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- (ii) where the Director-General has renewed the order pursuant to subsection (6)—6 months,

after the making of the order; or

- (c) upon its termination by the Director-General under subsection (8),

whichever first occurs.

(6) At the expiration of 3 months after the making of a temporary custody order in respect of a child, the Director-General may, if of the opinion that the child is still in need of care, renew the order for a further period of 3 months.

(7) A temporary custody order shall not be made or renewed in respect of a child if the child has, during the previous 12 months, been the subject of a temporary care arrangement or a temporary custody order for a period, or for periods in the aggregate, exceeding 6 months.

(8) The Director-General may at any time terminate a temporary custody order in respect of a child if the Director-General is of the opinion that the child is no longer in need of care.

(9) An application for the review of a temporary custody order may, in accordance with the regulations, be made to the Children's Court—

(a) by or on behalf of the child the subject of the order; or

(b) by a person responsible for the child.

(10) The decision of the Children's Court in respect of an application for a review shall be given effect to as if it were the decision of the Director-General with respect to the making of a temporary custody order under subsection (1).

(11) The provisions of Division 3 of Part 5 apply to and in respect of the hearing of an application for a review in the same way as they apply to and in respect of the hearing of a care application under that Division.

Effect of temporary care arrangements and temporary custody orders

16. (1) The Director-General shall have the custody of a child in respect of whom there is in force a temporary care arrangement or temporary custody order.

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(2) In providing for the care of a child the subject of a temporary care arrangement or temporary custody order, the Director-General—

- (a) shall have regard to—
 - (i) the views of the child's parents; and
 - (ii) such other matters as may be prescribed by the regulations, in relation to all matters concerning the welfare of the child; and
- (b) shall ensure that—
 - (i) the child's parents are kept informed as to all matters concerning the welfare of the child; and
 - (ii) all efforts are made to encourage continuing contact between the child and the child's parents.

Temporary refuge

17. (1) A child seeking refuge may place himself or herself in the care of the Director-General.

(2) The Director-General shall discharge a child who is in the Director-General's care under subsection (1)—

- (a) upon the expiration of the period of 72 hours after the child has placed himself or herself in the care of the Director-General;
- (b) if, before the expiration of that period, the Minister authorises the Director-General to keep the child in the Director-General's care for a further period not exceeding 72 hours—upon the expiration of the further period; or
- (c) if, before the expiration of the period or further period referred to in paragraph (a) or (b), the child makes a request to an officer that the child be discharged from the Director-General's care—upon the request being made.

Separation of children from offenders

18. A child who is in the Director-General's care pursuant to this Act shall, so far as is reasonably practicable, be accommodated in premises other than—

- (a) premises for the accommodation of persons who have committed offences; or

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- (b) premises for the accommodation of persons who are on remand awaiting proceedings in respect of offences alleged to have been committed by them.

Children in alternative care

19. (1) The Director-General shall maintain a register in which shall be entered particulars of every child who has been a child in alternative care for a continuous period of 14 days or more.

(2) The Director-General may, in respect of any child in alternative care other than a ward or protected person, grant an allowance to any person having the care of the child for any period during which the child is in that person's care.

(3) If an allowance under subsection (2) was being paid in respect of a person immediately before the person attained the age of 18 years, the Director-General may—

- (a) for the purpose of securing education or vocational training on a full-time basis for the person; and
- (b) subject to such conditions as may be prescribed by the regulations and to such additional conditions as the Director-General may determine,

from time to time, and for periods not exceeding 6 months at any one time, continue to pay an allowance in respect of the person for any period during which the person is residing in the home of the person to whom the allowance is granted.

(4) In this section, a reference to a child in alternative care is a reference to—

- (a) a child who resides in a facility, otherwise than as a member of the household of any other person who resides there;
- (b) a child who has been placed in the care or custody of a person under Part 5 or 6;
- (c) a child who is in the care of the Director-General under Part 5;
- (d) a child who resides in a licensed residential child care centre, otherwise than as a member of the household of any other person who resides there;
- (e) a child who is in the care of a person in whose care the child has been placed by an authorised private fostering agency; or

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- (f) a child (other than a child referred to in paragraph (a), (b), (c), (d) or (e)) who—
- (i) is in the care of a person (other than a person to whom the child is related) belonging to such class of persons as may be prescribed by the regulations; or
 - (ii) is residing at such premises, or at premises belonging to such class of premises, as may be prescribed by the regulations, otherwise than as a member of the household of any other person who resides there.

