

Queensland



**CHILD SAFETY
LEGISLATION AMENDMENT
ACT 2004**

Act No. 13 of 2004



CHILD SAFETY LEGISLATION AMENDMENT ACT 2004

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AND YOUNG PEOPLE**

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Queensland



Child Safety Legislation Amendment Act 2004

Act No. 13 of 2004

An Act to amend particular Acts to increase child safety, and for other purposes

[Assented to 24 June 2004]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Child Safety Legislation Amendment Act 2004*.

2 Commencement

(1) This Act, other than part 7A,¹ commences on a day to be fixed by proclamation.

(2) Part 7A commences on 1 July 2004.

PART 2—AMENDMENT OF BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 2003

3 Act amended in pt 2

This part amends the *Births, Deaths and Marriages Registration Act 2003*.

4 Insertion of new ss 48A and 48B

Part 7, after section 48—

insert—

‘48A Registrar to give notice of registration of child death to commissioner

‘(1) This section applies if the registrar registers the death of a child, other than a stillborn child.

¹ Part 7A (Amendment of *Legal Profession Act 2004*)

‘(2) The registrar must give notice of the registration to—

- (a) the commissioner; and
- (b) the chief executive (child safety).

‘(3) The notice must include the following information, to the extent it is known to the registrar—

- (a) for the notice to the commissioner—
 - (i) the registration number for the registration; and
 - (ii) the child’s name; and
 - (iii) the child’s place of birth; and
 - (iv) the child’s usual place of residence; and
 - (v) the child’s age; and
 - (vi) the child’s sex; and
 - (vii) the child’s occupation, if any;
 - (viii) the duration of the last illness, if any, had by the child; and
 - (ix) the date and place of death; and
 - (x) the cause of death;
- (b) for the notice to the chief executive (child safety)—
 - (i) the child’s name; and
 - (ii) the child’s place of birth; and
 - (iii) the child’s usual place of residence; and
 - (iv) the date and place of death.

‘(4) To the extent that it is practicable to do so, the registrar must give the notice within 30 days after registering the death.

‘(5) In this section—

“**chief executive (child safety)**” means the chief executive of the department in which the *Child Protection Act 1999* is administered.

‘48B Registrar may enter into arrangement with commissioner

‘(1) The registrar may enter into an arrangement with the commissioner about providing to the commissioner information from a register or a

source document, or providing to the commissioner a copy of a source document, about—

- (a) the births of children, whether particular children, children of a class or children generally; or
- (b) the deaths of children, whether particular children, children of a class or children generally.

‘(2) The registrar may provide information or a copy of a source document to the commissioner under the arrangement.

‘(3) The registrar and the commissioner must, as far as practicable having regard to the commissioner’s child death research functions, protect the persons to whom the information or source document relates from unjustified intrusion on their privacy.

‘(4) If the registrar enters into an arrangement with the commissioner, the registrar may charge a fee for the service that is not more than the actual cost of providing the service.

‘(5) This section applies despite sections 44 to 46 and 48.

‘(6) In this section—

“**child death research functions**”, for the commissioner, means the functions set out in the *Commission for Children and Young People and Child Guardian Act 2000*, part 4A, division 2.

“**source document**” has the same meaning as in section 44(1)(b) but does not include a source document prescribed under a regulation for that paragraph.’.

5 Amendment of sch 2 (Dictionary)

Schedule 2—

insert—

‘ “**commissioner**” means the Commissioner for Children and Young People and Child Guardian appointed under the *Commission for Children and Young People and Child Guardian Act 2000*.’.

PART 3—AMENDMENT OF CHILD PROTECTION ACT 1999

6 Act amended in pt 3

This part amends the *Child Protection Act 1999*.

7 Amendment of s 5 (Principles for administration of Act)

(1) Section 5(b)—

omit.

(2) Section 5(c) to (g)—

renumber as section 5(b) to (f).

(3) Section 5—

insert—

‘(g) a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child’s age and ability to understand;’.

(4) Section 5, from ‘This Act’ to ‘principles—’—

omit, insert—

‘(1) This Act is to be administered under the principle that the welfare and best interests of a child are paramount.

Example—

The chief executive is making a decision under this Act, concerning a child, in circumstances where there is a conflict between the child’s welfare and best interests and the interests of an adult caring for the child. The conflict must be resolved in favour of the child’s welfare and best interests.

‘(2) Subject to subsection (1), this Act is also to be administered under the following principles—’.

8 Amendment of s 7 (Chief executive’s functions)

(1) Section 7(p) to (s)—

renumber as section 7(q) to (t).

