

Information Notice

Act Title	Children and Young Persons Act 1989
Information Title:	Saving Provision
Version:	079K

Section 606(Schedule 4 Part 2 clause 18) of the **Children, Youth and Families Act 2005** provides that sections 37A, 82A, 82B and 87(2) of the **Children and Young Persons Act 1989** continue in force until the date of commencement of Part 4.7 Division 2 of the **Children, Youth and Families Act 2005**. If Part 4.7 Division 2 is not proclaimed earlier, it will come into operation on 1 October 2007.

Sections 37A, 82A, 82B and 87(2) are reproduced below:

37A. Pre-hearing conference convenors

- (1) The Governor in Council may appoint as many convenors as are necessary for conducting pre-hearing conferences under section 82A.
- (2) Subject to this section, a convenor holds office for the term, not exceeding 3 years, that is specified in his or her instrument of appointment, and is eligible for re-appointment.
- (3) The Governor in Council may remove a convenor from office at any time.
- (4) A convenor may resign from office by delivering to the Governor in Council a signed letter of resignation.
- (5) A convenor is entitled to be paid the remuneration, travelling and other allowances fixed from time to time by the Governor in Council.
- (6) A convenor is appointed subject to any terms and conditions that are specified in the instrument of appointment and that are not inconsistent with this Act.
- (7) A convenor is not, in respect of the office of convenor, subject to the **Public Administration Act 2004**.
- (8) A convenor has the following functions—
 - (a) to preside at pre-hearing conferences held under section 82A;
 - (b) to report to the Court on the outcome of any pre-hearing conference at which he or she presides.

S. 37A
inserted by
No. 69/1992
s. 7(1).

S. 37A(7)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 29.2).

S. 82A
inserted by
No. 69/1992
s. 7(2).

82A. Pre-hearing conferences

- (1) The Family Division may, on the application of a party or without any such application, order that a protection application be referred for a pre-hearing conference to a convenor appointed under section 37A.
- (2) The Court may fix a time and place for the holding of the pre-hearing conference or may direct that a convenor fix, within 7 working days, a time and place.
- (3) A pre-hearing conference is to be attended by the child's parents and the Secretary.
- (4) The Court may, in addition, order that any of the following attend—
 - (a) the child;
 - (b) a relative or relatives of the child;
 - (c) in the case of a child from an ethnic background, a member of the appropriate ethnic community who is chosen or agreed to by the child or by his or her parent.
- (5) A legal representative of a parent of the child may attend and, if the child is mature enough to give instructions, a separate legal representative of the child may attend.
- (6) Nothing in section 20 or 21 applies to a pre-hearing conference.

S. 82B
inserted by
No. 69/1992
s. 7(2).

82B. Confidentiality of pre-hearing conference

- (1) Subject to this section, the proceedings of a pre-hearing conference shall be confidential.
- (2) Evidence of anything said or done, or of any admission made, at a pre-hearing conference is only admissible in any proceeding before a court (including the proceeding on the protection application) if the court grants leave or all the parties to the pre-hearing conference consent.
- (3) A court may only grant leave under sub-section (2) if satisfied that it is necessary to do so to ensure the safety and well-being of the child.
- (4) Subject to sub-section (5), a person (other than the child or a parent or relative of the child) who attends a pre-hearing conference must not disclose any statement made at, or information furnished to, the conference without the leave of the Court or the consent of the person who made the statement or furnished the information.

Penalty applying to this sub-section: 10 penalty units.

- (5) Nothing in sub-section (4) prevents—
 - (a) the convenor making a record of the proceedings at the pre-hearing conference;
 - (b) discussions taking place between a person who attended the conference and his or her legal representative;
 - (c) discussions taking place between the legal representatives of persons who attended the conference;

- (d) discussions taking place between protective interveners about the conference;
- (e) the disclosure, in connection with a review of the operation of the pre-hearing conference system, of information that does not identify any person who attended the conference or, if that person consents, information that does identify him or her;
- (f) a disclosure of information made by a person in the reasonable belief that it was necessary to disclose it in order to prevent or minimise injury to any person or damage to any property.

87. Court to have regard to certain matters

- (2) In determining what finding or order to make on a protection application, the Court may consider the convenor's report on any pre-hearing conference held under section 82A.

**S. 87(2)
inserted by
No. 69/1992
s. 7(3)(b).**