Ordinary medical and dental treatment

20. (1) This section applies to a child who is under the age of 16 years, being—

- (a) a child who resides in a facility, otherwise than as a member of the household of any other person who resides there;
- (b) a child who has been placed in the care or custody of a person under Part 5 or 6;
- (c) a child who is in the care of the Director-General under Part 5;
- (d) a child who resides in a licensed residential child care centre, otherwise than as a member of the household of any other person who resides there;
- (e) a child who is in the care of a person in whose care the child has been placed by an authorised private fostering agency; or
- (f) a child (other than a child referred to in paragraph (a), (b), (c), (d) or (e)) who is in the care of a person (other than the parent or guardian of the person of the child, as referred to in section 49 (1) of the Minors (Property and Contracts) Act 1970) pursuant to any law, whether or not of New South Wales.

(2) If an authorised person has consented to medical or dental treatment of a child to whom this section applies being carried out, it shall be deemed, for the purposes of section 49 of the Minors (Property and Contracts) Act 1970, that a parent or guardian of the person of the child consented to the treatment being carried out.

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(3) This section does not affect—

- (a) such operation as a consent (whether or not a consent referred to in subsection (2) or in section 49 of the Minors (Property and Contracts) Act 1970) may have otherwise than as provided by this section; or
- (b) the circumstances in which medical or dental treatment may be justified in the absence of consent.

(4) In this section—

“authorised person” means—

- (a) in relation to a child referred to in subsection (1) (a)—the Minister;
- (b) in relation to a child referred to in subsection (1) (b)—
 - (i) in respect of medical or dental treatment not involving surgery—either the Minister or the person in whose care or custody the child has been placed; or
 - (ii) in respect of medical or dental treatment involving surgery—the Minister;
- (c) in relation to a child referred to in subsection (1) (c)—
 - (i) in respect of medical or dental treatment not involving surgery—either the Director-General or any person in whose care the child has been placed by the Director-General; or
 - (ii) in respect of medical or dental treatment involving surgery—the Director-General;
- (d) in relation to a child referred to in subsection (1) (d)—
 - (i) in respect of medical or dental treatment not involving surgery—the person in charge of the licensed residential child care centre in which the child resides; or
 - (ii) in respect of medical or dental treatment involving surgery—either the parent or guardian of the person of the child (as referred to in section 49 (1) of the Minors (Property and Contracts) Act 1970) or (where no such parent or guardian can reasonably be located or it is impracticable to obtain the consent of such a parent or guardian) the person in charge of the licensed residential child care centre in which the child resides;

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- (e) in relation to a child referred to in subsection (1) (e)—
- (i) in respect of medical or dental treatment not involving surgery—the person in whose care the child has been placed; or
 - (ii) in respect of medical or dental treatment involving surgery—either the parent or guardian of the person of the child (as referred to in section 49 (1) of the Minors (Property and Contracts) Act 1970) or (where no such parent or guardian can reasonably be located or it is impracticable to obtain the consent of such a parent or guardian)—
 - (A) if the child was placed in the care of a person by an authorised private fostering agency—the principal officer of that agency; or
 - (B) if the child was placed in the care of a person otherwise than by an authorised private fostering agency—the Director-General; or
- (f) in relation to a child referred to in subsection (1) (f)—
- (i) in respect of medical or dental treatment not involving surgery—the person in whose care the child has been placed; or
 - (ii) in respect of medical or dental treatment involving surgery—the Director-General;

“dental treatment” has the same meaning as it has in section 49 of the Minors (Property and Contracts) Act 1970;

“medical treatment” has the same meaning as it has in section 49 of the Minors (Property and Contracts) Act 1970, but does not include a special medical examination within the meaning of section 21 of this Act.

Special medical examinations

21. (1) This section applies to—

- (a) a child who resides in a facility, otherwise than as a member of the household of any other person who resides there; and
- (b) a child who resides in a licensed residential child care centre, otherwise than as a member of the household of any other person who resides there.