(2) Section 7—

insert—

‘(p) reviewing, under chapter 7A, the department’s involvement with certain children who have since died—

(i) to facilitate ongoing learning and improvement in the provision of services by the department; and

(ii) to promote the accountability of the department; and’.

9 Insertion of new s 21A

After section 21—

insert—

‘21A Unborn children

‘(1) This section applies if, before the birth of a child, the chief executive reasonably suspects the child may be in need of protection after he or she is born.

‘(2) The chief executive must take the action the chief executive considers appropriate including, for example—

(a) having an authorised officer investigate the circumstances and assess the likelihood that the child will need protection after he or she is born; or

(b) offering help and support to the pregnant woman.

‘(3) The purpose of this section is to reduce the likelihood that the child will need protection after he or she is born (as opposed to interfering with the pregnant woman’s rights or liberties).’.

10 Amendment of s 22 (Protection from liability for notification of, or information given about, alleged harm)

(1) Section 22, heading, after ‘**harm**’—

insert—

‘**or risk of harm**’.

(2) Section 22(1)—

omit, insert—

‘(1) This section applies if a person, acting honestly—

- (a) notifies the chief executive or another officer of the department that the person suspects—
 - (i) a child has been, is being or is likely to be, harmed; or
 - (ii) an unborn child may be at risk of harm after he or she is born; or
- (b) gives the chief executive, an authorised officer or a police officer—
 - (i) information about alleged harm or alleged risk of harm to a child; or
 - (ii) information, relating to an unborn child, about a suspected risk of harm to the child after he or she is born.’.

11 Amendment of s 74 (Charter of rights for a child in care)

Section 74(4)—

insert—

- ‘(c) is told about the Commission for Children and Young People and Child Guardian and other entities known to the chief executive that can help the child if the child considers that the charter of rights is not being complied with in relation to the child.’.

12 Amendment of s 148 (Obligation to report harm to children in residential care)

(1) Section 148(5)—

renumber as section 148(6).

(2) Section 148—

insert—

‘(5) As soon as practicable after receiving a report under this section, the chief executive must give a copy to the Commissioner for Children and Young People and Child Guardian, to help the commissioner to perform the commissioner’s monitoring functions under the *Commission for Children and Young People and Child Guardian Act 2000*.’.

13 Amendment of s 186 (Confidentiality of notifiers of harm)

(1) Section 186, heading, after ‘**harm**’—

insert—

‘**or risk of harm**’.

(2) Section 186(1)—

omit, insert—

‘(1) This section applies if a person (the “**notifier**”) notifies the chief executive, an authorised officer or a police officer that the notifier suspects—

- (a) a child has been, is being or is likely to be, harmed; or
- (b) an unborn child may be at risk of harm after he or she is born.’.

14 Amendment of s 188 (Confidentiality of information given by persons involved in administration of Act to other persons)

(1) Section 188(3)(b)—

renumber as section 188(3)(c).

(2) Section 188(3)—

insert—

‘(b) if the disclosure is for purposes directly related to obtaining information requested by the chief executive under section 246C;² or’.

15 Replacement of s 194 (Release of information by health service employees)

Section 194—

omit, insert—

‘194 Release of information by health service employees

‘(1) A health service employee may, for this Act, give a relevant person or the Childrens Court confidential information if—

2 Section 246C (Chief executive may seek information from entities)

- (a) for a relevant person or the Children’s Court—the information is relevant to the protection or welfare of a child; or
- (b) for a relevant person who is the chief executive and without limiting paragraph (a)—the information is relevant to the chief executive’s review, or the preparation of a supplementary report, under chapter 7A.³

‘(2) Subsection (1)(a) includes the giving of information, before a child is born, that is relevant to the protection or welfare of the child after he or she is born.

‘(3) In this section—

“**confidential information**” means information mentioned in the *Health Services Act 1991*, section 63(1).

“**health service employee**” means an officer, employee or agent of the department in which the *Health Services Act 1991* is administered.

“**relevant person**” means—

- (a) the chief executive; or
- (b) an authorised officer; or
- (c) a police officer.’.

16 Insertion of new ch 7A

Before chapter 8—

insert—

‘CHAPTER 7A—CHILD DEATHS

‘246A Chief executive to review department’s involvement with particular children

‘(1) This section applies if—

- (a) a child dies; and
- (b) within 3 years before the child’s death—
 - (i) the chief executive—

3 Chapter 7A (Child deaths)

- (A) became aware of alleged harm or alleged risk of harm to the child; or
- (B) took action under this Act in relation to the child; or
- (ii) the child was born and, before the child was born, the chief executive reasonably suspected that the child might be in need of protection after he or she was born.

