (1) Schedule 3 contains saving and transitional provisions.

(2) The provisions of Schedule 3 are in addition to and not in derogation from the provisions of the *Interpretation of Legislation Act 1984*.



SCHEDULES

SCHEDULE 1

Section 260.

INTERSTATE TRANSFER OF YOUNG OFFENDERS

Definitions

1. In this Schedule—

“**Agreement**” means an agreement between the Minister and a Minister of another State under clause 2.

“**Arrangement**” means an arrangement made under clause 3 for the transfer of a young offender from Victoria to another State, or to Victoria from another State.

“**Minister**”, in relation to a State other than Victoria, means—

(a) except where the other State is the Australian Capital Territory or the Northern Territory of Australia—a Minister of the Crown of that State; and

(b) where the other State is the Australian Capital Territory—a Minister of the Crown of the Commonwealth; and

(c) where the other State is the Northern Territory of Australia—a person holding Ministerial office, as defined in section 4 (1) of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth.

“**Sending State**” means the State from which a young offender is transferred.

“**State**” means any State or Territory of the Commonwealth.

“**Receiving State**” means the State to which a young offender is transferred.

“**Young offender**” means a person—

(a) in another State who—

(i) is under the age of 18 years; or

(ii) is of or above the age of 18 years but under the age of 21 years and who has committed or is alleged to have committed an offence when the person was under the age of 18 years—

and who has been dealt with under a law which applies in that State and which relates to the welfare or punishment of such a person; or

(b) in Victoria who —

(i) is subject to an order made under paragraph (f), (g), (h), (i) or (j) of section 137 (1), whether the order was made by the Children’s Court or by some other court; or

(ii) is under the age of 21 years and is serving a sentence of detention in a youth training centre; or

(iii) is under the age of 21 years and has been released on parole under this Act; or

(c) who is in Victoria and is subject to an arrangement for the transfer of the person to Victoria or is being transferred through Victoria from one State to another under an agreement.

Minister may enter into general agreement

2. The Minister may enter into a general agreement with a Minister of another State for the transfer of young offenders—

(a) into or out of Victoria; and

(b) through Victoria from one State to another.

Director-General may make arrangements

3. If the Minister enters into an agreement with a Minister of another State, the Director-General may make an arrangement with the Minister of the other State, or with a person authorised by that Minister as provided in the agreement, for the transfer of a particular young offender—

SCHEDULE 1—*continued*

- (a) to that State from Victoria; or
- (b) to Victoria from that State.

Arrangement for transfer out of Victoria

4. (1) The Director-General must not make an arrangement for the transfer of a young offender from Victoria to another State unless—

- (a) the young offender or a parent of the young offender applies for the transfer to be made; and
- (b) the Director-General is of the opinion that the transfer is appropriate in all the circumstances including—
 - (i) the place or intended place of residence of the parents; and
 - (ii) the education, further education, training or employment; and
 - (iii) the medical or other needs—
 of the young offender; and
- (c) the young offender has been given independent legal advice as to the effect of the arrangement and consents to it; and
- (d) the Director-General is satisfied that there is no appeal pending against an order of a court to which the young offender is subject.

(2) For the purposes of deciding whether or not to arrange for the transfer of a young offender from Victoria to another State, the Director-General may ask—

- (a) the young offender; or
- (b) the parents of the young offender—

for any necessary information, and the young offender or parents must supply the information within the time specified by the Director-General.

Arrangement for transfer to Victoria

5. The Director-General must not make an arrangement for the transfer of a young offender from another State to Victoria unless the Director-General is satisfied that there are adequate facilities in Victoria for the young offender to be accepted and dealt with as provided in the arrangement.