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(2) A special medical examination of a child to whom this section applies shall not be carried out—

- (a) in the case of a child who is under the age of 16 years—unless the Minister has informed such of the parents of the child as can reasonably be located of the rights of a parent under this section; and
- (b) in the case of a child who is of or above the age of 14 years—unless the Minister has informed the child of the rights of a child under this section.

(3) If a medical practitioner has advised the Minister that the medical practitioner considers that it is medically necessary to carry out a special medical examination of a child to whom this section applies, a second independent medical opinion as to whether the examination is medically necessary shall be obtained on the request of—

- (a) in the case of a child who is under the age of 14 years—a parent of the child;
- (b) in the case of a child who is 14 or 15 years of age—either a parent of the child or the child; or
- (c) in the case of a child who is of or above the age of 16 years—the child.

(4) A special medical examination of a child to whom this section applies shall not be carried out—

- (a) unless the Minister (after considering the advice of the medical practitioner referred to in subsection (3) and, if a second independent medical opinion was obtained under that subsection, that second opinion) is satisfied that the examination is medically necessary; and
- (b) unless—
 - (i) in the case of a child who is under the age of 14 years—a parent of the child has consented in writing to the examination being carried out;
 - (ii) in the case of a child who is 14 or 15 years of age—both a parent of the child and the child have consented in writing to the examination being carried out;

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- (iii) in the case of a child who is of or above the age of 16 years—
the child has consented in writing to the examination being carried out; or
- (iv) the Children's Court has, under subsection (6), ordered that the examination be carried out.

(5) A consent is void if—

- (a) subsection (2) has not been complied with in relation to the child or parent by whom the consent was given; or
- (b) the child has not been counselled as referred to in subsection (8).

(6) The Children's Court may, on the application of the Minister and on its being satisfied that any consent to a special medical examination is unreasonably refused or cannot reasonably be obtained, order that the examination be carried out.

(7) If the Minister is satisfied that it is medically necessary to carry out a special medical examination of a child to whom this section applies and the consent or consents referred to in subsection (4) has or have been obtained or the Children's Court has, under subsection (6), ordered that the examination be carried out—

- (a) in the case of a child who is under the age of 14 years—a parent of the child;
- (b) in the case of a child who is 14 or 15 years of age—either a parent of the child or the child; or
- (c) in the case of a child who is of or above the age of 16 years—the child,

may nominate a medical practitioner to carry out the examination or may state a preference as to whether the examination shall be carried out by a male or female medical practitioner.

(8) Before a special medical examination of a child to whom this section applies is carried out, the child shall be counselled in relation to—

- (a) the nature of the examination and its effects; and
- (b) such other matters as may be prescribed by the regulations,

by a suitable person other than the medical practitioner who is to carry out the examination.

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(9) A special medical examination of a child to whom this section applies shall not be carried out otherwise than—

- (a) by the medical practitioner nominated under subsection (7);
- (b) if no medical practitioner has been so nominated but a preference has been stated under subsection (7)—by a medical practitioner nominated by the Minister in accordance with the preference so stated;
- (c) if no medical practitioner has been so nominated and a preference has not been so stated—by a medical practitioner nominated by the Minister; or
- (d) if the Minister is of the opinion that it is impracticable for the examination to be carried out by the medical practitioner so nominated or in accordance with the preference so stated—by a medical practitioner nominated by the Minister.

(10) If a special medical examination of a child to whom this section applies is carried out—

- (a) pursuant to a consent referred to in subsection (4) (b) given by a parent of the child; or
- (b) pursuant to an order of the Children’s Court under subsection (6),

and the special medical examination is carried out in accordance with the provisions of this section, it shall be deemed, for the purposes of section 49 of the Minors (Property and Contracts) Act 1970, that a parent or guardian of the person of the child consented to the examination being carried out.

(11) The provisions of Division 3 of Part 5 apply to and in respect of the hearing of an application under subsection (6) in the same way as they apply to and in respect of the hearing of a care application under that Division.