‘(2) The chief executive must carry out a review about the department’s involvement with the child.

‘246B Terms of reference and extent of review

‘(1) The chief executive must decide—

- (a) the extent of the review; and
- (b) the terms of reference for the review.

‘(2) Without limiting subsection (1)(b), the terms of reference may include any of the following—

- (a) finding out whether the department’s involvement with the child and the child’s family complied with legislative requirements and the department’s policies;
- (b) considering the adequacy and appropriateness of the department’s involvement with the child and the child’s family;
- (c) commenting on the sufficiency of the department’s involvement with other entities in the delivery of services to the child and the child’s family;
- (d) commenting on the adequacy of legislative requirements and the department’s policies relating to the child;
- (e) making recommendations relating to matters mentioned in paragraphs (a) to (d) and suggesting strategies to put into effect the recommendations.

‘(3) In this section—

“**policies**” includes guidelines, procedures, protocols, standards and systems.

‘246C Chief executive may seek information from entities

‘For the review, the chief executive may ask another entity who the chief executive reasonably considers has information about the child for information about the child that was relevant to the child’s protection or welfare while the child was alive.

‘246D Report to be prepared and given to CDCRC

‘(1) The chief executive must complete the review, and a report about the review, as soon as practicable and, in any case, so that the chief executive can comply with subsection (2).

‘(2) The chief executive must give a copy of the report, and of any documents obtained by the chief executive and used for the review, to the CDCRC within 6 months after the chief executive becomes aware of the child’s death.

‘246E Protection from liability for giving information to chief executive

‘(1) This section applies if a person, acting honestly, gives the chief executive information for the review.

‘(2) The person does not incur liability for giving the information.

‘(3) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

‘(4) To remove doubt, it is declared that this section applies despite any other Act.

‘246F No liability for defamation if report made in good faith

‘It is a lawful excuse for the publication of a defamatory statement made in a report under this part, including a supplementary report, that the publication is made in good faith and is, or purports to be, made for this Act.

‘246G Preparation of supplementary report

‘(1) This section applies if the chief executive is given a notice under the *Commission for Children and Young People and Child Guardian Act 2000*, section 89T(3), requiring the chief executive to give the CDCRC a supplementary report about a review.

‘(2) The chief executive must comply with the requirement as soon as practicable but, in any case, so that the CDCRC can comply with the *Commission for Children and Young People and Child Guardian Act 2000*, section 89U(1).

‘(3) Sections 246C and 246E apply for the preparation of the supplementary report in the same way that they apply to the carrying out of the review.

‘246H Chief executive to give reports to State Coroner

‘(1) This section applies if—

(a) the chief executive—

(i) completes a report under section 246D; or

(ii) gives the CDCRC a supplementary report under section 246G; or

(iii) is given, under the *Commission for Children and Young People and Child Guardian Act 2000*, section 89U, a copy of a report by the CDCRC; and

(b) the report concerns the department’s involvement with a child whose death is a reportable death under the *Coroners Act 2003*.

‘(2) The chief executive must, as soon as practicable, give a copy of the report to the State Coroner for use by a coroner to help in an investigation under the *Coroners Act 2003*.

‘(3) If the report does not identify the child to whom it relates, the copy given to the State Coroner must be accompanied by a document that states—

(a) the child’s name; and

(b) the child’s date of birth; and

(c) the child’s date of death.’.

17 Insertion of new ss 248 and 248A

After section 247—

insert—

‘248 Annual reporting about child protection matters

‘(1) By 31 October in each year, the chief executive of a prescribed entity must give to the chief executive a report about the matters, relating to the entity’s operations during the previous financial year, that are relevant to child protection.

‘(2) A regulation may prescribe the matters that must be included in a prescribed entity’s report.

‘(3) As soon as practicable after receiving the reports from all the prescribed entities, the chief executive must consolidate them into a single report and give the consolidated report to the Minister.

‘(4) Within 14 sitting days after receiving the consolidated report, the Minister must table it in the Legislative Assembly.

‘(5) In this section—

“prescribed entity” means—

- (a) a department that is mainly responsible for any of the following matters—
 - (i) Aboriginal and Torres Strait Islander policy;
 - (ii) administration of justice;
 - (iii) adult corrective services;
 - (iv) community services;
 - (v) disability services;
 - (vi) education;
 - (vii) housing services;
 - (viii) public health;
 - (ix) the State budget;
 - (x) youth justice; or
- (b) the Queensland Police Service.