Provisions to be made in each arrangement

6. (1) An arrangement for the transfer of a young offender to or from Victoria must—

- (a) provide for the acceptance and means of dealing with the young offender in the receiving State; and
- (b) specify each order of a court of the sending State to which the young offender is subject (including an order deemed by a previous arrangement with Victoria or with another State to have been made by a court of the sending State); and
- (c) for each order specified under paragraph (b)—
 - (i) specify the way in which it is to operate in the receiving State, which must be as similar as possible to the way in which it would operate in the sending State if the arrangement were not made; and
 - (ii) specify the maximum time for which it is to operate, which must not be longer than the maximum time for which it would operate in the sending State if the arrangement were not made.

(2) An arrangement made by the Director-General for the transfer of a young offender from Victoria to another State must provide for the escort under clause 7 (1) (b) to be authorised in that State to hold, take and keep custody of the young offender for the purpose of transferring the young offender to the place and the custody specified in the arrangement.

(3) A reference in sub-clause (1) to an order of a court of a sending State is a reference to any sentence, period of detention, probation, parole or other order which could be made or imposed by that court.

SCHEDULE 1—*continued*

Transfer order made under an arrangement

7. (1) If the Director-General makes an arrangement under this Schedule for the transfer of a person to another State, he or she must make a transfer order which—

- (a) directs the person who has the custody of the young offender to deliver the young offender to the custody of the escort; and
- (b) authorises the escort to take and keep custody of the young offender for the purpose of transferring the young offender to the place in the receiving State and to the custody specified in the arrangement.

(2) A reference in sub-clause (1) to a person having the custody of a young offender is a reference to—

- (a) a person in charge of a remand centre, youth residential centre, youth training centre or youth supervision unit; or
- (b) a person in charge of any other establishment conducted and managed by the Department; or
- (c) any other person who has custody of the young offender.

(3) A reference in sub-clause (1) to an escort is a reference to a youth officer, a member of the police force or a person appointed by the Director-General by an instrument in writing to be an escort for the purposes of this Schedule, or any two or more of them.

Transfer to Victoria in custody of escort

8. If under an arrangement for the transfer of a young offender to Victoria an escort authorised under the arrangement brings the young offender to Victoria, the escort, while in Victoria, is authorised to hold, take and keep custody of the young offender for the purpose of transferring the young offender to the place in Victoria and to the custody specified in the arrangement.

Reports

9. (1) For the purpose of forming an opinion or exercising a discretion under this Schedule, the Director-General may be informed as he or she thinks fit and, in particular, may have regard to reports from any person who has or has had the custody or supervision of a young offender in Victoria or in another State.

(2) Reports of any person who has or has had the custody or supervision of a young offender may be sent to a Minister of another State who has entered into an agreement or to a person authorised under an agreement to make arrangements with the Director-General.

Transfer of sentence or order with transferee

10. If under an arrangement a young offender is transferred from Victoria to another State, then from the time the young offender arrives in that State any sentence imposed on, or order made in relation to, the young offender in Victoria before that time ceases to have effect in Victoria except —

- (a) in relation to any period of detention served by the young offender before that time; or
- (b) in relation to any part of the order carried out in respect of the young offender before that time; or
- (c) in relation to the remittance of money to the Minister which is paid in discharge or partial discharge of a sentence of default detention or default imprisonment originally imposed on the young offender by a court in Victoria.

Sentence, etc. deemed to have been imposed in this State

11. If under an arrangement a young offender is transferred to Victoria from another State, then from the time the young offender arrives in Victoria—

- (a) any sentence imposed on, or order made in relation to, the young offender by a court of the sending State and specified in the arrangement is deemed to have been imposed or made; and

SCHEDULE 1—*continued*

- (b) any sentence or order deemed by a previous arrangement with Victoria or with another State to have been imposed or made by a court of the sending State and specified in the arrangement under which the young offender is transferred to Victoria is deemed to have been imposed or made; and
- (c) any direction or order given or made by a court of the sending State concerning the time when anything to be done under an order made by a court of that State commences is, so far as practicable, deemed to have been given or made—

by the court in Victoria specified in the arrangement and, except as otherwise provided in this Schedule, has effect in Victoria as specified in the arrangement in accordance with clause 6, and the laws of Victoria apply, as if that court had had power to impose the sentence and give or make the directions or orders, and did in fact impose the sentence and give or make the directions or orders.

