

45. Provisions about children

- (1) No restraining order is to be made against a child whose age is less than 10 years.
- (2) In an application to vary or cancel a restraining order against a child, section 45 of the *Young Offenders Act 1994* applies as if the matter were proceedings for an offence.
- (3) If the Children's Court hears an application for a restraining order under section 38 against a person or an application to vary or cancel a restraining order against a person in the belief that the person is a child when in fact the person is not a child —
 - (a) as soon as it becomes aware the person is not a child, the Children's Court is to transfer the matter to a court of petty sessions;
 - (b) the Children's Court proceedings are not, for that reason, invalidated; and
 - (c) an order made by the Children's Court before it became aware the person was not a child, is as valid and has the same effect as if it had been made by the court of petty sessions to which the matter is transferred.
- (4) If a court of petty sessions hears an application for a restraining order under section 38 against a person or an application to vary or cancel a restraining order against a person in the belief that the person is not a child when in fact the person is a child —
 - (a) as soon as it becomes aware the person is a child, the court of petty sessions is to transfer the matter to the Children's Court;
 - (b) the court of petty sessions proceedings are not, for that reason, invalidated; and
 - (c) an order made by the court of petty sessions before it became aware the person was a child, is as valid and has the same effect as if it had been made by the Children's Court.
- (5) If a court transfers a matter to another court under this section, the clerk of each court is to give effect to the transfer.