‘248A Acting in support of the Commissioner for Children and Young People and Child Guardian

‘(1) A power under a prescribed provision may be exercised, and information or a document obtained under a prescribed provision may be given to the commissioner, for the purpose of supporting the commissioner in the performance of the commissioner’s monitoring functions.

‘(2) In this section—

“**commissioner**” means the Commissioner for Children and Young People and Child Guardian.

“**monitoring functions**” means the monitoring functions under the *Commissioner for Children and Young People and Child Guardian Act 2000*.

“**prescribed provision**” means any of the following provisions—

- (a) sections 145 and 146;⁴
- (b) a regulation under section 249(2)(c).⁵

18 Amendment of ch 9, pt 2, hdg (Savings and transitional provisions)

Chapter 9, part 2, heading, after ‘**PROVISIONS**’—

insert—

‘**FOR ACT No. 10 OF 1999**’.

19 Insertion of new ch 9, pt 3

Chapter 9, after part 2—

insert—

4 Sections 145 (Authorised officer may require production of licence, approval etc.) and 146 (Authorised officer may enter and inspect licensed premises)

5 Section 249(2)(c)—

(2) A regulation may be made for or about the following—

(c) the records to be kept and returns to be made by persons and the inspection of records;

**‘PART 3—SAVINGS AND TRANSITIONAL PROVISION
FOR CHILD SAFETY LEGISLATION AMENDMENT
ACT 2004**

‘261 First reports under s 248(1)

‘The first reports prepared under section 248(1)⁶ are due by 31 October 2005 and must relate to the period starting on the day section 248 commences and ending on 30 June 2005.’.

20 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘**“CDCRC”** means the Child Death Case Review Committee established under the *Commission for Children and Young People and Child Guardian Act 2000*, part 4A, division 1.

“woman” includes any female.’.

**PART 4—AMENDMENT OF CHILDREN SERVICES
TRIBUNAL ACT 2000**

21 Act amended in pt 4

This part amends the *Children Services Tribunal Act 2000*.

22 Amendment of s 7 (Principles underlying this Act)

(1) Section 7, heading—

omit, insert—

‘7 Principles for administering this Act’.

(2) Section 7, from ‘The following’ to ‘child’s age and maturity;’—

6 Section 248 (Annual reporting about child protection matters)

omit, insert—

‘(1) This Act is to be administered under the principle that the welfare and best interests of a child are paramount.

‘(2) Subject to subsection (1), this Act is also to be administered under the following principles—

- (a) in decisions involving a child, the child’s views and wishes should be taken into account in a way that has regard to the child’s age and ability to understand;’.

23 Amendment of s 57 (Reviewable decisions)

Section 57(1), ‘those Acts’—

omit, insert—

‘Acts’.

24 Amendment of s 58 (How to start a review)

Section 58(3)—

omit, insert—

‘(3) The review application must be filed—

- (a) within 28 days after the applicant receives notice of the reviewable decision; or
- (b) if the applicant is the commissioner—within 28 days after the commissioner gives notice, under the *Commission for Children and Young People and Child Guardian Act 2000*, section 140B(4),⁷ to the chief executive (child safety) about the reviewable decision.’.

25 Amendment of s 60 (Registrar to give notice of review application)

(1) After section 60(2)—

insert—

⁷ *Commission for Children and Young People and Child Guardian Act 2000*, section 140B (Commissioner may apply for review of reviewable decision)

‘(2A) The tribunal may shorten the period for giving the decision maker’s notice to the registrar.

‘(2B) The tribunal may act under subsection (3) only if satisfied that not to do so will result in a child’s interests being adversely affected or another party to the review suffering hardship.’.

(2) Section 60(5)(b), ‘within 7 days of receipt of the notice’—

omit, insert—

‘and the period within which the notice of election must be filed under section 62’.

(3) Section 60(2A) to (5)—

renumber as section 60(3) to (7).

26 Amendment of s 62 (Certain persons may elect to become parties)

(1) Section 62(1), ‘section 60(4)’—

omit, insert—

‘section 60(6)’.

(2) Section 62—

insert—

‘(4) The tribunal may shorten the period for filing the notice of election.

‘(5) The tribunal may act under subsection (4) only if satisfied that not to do so will result in a child’s interests being adversely affected or another party to the review suffering hardship.’.

27 Amendment of s 70 (Stay of reviewable decision’s operation)

Section 70(3)(a), ‘section 7(a)(i);⁸’—

omit, insert—

‘section 7(1);⁸’.

