

CLAUSE NOTES

Commissioner for Children and Young People Bill 2015

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| Clause 1 | Short Title |
| Clause 2 | Commencement

Provides for the Act to commence on a day or days to be proclaimed. |
| Clause 3 | Principles to be observed

Sets out the key principles underpinning the Act. |
| Clause 4 | Interpretation

Defines the key terms used in the Act. |
| Clause 5 | Commissioner for Children and Young People

Establishes the statutory office of Commissioner for Children and Young People, by providing for the Governor to appoint a person to that position. |
| Clause 6 | Staff

Provides for staff to be made available to or employed for the purposes of enabling the Commissioner to perform his or her functions. |
| Clause 7 | Annual Plan

Requires the Commissioner to produce an annual plan for the following financial year by 31 March each year and provide a copy to the Minister. |
| Clause 8 | General functions of the Commissioner

Provides for the general functions of the Commissioner. |
| Clause 9 | Minister may request Commissioner to investigate

Provides for the requirements where the Commissioner is conducting an investigation at the request of the Minister. Provides that if the Commissioner prepares a report under section 20 in respect of an investigation requested by the Minister, the Commissioner must provide the Minister with a draft report. The Minister may within 21 days provide feedback or request the Commissioner to consult with a specified person. If so, the Commissioner must include in the report, if requested to do so by the Minister, the Minister's feedback and any request of the Minister regarding consultation. |

Clause 10	<p>Commissioner to act as advocate under Youth Justice Act</p> <p>Provides for the special functions of the Commissioner when acting as an advocate for children detained under the <i>Youth Justice Act 1997</i>.</p>
Clause 11	<p>General powers of the Commissioner</p> <p>Provides for the general powers of the Commissioner and how these powers may be exercised.</p>
Clause 12	<p>Power to compel information</p> <p>Provides for the Commissioner to be able to compel the supply of information or documents necessary to perform a function or exercise a power under the Act, outlines the exemptions to this power and provides penalties for non-compliance. Protections are also provided for persons providing information.</p>
Clause 13	<p>Power to establish committees</p> <p>Requires the Commissioner to establish the Children and Young People Consultative Council and the Children and Young People Advisory Council and permits the Commissioner to establish other committees as appropriate.</p>
Clause 14	<p>Certain matters not within the jurisdiction of the Commissioner</p> <p>Excludes certain matters from investigation or review of the Commissioner. These include investigations of individual cases, matters protected by privilege and matters relating to decisions regarding actions on individual cases such as decisions to prosecute or seek family violence orders or Legal Aid advice. This is to confirm the general nature of the Commissioners powers to investigate systemic issues rather than individual cases. Investigations of individual cases are matters for the Ombudsman's jurisdiction.</p>
Clause 15	<p>Delegation</p> <p>Permits the Commissioner to delegate any powers or functions to any person, other than the power to delegate.</p>
Clause 16	<p>Information sharing</p> <p>Outlines the provisions for the Commissioner providing non-identifying information with other parties or the Commissioner requesting non-identifying information from other parties.</p>

Clause 17	<p>Commissioner may, but is not required to, divulge information</p> <p>Permits the Commissioner to divulge information to relevant authorities where appropriate and lawful to do so and includes the power to refer matters to the Ombudsman but does not require the Commissioner (or any former Commissioner) to disclose information obtained under the Act.</p>
Clause 18	<p>Confidentiality of information</p> <p>Sets out the confidentiality provisions around information obtained under the Act and establishes a penalty for unlawful disclosure.</p>
Clause 19	<p>Annual report</p> <p>Requires the Commissioner to produce an annual report on activities for each financial year to be tabled in Parliament. It also provides deadlines for submission of the annual report to the Minister and Secretary (in advance of tabling in Parliament).</p>
Clause 20	<p>Other reports</p> <p>Provides that the Commissioner may prepare reports on any matter arising from the Commissioner's functions. The Commissioner is to provide the Minister with a copy of the report. This section also provides that the Commissioner may cause the report to be tabled in Parliament within the specified timeframe.</p>
Clause 21	<p>Adverse comments in reports</p> <p>Requires the Commissioner to notify a person of an adverse comment in a report and permit that person to make representations in respect of the comment before finalising the report.</p>
Clause 22	<p>Publication of reports</p> <p>Requires the Commissioner to publish reports tabled before Parliament or appropriate parts of reports in a form that is suitable for children where appropriate to do so.</p>
Clause 23	<p>Obstruction</p> <p>Establishes an offence for obstructing or hindering a person performing a function or exercising a power under the Act.</p>
Clause 24	<p>Protection from liability</p> <p>Protects the Commissioner or any other person performing a function or exercising a power under the Act from any liability or civil or criminal proceedings provided that they acted in good faith. Provides that no civil or criminal proceedings are to be brought against the Commissioner or persons performing functions or powers under the Act without leave of the Supreme Court.</p>

Clause 25	Regulations Provides for regulations to be made under the Act.
Clause 26	Administration of act Initially assigns the administration of the Act to the Minister for Human Services and the Department of Health and Human Services.
Clause 27	Savings and transitional Provides for the savings and transitional provisions set out in Schedule 3.
Clause 28	Consequential Amendments Specifies that consequential amendments are contained in Schedule 4.
Schedule 1	TERMS OF APPOINTMENT Specifies the duration and terms of appointment and the remuneration of the Commissioner and the grounds for vacation of office.
Schedule 2	COMMITTEES Specifies the membership, conditions of appointment and conduct of business for statutory committees.
Schedule 3	SAVINGS AND TRANSITIONAL Provides savings and transitions for the Commissioner for Children, Annual Report and Committees.
Schedule 4	CONSEQUENTIAL AMENDMENTS Outlines the consequential amendments to the <i>Children, Young Persons and their Families Act 1997</i> , the <i>Tasmanian Early Years Foundation Act 2005</i> and the <i>Youth Justice Act 1997</i> .