Lawful custody for transit through Victoria

12. (1) The Director-General may authorise the person in charge of a remand centre, youth residential centre, youth training centre or youth supervision unit or any other person to receive young offenders being transferred through Victoria from one State to another.

(2) If under an agreement for the transfer of young offenders through Victoria from one State to another, a young offender is brought into Victoria by an escort authorised as provided in the agreement—

- (a) while in Victoria, the escort is authorised to take, hold and keep custody of the young offender for the purposes of the transfer; and
- (b) a person authorised under sub-clause (1) may at the request of the escort and on receiving from the escort written authority for the transfer as provided in the agreement—
 - (i) receive and detain the young offender in the custody and for the time the escort requests, if it is reasonably necessary for the purposes of the transfer; and
 - (ii) at the end of that time deliver the young offender into the custody of the escort.

Escape from custody of person being transferred

13. (1) A young offender being transferred through Victoria from one State to another in the custody of an escort and who escapes from that custody may be apprehended without warrant by the escort, any member of the police force or any other person.

(2) If a young offender being transferred through Victoria from one State to another in the custody of an escort—

- (a) has escaped and been apprehended; or
- (b) has attempted to escape—

the young offender may be taken before a magistrate who may by warrant under his or her hand order the young offender to be detained in custody at a remand centre, youth residential centre or youth training centre.

(3) A warrant issued under sub-clause (2) may be executed according to its tenor.

(4) A young offender who is the subject of a warrant under sub-clause (2) must as soon as possible be brought before the Magistrates' Court or the Children's Court (as the case requires) which may order—

- (a) that the young offender be delivered to the custody of an escort; or
- (b) that the young offender be detained for no longer than 7 days until an escort is available from the sending State to carry out the arrangement or any orders made by a court of that State.

(5) If a young offender who is the subject of an order under sub-clause (4) (b) is not, in accordance with the order, delivered into the custody of an escort within a period of 7 days from the making of the order, the order has no further effect.

(6) A reference in this clause to an escort in relation to a young offender being transferred through Victoria from one State to another under an agreement is a reference to—

SCHEDULE 1—*continued*

- (a) the escort authorised in the manner provided for in the agreement; or
- (b) if the young offender has escaped or attempted to escape—
 - (i) that escort; or
 - (ii) a member of the police force of the sending State; or
 - (iii) a person appointed by the Minister of the sending State by instrument in writing to be an escort for the purposes of carrying out any orders of a court of the sending State—or any two or more of them.

Escape from custody—penalty

14. (1) A young offender—

- (a) who is in custody under an arrangement made for his or her transfer from Victoria to another State; and
- (b) who was subject before the arrangement to detention in Victoria; and
- (c) who escapes or attempts to escape from that custody while he or she is not within Victoria or the receiving State—

is guilty of an offence and is liable to imprisonment for a term not exceeding six months or to detention in a youth residential centre or youth training centre for a term not exceeding six months, to be served after the end of any term of detention to which he or she was subject at the time of the escape or attempt to escape.

(2) Without limiting the generality of section 253, that section applies to a person—

- (a) who is in custody under an arrangement for the transfer of the person from Victoria to another State; and
- (b) who escapes from that custody while he or she is not within Victoria or the receiving State—

in the same way as it applies to a person who escapes, attempts to escape or is absent without lawful authority from a remand centre, youth residential centre or youth training centre in which he or she is lawfully detained or from the custody of any person in whose custody the person may be.