8 Section 7(1)—

(1) This Act is to be administered under the principle that the welfare and best interests of a child are paramount.

28 Amendment of s 73 (President or presiding member may constitute tribunal for ss 74, 75 and 76)

(1) Section 73, heading, ‘ss 74, 75 and 76’—

omit, insert—

‘**exercising particular powers**’.

(2) Section 73(2), after ‘sections’—

insert—

‘60, 62.’.

29 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definition “commissioner”—

omit.

(2) Schedule 2—

insert—

‘ **“chief executive (child safety)”** means the chief executive of the department in which the *Child Protection Act 1999* is administered.

“commission” means the Commission for Children and Young People and Child Guardian established under the *Commission for Children and Young People and Child Guardian Act 2000*, section 12.

“commissioner” means the Commissioner for Children and Young People and Child Guardian established under the *Commission for Children and Young People and Child Guardian Act 2000*.’.

PART 5—AMENDMENT OF COMMISSION FOR CHILDREN AND YOUNG PEOPLE ACT 2000

30 Act amended in pt 5

This part and schedule 1 amend the *Commission for Children and Young People Act 2000*.

31 Amendment of title

Title, after ‘**People**’—

insert—

‘**and Child Guardian**’.

32 Amendment of s 1 (Short title)

Section 1, after ‘*People*’—

insert—

‘*and Child Guardian*’.

33 Insertion of new s 4A

Part 1, division 1, after section 4—

insert—

‘4A Notes in text

‘A note in the text of this Act is part of this Act.’.

34 Amendment of s 5 (Object of Act)

Section 5, after ‘Young People’—

insert—

‘and Child Guardian’.

35 Amendment of s 6 (Principles underlying this Act)

(1) Section 6, heading—

omit, insert—

‘6 Principles for administering this Act’.

(2) Section 6(1)(b)—

omit, insert—

‘(b) in decisions involving a child, the child’s views and wishes should be taken into account in a way that has regard to the child’s age and ability to understand;’.

(4) Section 6(2)—

omit.

(5) Section 6(1), ‘(1) The following principles underlie this Act—’—

omit, insert—

‘(1) This Act is to be administered under the principle that the welfare and best interests of a child are paramount.

‘(2) Subject to subsection (1), this Act is also to be administered under the following principles—’.

36 Insertion of new s 7A

Part 1, division 2, after section 7—

insert—

‘7A Scope of Act relating to children in the child safety system

‘To remove any doubt, it is declared that this Act applies to matters relating to children in the child safety system even if the children are no longer in the child safety system when the matters are dealt with under this Act.

Examples—

1. Under section 15(1)(c), the commissioner may review a particular service provider’s handling of cases of children in the child safety system, even though some of the children are no longer in the child safety system at the time of the review.
2. Under section 32(a), a complaint may be made about a service provided to a child in the child safety system, even though the child is no longer in the child safety system when the complaint is made.’.

37 Insertion of new pt 1, div 4

Part 1, after division 3—

insert—

‘Division 4—Children in the child safety system**‘11A When is a child “in the child safety system”**

‘(1) A child starts being “in the child safety system” if the chief executive (child safety) becomes aware (whether because of receiving a notification or otherwise) of alleged harm or alleged risk of harm to the child.

‘(2) A child stops being “in the child safety system” if—

- (a) the chief executive (child safety) decides there is no ground for forming a reasonable suspicion that the child is in need of protection; or
- (b) otherwise—
 - (i) the child is not the subject of an order under the *Child Protection Act 1999*; and
 - (ii) the chief executive (child safety) decides not to take action, or further action, relating to the child.’.

38 Replacement of pt 2, hdg (Commissioner and Commission for Children and Young People)

Part 2, heading—

omit, insert—

‘PART 2—COMMISSIONER, ASSISTANT COMMISSIONER AND COMMISSION’.**39 Replacement of s 12 (Establishment of commissioner and commission)**

Section 12—

omit, insert—

‘12 Establishment of commissioner, assistant commissioner and commission

‘(1) There is to be a Commissioner for Children and Young People and Child Guardian.

‘(2) There is to be an Assistant Commissioner.

‘(3) A commission called the ‘Commission for Children and Young People and Child Guardian’ is established.

‘(4) The commission consists of the commissioner, the assistant commissioner and the staff of the commission.’.

