

Division 16.3.4 Use of force

579 Therapeutic protection—managing use of force

- (1) The operating entity for a therapeutic protection place must make arrangements to ensure, as far as practicable, that the use of force in relation to the management of a child or young person in therapeutic protection is always—

- (a) a last resort; and
- (b) for a purpose that cannot be achieved in any other way; and
- (c) in accordance with this division; and
- (d) in accordance with the therapeutic protection standards.

Note The Minister may make therapeutic protection standards under s 887.

- (2) The operating entity must also ensure, as far as practicable, that—
- (a) a therapeutic protection person does not use force in relation to a child or young person in therapeutic protection without first considering the following in relation to the use of force:
 - (i) the child's or young person's age, sex, physical and mental health and any history of abuse;
 - (ii) if the proposed force involves any restraint of the child or young person—the physical and developmental capacity of the child or young person; and
 - (b) the use of force in relation to a child or young person is not observed by any other child or young person.
- (3) However, an operating entity need not comply with subsection (2) if, in urgent circumstances, the person believes on reasonable grounds that doing so would create a risk of injury to the therapeutic protection person, the child or young person in therapeutic protection, or anyone else.

580 Therapeutic protection—authorised use of force

A therapeutic protection person may use force that is necessary and reasonable—

- (a) to prevent a child or young person in therapeutic protection from inflicting self-harm or harming someone else; or
- (b) to prevent unlawful damage, destruction or interference with property.

581 Therapeutic protection—application of force

- (1) A therapeutic protection person may use force under this division only if the operating entity—
 - (a) gives a clear warning of the intended use of force; and
 - (b) allows enough time for the warning to be observed; and
 - (c) uses force, as far as practicable, in a way that reduces the risk of causing injury.
- (2) However, the therapeutic protection person need not comply with subsection (1) (b) or (c) if, in urgent circumstances, the person believes on reasonable grounds that doing so would create a risk of injury to the child or young person in therapeutic protection or anyone else.

Example—urgent circumstances

the child or young person is assaulting someone or engaging in self-harm

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) In applying force under section 580, the therapeutic protection person may use body contact.

582 Therapeutic protection—medical examination after use of force

- (1) The operating entity for a therapeutic protection place must ensure that any child or young person in therapeutic protection injured by the use of force under this division is examined as soon as practicable by a doctor (other than a non-treating doctor) and that appropriate health care is available to the child or young person.
- (2) Without limiting subsection (1), the operating entity for a therapeutic protection place must give a child or young person in therapeutic protection the opportunity to be examined by a doctor or nurse (other than a non-treating doctor or non-treating nurse) after the use of force in relation to the child or young person.

583 Therapeutic protection—monthly reports about use of force

The operating entity for a therapeutic protection place must, as soon as practicable after the end of each month, give the director-general a report summarising the incidents (if any) during the month that involved the use of force in relation to a child or young person in therapeutic protection.

Division 16.3.5 Searches**Subdivision 16.3.5.1 Application and definitions—div 16.3.5****584 Application—div 16.3.5**

This division applies to a child or young person who is in therapeutic protection.

585 What is a *scanning search*?

In this part:

scanning search, of a child or young person, means a search of the child or young person by electronic or other means that does not