Revocation of order of transfer on escape from custody

15. The Magistrates' Court or Children's Court may revoke an order made under an arrangement for the transfer of a young offender from Victoria to another State on application made to it under this clause by the Director-General that the young offender has, while being transferred, committed—

- (a) the offence of escaping or attempting to escape; or
- (b) any other offence—

whether—

- (c) the offence was an offence against the law of Victoria or of the receiving State or of a State through which the young offender was being transferred; or
- (d) a charge has been filed or a conviction secured in respect of the offence or not.

Revocation of order of transfer by consent

16. (1) The Director-General may revoke an order for the transfer of a young offender from Victoria to another State—

- (a) at any time before the young offender is delivered in the receiving State into the custody specified in the arrangement; and
- (b) only with the consent of the young offender and of the Minister or other person in the receiving State with whom the Director-General made the arrangement.

(2) If the Director-General revokes an order under sub-clause (1), the Director-General may make a further arrangement with the receiving State for the return of the young offender to Victoria.

SCHEDULE 2

Section 286.

CONSEQUENTIAL AMENDMENTS

1. Adoption Act 1984

- 1.1 Section 18 is repealed.
- 1.2 In section 46 (3) (b)—
- (a) for “a ward of the Department of Community Welfare Services within the meaning of the *Community Welfare Services Act 1970*” substitute “the subject of a guardianship to Director-General order within the meaning of the *Children and Young Persons Act 1989*”;
 - (b) for “*Community Welfare Services Act 1970*” substitute “*Children and Young Persons Act 1989*”.

2. Bail Act 1977

- 2.1 In section 3 (definition of “Prison”) for “*Community Welfare Services Act 1970*” substitute “*Children and Young Persons Act 1989*”.
- 2.2 In section 4 (2) (d) (ii) for “child or young person within the meaning of the *Community Welfare Services Act 1970*” substitute “child within the meaning of the *Children and Young Persons Act 1989*”.
- 2.3 In section 5 (3)—
- (a) for “child or young person” (wherever occurring) substitute “child”;
 - (b) for “*Community Welfare Services Act 1970*” substitute “*Children and Young Persons Act 1989*”;
 - (c) for “a young person” substitute “a child”.
 - (d) for “the young person” substitute “the child”.

3. Commonwealth Powers (Family Law—Children) Act 1986

3. In the Schedule for “*Children’s Court Act 1973*” substitute “*Children and Young Persons Act 1989*”.

4. Community Welfare Services Act 1970

4. In section 3 the definition of “Ward of the Department of Community Welfare Services” and “ward of the Department” is repealed.

5. Community Welfare Services (Amendment) Act 1983

5. The whole Act is repealed.

6. Corrections Act 1986

6. In section 75 for “*Community Welfare Services Act 1970*” substitute “*Children and Young Persons Act 1989*”.

7. Crimes Act 1958

- 7.1 Section 335 is repealed.
- 7.2 In section 395 (4) (a) for “children’s court” (where twice occurring) substitute “the Children’s Court”.
- 7.3 In section 464 (2) (definition of “Held in a prison, police gaol or youth training centre”) in paragraph (c) for “*Community Welfare Services Act 1970*” substitute “*Children and Young Persons Act 1989*”.
- 7.4 In section 464 (2) (definition of “Prison”) for “section 92 of the *Community Welfare Services Act 1970*” substitute “section 249 of the *Children and Young Persons Act 1989*”.
- 7.5 In section 464B (1) for “a children’s court” substitute “the Children’s Court”.
- 7.6 In section 464B (3) for “children’s court” substitute “Children’s Court”.

SCHEDULE 2—*continued*

7.7 In section 464B (5) and (8) for “children’s court” substitute “the Children’s Court”.

7.8 In section 464N (3), (4) and (5) for “A children’s court” substitute “The Children’s Court”.

7.9 In section 464N (7) for “a children’s court” substitute “the Children’s Court”.

7.10 In section 464N (8) (b) after “centre” insert “or is detained in a youth residential centre in the custody of the Director-General within the meaning of the *Children and Young Persons Act 1989*”.