40 Amendment of s 15 (Commissioner’s functions)

(1) Section 15—

insert—

‘(ba) to monitor, audit and review—

- (i) the handling of cases of children in the child safety system by the child safety department and other service providers; and
- (ii) the systems, policies and practices of the child safety department and other service providers that affect children in the child safety system;

Note—

Part 2A includes powers of the commissioner that may be exercised to perform the functions under this paragraph. The powers may be exercised only in relation to the service providers specified in section 31B.

- (bb) to investigate matters relating to services provided to children in the child safety system;
- (bc) to seek to resolve, with the chief executive (child safety), disputes about reviewable decisions under part 7A;
- (bd) to monitor compliance by the chief executive (child safety) with the *Child Protection Act 1999*, section 83;⁹.

(2) Section 15(k)—

omit, insert—

- ‘(k) to administer a community visitor program;
- (ka) to record, analyse, research and report on information about child deaths;’.

⁹ *Child Protection Act 1999*, section 83 (Additional provisions for placing Aboriginal and Torres Strait Islander children in care)

(3) Section 15(ba) to (o)—
renumber as section 15(c) to (t).

(4) Section 15—
insert—

‘(2) The commissioner’s “**child guardian functions**” are—

- (a) the functions under subsection (1)(c) to (f); and
- (b) the other functions, so far as they relate to children in the child safety system.

‘(3) The commissioner’s “**monitoring functions**” are the functions under subsection (1)(c) and (f).’.

41 Insertion of new s 15A

After section 15—
insert—

‘15A Role of assistant commissioner

‘The assistant commissioner is responsible to the commissioner for the proper performance of the commissioner’s child guardian functions.’.

42 Amendment of s 16 (Commissioner’s powers)

Section 16, after ‘functions’—
insert—

‘, including the powers under parts 2A and 3¹⁰’.

43 Insertion of new s 16A

After section 16—
insert—

10 Parts 2A (Powers and obligations relating to the commissioner’s monitoring functions) and 3 (Complaints and investigations)

‘16A Assistant commissioner’s powers

‘(1) The assistant commissioner has the powers of the commissioner under this Act that are necessary or convenient to perform the assistant commissioner’s role.

‘(2) For subsection (1), a provision of this Act about a power of the commissioner applies, with necessary changes, as if a reference to the commissioner were a reference to the assistant commissioner.

‘(3) The assistant commissioner is subject to the directions of the commissioner in the exercise of the powers.’.

44 Amendment of s 18 (Way in which commissioner is to perform commissioner’s functions)

Section 18—

insert—

‘(2) Also, in performing the commissioner’s monitoring functions, the commissioner must—

- (a) to the greatest extent practicable—
 - (i) work cooperatively with service providers; and
 - (ii) help build their capacity to meet the needs of children in the child safety system; and

Example for subparagraph (ii)—

The commissioner may prepare, and issue to service providers, guidelines about systems, policies or practices affecting children in the child safety system.

- (b) exercise the commissioner’s powers in relation to service providers in a way that is fair and reasonable, having regard to—
 - (i) their capacity, and the resources available to them, to comply with requests or requirements made by the commissioner; and
 - (ii) for a service provider holding a licence to provide care services under the *Child Protection Act 1999*—its licence conditions and other requirements applying to it under that Act; and
- (c) respect and promote the role of Aboriginal and Torres Strait Islander service providers in supporting Aboriginal and Torres

Strait Islander families and communities to care for their children; and

- (d) to the greatest extent practicable, enter into arrangements with service providers to facilitate the performance by the commissioner of the functions.

Example for paragraph (d)—

The commissioner may agree with a service provider on a plan for how the commissioner will perform the commissioner's monitoring functions in relation to the service provider over the following year.

'(3) Subsection (2) does not limit the commissioner's powers under this Act.'

45 Amendment of s 20 (Referral of matters or offences to other persons)

(1) Section 20(4)—

renumber as section 20(5).

(2) Section 20—

insert—

'(4) A reference in subsection (2)(b) to a child who is, or may be, the victim of a criminal offence includes a child who was, or may have been, the victim of a criminal offence and who has died.'

46 Insertion of new pt 2, div 3A

Part 2, after division 3—

insert—

'Division 3A—Appointment of assistant commissioner

'28A Appointment of assistant commissioner

'(1) The assistant commissioner is to be appointed by the Governor in Council.

'(2) Division 3 applies, with necessary changes, in relation to the assistant commissioner as if—

- (a) a reference to the commissioner were a reference to the assistant commissioner; and
- (b) a reference to the commissioner's duties were a reference to the assistant commissioner's role.