(12) In this section—

“parent”, in relation to a child to whom this section applies, includes the person in whose care the child was immediately before the child became a child to whom this section applies;

“special medical examination” means a vaginal or anal examination or a penile examination involving the insertion of any thing into the penis.

*Children (Care and Protection) 1987***Notification of child abuse**

22. (1) Any person who forms the belief upon reasonable grounds that a child—

- (a) has been, or is in danger of being, abused; or
- (b) is a child in need of care,

may cause the Director-General to be notified of that belief and the grounds therefor, either orally or in writing.

(2) A person who, in the course of—

- (a) practising as a medical practitioner;
- (b) following another profession, calling or vocation prescribed by the regulations for the purposes of this subsection (other than the profession of a barrister or solicitor); or
- (c) exercising the functions of an office so prescribed,

has reasonable grounds to suspect that a child has been abused (whether the abuse consisted of sexual assault or any other form of abuse) is required to comply with subsection (4) in respect of those grounds unless the person is a minister of religion or a person who is declared by the regulations to be exempt from the provisions of this subsection.

(3) A person who, in the course of—

- (a) following a profession, calling or vocation prescribed by the regulations for the purposes of this subsection (other than the profession of a barrister or solicitor); or
- (b) exercising the functions of an office so prescribed,

has reasonable grounds to suspect that a child has been sexually assaulted is required to comply with subsection (4) in respect of those grounds unless the person is a minister of religion or a person who is declared by the regulations to be exempt from the provisions of this subsection.

(4) A person who is required to comply with this subsection in respect of having any grounds to suspect that a child has been abused (whether the abuse consisted of sexual assault or any other form of abuse) shall—

- (a) notify the Director-General of the name or a description of the child and those grounds; or
- (b) cause the Director-General to be so notified,

promptly after those grounds arise.

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(5) Regulations may be made with respect to the form of a notification under subsection (4) or with respect to the manner of making such a notification.

(6) A person who fails to comply with subsection (4) is guilty of an offence.

(7) Where the Director-General has been notified under subsection (1) or (4), the Director-General shall—

- (a) promptly cause an investigation to be made into the matters notified to the Director-General; and
- (b) if the Director-General is satisfied that the child in respect of whom the Director-General was notified may have been, or is in danger of being, abused or is a child in need of care, take such action as the Director-General considers appropriate, which may include reporting those matters to a member of the police force.

(8) Where a person notifies the Director-General pursuant to subsection (1) or (4)—

- (a) the notification shall not, in any proceedings before a court, tribunal or committee, be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct;
- (b) no liability for defamation is incurred because of the making of the notification;
- (c) the notification shall not constitute a ground for civil proceedings for malicious prosecution or for conspiracy;
- (d) the notification shall not be admissible in evidence in any proceedings before a court, tribunal or committee and no evidence of its contents shall be admissible; and
- (e) a person shall not be compelled in any proceedings before a court, tribunal or committee to produce the notification, or any copy of or extract from the notification, or to disclose, or give any evidence of, any of the contents of the notification.

(9) The provisions of subsection (8) (d) and (e) do not apply in relation to—

- (a) the admissibility in, or of, evidence of a notification under subsection (1) or (4);

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- (b) the production of such a notification, a copy thereof or an extract therefrom; or
- (c) the disclosure or giving of evidence of the contents of such a notification.

either—

- (d) in any proceedings before the Children's Court under Part 5, or a court hearing or determining an appeal from a decision of the Children's Court under Part 5, before which the child to whom the notification relates is brought for the purposes of proceedings under Part 5; or
- (e) in support of, or in answer to, a charge or allegation made in proceedings referred to in subsection (8) (d) or (e) against any person in relation to that person's exercising any of that person's functions in pursuance of this Act.

(10) Subsection (8) (d) does not apply if a notification under subsection (1) or (4) is tendered in evidence, or evidence in respect of such a notification is given—

- (a) by the person by whom the notification was caused to be made; and
- (b) in answer to a charge or allegation made against that person in proceedings referred to in subsection (8) (d).