7.11 In section 464O (5) for “a court” substitute “the court”.

7.12 In section 464O (6) and (10) (b) for “a children’s court” substitute “the Children’s Court”.

7.13 In section 464O (10) (b) after “centre” insert “or is detained in a youth residential centre in the custody of the Director-General within the meaning of the *Children and Young Persons Act 1989*”.

7.14 In section 464Q (4) and (5) for “a children’s court” substitute “the Children’s Court”.

7.15 In section 464R (3) for “a children’s court” substitute “the Children’s Court”.

7.16 In section 506 (definition of “Child”) for “*Children’s Court Act 1973*” substitute “*Children and Young Persons Act 1989*”.

8. Crimes (Family Violence) Act 1987

8. In section 25 for “*Children’s Court Act 1973*” substitute “*Children and Young Persons Act 1989*”.

9. Drugs, Poisons and Controlled Substances Act 1981

9. In section 71 (2) for “*Children’s Court Act 1973*” substitute “*Children and Young Persons Act 1989*”.

10. Interpretation of Legislation Act 1984

10. In section 38, after the definition of “Act” insert—
“**Children’s Court**” means The Children’s Court of Victoria.’

11. Magistrates’ Court Act 1989

11.1 In section 3 (1) (definition of “Youth training centre”) for “section 92 of the *Community Welfare Services Act 1970*” substitute “section 249 of the *Children and Young Persons Act 1989*”.

11.2 In section 120 (1) after “*Bail Act 1977*” insert “and the *Children and Young Persons Act 1989*”.

12. Penalties and Sentences Act 1985

12.1 In section 28 (14) for “*Children’s Court Act 1973*” substitute “*Children and Young Persons Act 1989*”.

12.2 Part 6 is repealed.

12.3 In section 82 (1) (b) for “*Community Welfare Services Act 1970*” substitute “*Children and Young Persons Act 1989*”.

12.4 In section 83 (5) after “imprisonment” insert “or detention in a youth training centre”.

12.5 In section 89 for “children’s courts” substitute “the Children’s Court”.

13. Penalties and Sentences (Youth Attendance Projects) Act 1984

13. The whole Act is repealed.

SCHEDULE 2—*continued***14. Public Service Act 1974**

14. In section 68 for “clerk of the children’s court” (where twice occurring) substitute “registrar of the Children’s Court”.

15. Venereal Diseases Act 1958

15.1 In section 14 (1)—

- (a) for “A children’s court under the *Children’s Court Act 1973*” substitute “The Children’s Court under the *Children and Young Persons Act 1989*”;
- (b) for “or young person in need of care and protection” substitute “in need of protection”.

15.2 In section 16 (7) for “*Children’s Court Act 1973*” substitute “*Children and Young Persons Act 1989*”.

16. Young Offenders (Interstate Transfer) Act 1986

16. Sections 4 and 5 are repealed.

SCHEDULE 3

Section 287.

SAVINGS AND TRANSITIONALS

1. (1) The Children’s Court shall be deemed to be the same Court as the several children’s courts existing immediately before the commencement of Part 2 and no action, matter or thing shall be abated or affected by the change in the establishment or name of the Court.

(2) Unless the context otherwise requires, any reference in any Act or in any subordinate instrument or in any document or writing of any kind whatsoever to a children’s court or to children’s courts is to be taken to refer to the Children’s Court.

(3) Unless the context otherwise requires, any reference in any Act or in any subordinate instrument or in any document or writing of any kind whatsoever to a children’s court held at a particular place is to be taken to refer to the Children’s Court sitting at that place or, if the Children’s Court does not sit at that place, to the Court sitting at the place that is nearest to that place.

2. (1) Each person who holds office as a magistrate for a children’s court or children’s courts immediately before the commencement of Part 2 holds office as a magistrate under and subject to this Act on and from that commencement without any further appointment.