‘(3) Without limiting the application of section 21(2) in relation to the assistant commissioner, a person is eligible for appointment as the assistant commissioner only if the person has knowledge of laws and practice relating to child protection.’.

47 Insertion of new pt 2A

After part 2—

insert—

‘PART 2A—POWERS AND OBLIGATIONS RELATING TO THE COMMISSIONER’S MONITORING FUNCTIONS

‘Division 1—Operation of part 2A

‘31A Powers relate to monitoring functions

‘The powers under this part may be exercised only to perform the commissioner’s monitoring functions.

‘31B Service providers to which this part applies

‘This part applies only to the following service providers (“**relevant service providers**”)—

- (a) the child safety department;
- (b) a service provider holding a licence to provide care services under the *Child Protection Act 1999* (a “**licensee**”).

*‘Division 2—Powers and obligations***‘31C Power to require information or documents**

‘(1) The commissioner may give a written notice to a relevant service provider requiring the service provider to give the commissioner, within a stated reasonable time—

- (a) information about a stated matter; or
- (b) a stated document, or documents of a stated class, in the service provider’s possession or control; or
- (c) a copy of a document, or copies of documents, mentioned in paragraph (b).

‘(2) A requirement may, for example, relate to—

- (a) information, or a file containing information, about the service provider’s provision of care to a particular child; or
- (b) information about the service provider’s internal complaints management system; or
- (c) information that the commissioner reasonably needs to implement a plan for monitoring the service provider’s operations.

‘(3) The notice must state the purpose for making the requirement.

‘(4) The notice must state the way (the **“stated way”**) in which—

- (a) for a notice given to the child safety department—the information or documents must be given; or
- (b) for a notice given to a licensee—the commissioner seeks to have the information or documents given.

Examples of stated ways—

1. Sending the commissioner an electronic copy of a document.
2. Allowing the commissioner to enter the service provider’s premises and access information or documents.

‘(5) Subject to subsection (6), the service provider must comply with the notice.

Note—

Sections 31E and 31I provide for action the commissioner may take if the commissioner considers a service provider has not complied with a notice under this section.

‘(6) If the notice is given to a licensee—

- (a) the licensee is required to give the information or documents by the stated time but is not required to give them in the stated way; and
- (b) the notice must state the matters mentioned in paragraph (a).

Example for paragraph (a)—

If the stated way includes allowing the commissioner entry to the licensee’s premises, the licensee is not required to allow the entry. But if the licensee does not allow the entry, the licensee must give the information or documents in another way by the stated time.

‘31D Access to documents of the child safety department

‘(1) This section applies to a notice under section 31C given to the child safety department.

‘(2) The stated way under section 31C(4) must be—

- (a) reasonably necessary for achieving the stated purpose for making the requirement; and
- (b) reasonable, having regard to the matters stated in section 18(2)

Example—

A notice requires the child safety department to give particular documents to the commissioner. The stated purpose for making the requirement is to audit the department’s responses to notifications about suspected harm or risk of harm to children placed in the care of approved foster carers. The stated way in which the documents must be given is by allowing the commissioner to enter stated premises of the child safety department at a stated reasonable time to access the documents.

‘31E Help to obtain information or documents from a licensee

‘(1) This section applies if the commissioner considers a licensee has not complied with a notice under section 31C.

‘(2) The commissioner may ask the chief executive (child safety) to take action, within a stated time, to facilitate access to the information or documents sought under the notice.

‘(3) The chief executive (child safety) may, for example, facilitate access by obtaining a document under the *Child Protection Act 1999*, or under an agreement with the licensee, and giving it to the commissioner.

‘(4) The stated time for taking the action must be reasonable, having regard to the matters stated in section 18(2).

‘(5) The chief executive (child safety) must comply with the request.

‘(6) The chief executive (child safety) must keep the commissioner informed of progress in facilitating the access, including by giving information about any delays or any inability to facilitate the access.

‘31F Periodic reporting

‘A relevant service provider must give to the commissioner, at the times and in the way prescribed under a regulation, the information prescribed under a regulation about its systems, policies or practices affecting children in the child safety system.

‘31G Review of service

‘(1) This section applies if the commissioner—

- (a) has a particular concern about—
 - (i) a relevant service provider’s handling of cases of children in the child safety system; or
 - (ii) a relevant service provider’s systems, policies or practices affecting children in the child safety system; and
- (b) considers it would be appropriate, having regard to the matters stated in section 18(2), to exercise a power under this section to address the concern.

‘(2) The commissioner may require the service provider to—

- (a) undertake a review of its handling of the cases or of the systems, policies or practices; and
- (b) give the commissioner a report about the review.