Medical examination of abused children

23. (1) If the Director-General or a member of the police force believes on reasonable grounds (which may consist wholly or partly of information received by that person) that a child who is under the age of 16 years has been abused, the Director-General or the member of the police force, as the case may be, may serve a notice, in such form as may be prescribed by the regulations—

- (a) naming or describing the child; and
- (b) requiring the child to be forthwith presented to a medical practitioner specified or described in the notice at a hospital or some other place so specified for the purpose of the child's being medically examined,

on the person (whether or not a parent of the child) who appears to the Director-General or the member of the police force to have the care of the child for the time being.

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(2) A person who fails to comply with the requirement contained in a notice served on the person under subsection (1) is guilty of an offence unless it is proved that the person did not have the care of the child at the time the notice was served.

(3) If a person fails to comply with the requirement contained in a notice served on the person under subsection (1), an authorised officer or a member of the police force may present the child in respect of whom the notice was served, or cause the child to be presented, to a medical practitioner at a hospital or elsewhere for the purpose of the child's being medically examined.

(4) When a child is presented to a medical practitioner under subsection (1) or (3)—

(a) the medical practitioner may carry out or cause to be carried out such medical examination of the child as the medical practitioner thinks fit, including examination at a hospital or place that is not the hospital or place specified in the notice referred to in subsection (1) in respect of the child;

(b) the Director-General shall, from the time at which the child is presented to the medical practitioner until the expiration of—

(i) such period of time as is reasonably necessary for the child to be examined in accordance with paragraph (a); or

(ii) 72 hours,

whichever period first expires, be deemed to be the guardian of the child for the purpose only of enabling the examination to be carried out; and

(c) the medical practitioner or other person by whom any such medical examination has been carried out shall prepare a written report of the examination for transmission to the Director-General.

(5) No proceedings lie against an officer, medical practitioner, member of the police force or person employed at any hospital or other place at which a child is examined for or on account of any act, matter or thing done or ordered to be done by that person, and purporting to be done for the purpose of carrying out or assisting in carrying out the provisions of this section, if that person has acted in good faith and with reasonable care.

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(6) If a medical practitioner or other person transmits a report to the Director-General pursuant to subsection (4) (c)—

- (a) the transmission of the report shall not, in any proceedings before a court, tribunal or committee, be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct; and
- (b) no liability for defamation is incurred because of the making of the report.

Power of search and removal of abused children

24. (1) An officer or member of the police force may apply to an authorised justice for a search warrant if the officer or member of the police force has reasonable grounds for believing that a person on whom a notice has been served under section 23 (1) has failed to comply with the requirement contained in the notice.

(2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an officer or member of the police force named in the warrant—

- (a) to enter any premises specified in the warrant;
- (b) to search the premises for the presence of the child the subject of the notice under section 23 (1); and
- (c) to remove the child and to present the child to a medical practitioner under section 23 (3).

(3) Part III of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(4) Without limiting the generality of section 18 of the Search Warrants Act 1985, a member of the police force or a medical practitioner, or both—

- (a) may accompany an officer executing a search warrant issued under this section; and
- (b) may take all reasonable steps to assist the officer in the exercise of the officer's functions under this section.

(5) It shall not be necessary in any search warrant issued under this section to name any particular child.

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(6) An officer named in a search warrant, or a member of the police force, may, for the purpose of removing a child pursuant to the warrant, use all reasonable force.

DIVISION 2—*Offences***Child abuse**

25. A person who abuses a child, or causes or procures a child to be abused, is guilty of an offence.

Neglect of children

26. A person, whether or not the parent of the child, who, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child in his or her care, is guilty of an offence.

Unauthorised removal of children, etc.

27. (1) A person who, without lawful excuse—

(a) removes a child or other person from the care of a person into whose care or custody the child or other person has been placed under this Act; or

(b) causes or procures a child or other person to be so removed,
is guilty of an offence.

(2) A person who—

(a) is in charge of any hospital or other premises used for the purpose of receiving (whether or not for fee, gain or reward) more than 1 woman who is at the premises for the purposes of giving birth; and

(b) permits a child who is not in the charge of the child's mother to be taken from the premises without first obtaining the consent of the Director-General,

is guilty of an offence.

Tattooing of children

28. A person who in any manner tattoos any part of the body of a child is guilty of an offence unless the person has first obtained the written consent of a parent of the child to tattoo the child in that manner and on that part of the child's body.