(2) Unless the context otherwise requires, any reference in any Act or in any subordinate instrument or in any document or writing of any kind whatsoever to a children’s court magistrate, a stipendiary children’s court magistrate, a magistrate for a children’s court or a magistrate for children’s courts is to be taken to refer to a magistrate.

3. (1) Each person who holds office as a stipendiary probation officer under Part II of the *Children’s Court Act 1973* immediately before the commencement of section 34 of this Act holds office as a stipendiary probation officer under and subject to this Act and the *Public Service Act 1974* on and from that commencement without any further appointment.

(2) Each person who holds office as an honorary probation officer under Part II of the *Children’s Court Act 1973* immediately before the commencement of section 34 of this Act holds office as an honorary probation officer under and subject to this Act on and from that commencement without any further appointment.

4. (1) The Youth Parole Board established by section 215 (1) is deemed to be the same Board as the Youth Parole Board established by section 156 of the *Community Welfare Services Act 1970*.

SCHEDULE 3—*continued*

(2) Unless the context otherwise requires, any reference in any Act or in any subordinate instrument or in any document or writing of any kind whatsoever to the Youth Parole Board is to be taken to refer to the Youth Parole Board established by section 215 (1).

(3) All proceedings pending before the Youth Parole Board established by section 156 of the *Community Welfare Services Act 1970* immediately before the commencement of section 215 (1) may be continued and completed by the Board established by that section as if those proceedings had been commenced under this Act.

(4) The person who holds office immediately before the commencement of section 215 (1) as the secretary of the Youth Parole Board established by section 156 of the *Community Welfare Services Act 1970* holds office under and subject to this Act as the secretary of the Youth Parole Board established by section 215 (1) of this Act on and from that commencement without any further appointment.

5. (1) This Act applies to—

- (a) every proceeding commenced in the Court on or after the commencement of Part 2; and
- (b) every proceeding commenced in another court before the commencement of Part 2 and transferred to the Court on or after that commencement.

(2) This Act applies, with any necessary modifications, to any action or matter pending in a children's court immediately before the commencement of Part 2 and anything required or permitted to be done under this Act with respect to a proceeding commenced in the Court on or after the commencement of Part 2 must or may be done with respect to any such action or matter.

(3) The repeal of the *Children's Court Act 1973* does not affect anything done or omitted to be done in an action or matter referred to in sub-clause (2) before the commencement of Part 2 and anything so done or omitted to be done is to be taken to have been done or omitted under this Act.

(4) The *Children's Court Act 1973* continues, despite its repeal and despite any rule of law to the contrary, to apply to—

- (a) any re-hearing or review of, or appeal from, any action or matter in a children's court to which this Act does not apply; and
- (b) subject to this Schedule, the enforcement of any order made in any action or matter referred to in paragraph (a).

6. If before the commencement of Part 3 a person has made a notification under section 31 (3) of the *Community Welfare Services Act 1970* that a child or young person is in need of care and protection, that notification has effect from that commencement as a notification under section 64 (1) of this Act that the child is in need of protection.

7. (1) If before the commencement of Part 3 a children's court has adjudged a child to be a child or young person in need of care and protection, that adjudgment has effect from that commencement as a finding that the child is in need of protection.

(2) If before the commencement of Part 3 a person has made an application to a children's court that a child or young person should be adjudged to be a child or young person in need of care and protection and at that commencement the application had not been determined, the application has effect from that commencement as a protection application within the meaning of this Act.

8. (1) If at the commencement of Part 3 there is in force an order made by a children's court admitting a child to the care of the Department or a deemed order to that effect, that order or deemed order has effect from that commencement as a guardianship to Director-General order.

(2) The following periods are, subject to sub-clause (3), to be taken to have been specified in a guardianship to Director-General order to which sub-clause (1) applies:

- (a) 12 months beginning when the child was admitted to the care of the Department if at the commencement of Part 3 the child has been in the care of the Department for less than 12 months;
- (b) 2 years beginning when the child was admitted to the care of the Department if at the commencement of Part 3 the child has been in the care of the Department for 12 months or more but less than 2 years;

SCHEDULE 3—*continued*

- (c) 12 months beginning when the child's placement in the care of the Department was last reviewed and extended before the commencement of Part 3 if at that commencement the child has been in the care of the Department for 2 years or more.

(3) In the case of an order admitting a child to the care of the Department that was deemed to arise under section 35 of the *Community Welfare Services Act 1970* as amended by the *Community Welfare Services Act 1978*, the period for which the guardianship to Director-General order referred to in sub-clause (1) is to be taken to remain in force is the period for which that deemed order continues in force under section 35 of the *Community Welfare Services Act 1970* and for this purpose —

- (a) section 35 of that Act (except sub-section (3)) continues to apply, despite its repeal; and
 (b) the guardianship to Director-General order may not be extended or revoked under Subdivision 7 of Division 6 of Part 3 of this Act.

9. (1) If before the commencement of Part 3 a children's court has adjudged a child to be a child or young person whose care and custody are likely to be seriously disrupted, that adjudgment has effect from that commencement as a finding that there is a substantial and presently irreconcilable difference between the person who has custody of the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

(2) If before the commencement of Part 3 a person has made an irreconcilable difference application to a children's court under section 34 or 104 of the *Community Welfare Services Act 1970* and at that commencement the application had not been determined, the application has effect from that commencement as an irreconcilable difference application within the meaning of this Act.

10. (1) If at the commencement of Part 3 there is in force a supervision order made by a children's court under section 26 (1) (g) or 27 (c) of the *Children's Court Act 1973*, that order has effect from that commencement as a supervision order made under this Act.

(2) The period for which a supervision order to which sub-clause (1) applies remains in force from the commencement of Part 3 is the period after that commencement for which the supervision order would have remained in force if this Act had not been passed, even though that period may exceed 2 years.

11. If before the commencement of Part 3 a children's court has adjourned a proceeding under section 27 (d) of the *Children's Court Act 1973* and at that commencement the period of adjournment has not expired, the provisions of the *Children's Court Act 1973* continue, despite their repeal, to apply to that adjournment but if the child appears before the Court for the further hearing of the proceeding and the Court is satisfied that the child has failed to be of good behaviour or has not complied with any other condition imposed by the court, it may make a protection order in respect of the child.

12. The repeal of section 335 of the *Crimes Act 1958* and the enactment of section 127 of this Act does not affect the hearing and determination of a charge for an offence against a child who was under the age of 10 years but of or above the age of 8 years at the time of the alleged offence if the offence is alleged to have been committed before the commencement of section 127.

13. If before the commencement of Part 4 a children's court has adjourned a proceeding under section 26 (1) (b) of the *Children's Court Act 1973* and at that commencement the period of adjournment has not expired, the provisions of the *Children's Court Act 1973* continue, despite their repeal, to apply to that adjournment but if the child appears before the Court for the further hearing of the proceeding and the Court is satisfied that the child has failed to be of good behaviour or has not complied with any other condition imposed by the court, it may deal with the child as if the Court had just been satisfied of the child's guilt of the offence with which the child was charged.

14. (1) If at the commencement of Part 4 there is in force a probation order made by a children's court under section 26 (1) (c) of the *Children's Court Act 1973*, that order has effect from that commencement as a probation order made under this Act.

(2) The period for which a probation order to which sub-clause (1) applies remains in force from the commencement of Part 4 is the period after that commencement for which the probation order would have remained in force if this Act had not been passed,

SCHEDULE 3—continued

even though that period may exceed the period for which such an order could be made under this Act.

15. The provisions of this Act relating to a default in the payment of a monetary penalty apply to a default in the payment of a penalty imposed on a child by a children's court under section 26 (1) (d) of the *Children's Court Act 1973* before the commencement of Part 4.

16. If before the commencement of Part 4 a children's court has under section 26 (1) (e) of the *Children's Court Act 1973* discharged a child conditionally on the child entering into a recognizance to be of good behaviour and to observe any other condition imposed by the Court and at that commencement the period limited by the recognizance has not expired, the provisions of the *Children's Court Act 1973* continue, despite their repeal, to apply to that recognizance but if the child appears before the Court for punishment under that recognizance and the Court is satisfied that the child has failed to be of good behaviour or to observe any other condition imposed by the court, it may deal with the child as if the Court had just been satisfied of the child's guilt of the offence in respect of which the child was discharged on entering into the recognizance.

17. (1) A permit issued under section 200 of the *Community Welfare Services Act 1970* and in force immediately before the commencement of section 256 of this Act has effect as if it were a permit issued under section 256 of this Act.

(2) An order made by the Youth Parole Board under Division 3 of Part VIII of the *Community Welfare Services Act 1970* and in force immediately before the commencement of section 215 (1) of this Act has effect as if it were an order made under this Act by the Youth Parole Board established by section 215 (1) of this Act.

(3) A permit or order which under this clause has effect as if it were issued or made under this Act may be enforced, varied, amended, cancelled or revoked under the provisions of this Act which relate to permits or orders of that kind.

18. The State Guardianship Fund established under section 125 is the same fund as the State Wards Fund established under section 38 of the *Community Welfare Services Act 1970*.

19. (1) A children's reception centre or children's home established under section 27 of the *Community Welfare Services Act 1970* as in force immediately before the commencement of section 57 of this Act is deemed to be a community service established under section 57 of this Act.

(2) A place, establishment or institution appointed under section 92 of the *Community Welfare Services Act 1970* as in force immediately before the commencement of section 249 of this Act as a youth hostel is deemed to be a community service established under section 57 of this Act, if operated by the Department, or a community service approved under section 58 (1) of this Act, if not operated by the Department.

(3) A children's reception centre, children's home or foster care agency approved under section 29 of the *Community Welfare Services Act 1970* as in force immediately before the commencement of section 58 (1) of this Act is deemed to be a community service approved under section 58 (1) of this Act.

(4) A place, establishment or institution appointed under section 92 of the *Community Welfare Services Act 1970* as in force immediately before the commencement of section 249 of this Act as a service specified in column 1 of the Table is deemed to be established under section 249 of this Act as the service specified opposite it in column 2 of the Table.

TABLE

Column 1	Column 2
Remand centre	Remand centre
Youth training centre	Youth training centre

(5) A place, establishment or institution appointed under section 92 of the *Community Welfare Services Act 1970* as in force immediately before the commencement of section 249 of this Act as a youth welfare service is deemed to be a youth supervision unit established under section 249 of this Act, if operated by the Department, or a youth

supervision unit approved under section 250 (1) of this Act, if not operated by the Department.

20. Unless the context otherwise requires, any reference in any Act (other than this Act) or in any subordinate instrument or in any document or writing of any kind whatsoever to a youth training centre is to be taken to include a reference to a youth residential centre.

21. Until the commencement of section 142 of the *Health Services Act 1988*, sections 64 (3) (d) and 67 (1) (c) have effect as if for the words "section 141 of the *Health Services Act 1988*" there were substituted the words "section 92A of the *Hospitals and Charities Act 1958*".



NOTES

1. *Minister's second reading speech—*
Legislative Assembly: 8 December 1988
Legislative Council: 26 May 1989
2. The long title for the Bill for this Act was "A Bill to establish The Children's Court of Victoria, to provide for the constitution, jurisdiction and proceedings of that Court, to make fresh provision in relation to the protection of children and in relation to children who have been charged with, or who have been found guilty of, offences, to repeal the *Children's Court Act 1973*, to amend the *Community Welfare Services Act 1970* and various other Acts and for other purposes."