‘(3) The commissioner may—

- (a) require the service provider to stop carrying out a review mentioned in subsection (2)(a); and

- (b) assume responsibility from the service provider for the review; and
- (c) require the service provider to give the commissioner reasonable help to complete the review.

‘(4) The service provider must comply with a requirement under this section.

‘(5) For a relevant service provider that is a licensee, the commissioner—

- (a) must inform the chief executive (child safety) before requiring the service provider to undertake a review; and
- (b) may ask the chief executive (child safety) to help the service provider undertake the review; and
- (c) must give the chief executive (child safety) a copy of the report about the review.

‘31H Recommendations

‘The commissioner may make recommendations to a relevant service provider about matters arising from the commissioner’s performance of the monitoring functions in relation to the service provider.

‘31I Report to Minister about noncompliance

‘(1) This section applies if the commissioner considers a relevant service provider has—

- (a) contravened a provision of this division; or
- (b) failed to take appropriate action in response to a recommendation made under section 31H.

‘(2) The commissioner may give a report to the Minister responsible for the child safety department.

‘31J Noncompliance not an offence

‘A person does not commit an offence only by failing to comply with this division.’

48 Amendment of pt 3, hdg (Complaints)

Part 3, heading, after ‘COMPLAINTS’—

insert—

‘AND INVESTIGATIONS’.

49 Insertion of new pt 3, div 1AA

Part 3, before division 1—

insert—

‘Division 1AA—Preliminary

‘31K Operation of pt 3

‘(1) This part provides a process for making and resolving complaints about certain matters.

‘(2) The commissioner may undertake an investigation to deal with a complaint.

‘(3) Also, the commissioner may undertake an investigation, apart from the process for dealing with a complaint, relating to a service provided, or required to be provided, to a child in the child safety system.’.

50 Amendment of s 32 (Subject matter of complaints)

(1) Section 32(a) and (b)—

omit, insert—

‘(a) while the child is in the child safety system; or’.

(2) Section 32(c) to (e)—

renumber as section 32(b) to (d).

51 Replacement of pt 3, div 3, hdg (Investigating complaints)

Part 3, division 3, heading—

omit, insert—

‘Division 3—Investigations’.

52 Amendment of s 41 (Commissioner may investigate complaint)

Section 41, heading—

omit, insert—

‘41 Investigation of complaint’.**53 Amendment of s 42 (Notice to service provider)**

(1) Section 42, heading—

omit.

(2) Section 42(1) and (2)—

renumber and relocate as section 41(2) and (3).

54 Insertion of new s 42

Part 3, division 3, subdivision 1, after section 41—

insert—

‘42 Other investigations

‘(1) The commissioner may investigate a matter relating to a service provided, or required to be provided, to a child in the child safety system if the commissioner believes—

- (a) the rights, interests or wellbeing of a child or children may be seriously affected if the investigation is not conducted; or
- (b) the matter raises issues of public interest; or
- (c) the matter raises a significant issue about a law, policy or practice underlying the service, or about the need for a law, policy or practice to underlie the service.

‘(2) Subsection (1) applies whether or not a complaint has been received about the matter.

‘(3) The commissioner may make reasonably necessary inquiries to decide whether to investigate a matter.

‘(4) Before exercising powers under this part for an investigation under this section, the commissioner must give a written notice to the service provider to whom the investigation relates.

‘(5) The notice must state the following—

- (a) the investigation that the commissioner is conducting or proposing to conduct;
- (b) the subject matter of the investigation;
- (c) in general terms, the powers that the commissioner may exercise under this part for the investigation.’.

55 Amendment of s 43 (Access to child)

(1) Section 43(1)(c)—

renumber as section 43(1)(d).

(2) Section 43(1)—

insert—

- ‘(c) a child, to whom an investigation relates, who is or was in the child safety system; or’.

(3) Section 43(5), ‘(a) and (c)’—

omit, insert—

‘(a), (c) and (d)’.

56 Amendment of s 56 (Ending an investigation in child’s best interests)

(1) Section 56(1)—

omit, insert—

‘(1) The commissioner may stop an investigation if the commissioner is satisfied it would not be in the best interests of a child or children to whom the investigation relates to continue it.’.

(2) Section 56(2), ‘the complaint’—

omit, insert—

‘a complaint’.

57 Amendment of s 57 (Notice of investigation result)

Section 57, heading, after ‘of’—

insert—

‘**complaint**’.

58 Amendment of s 58 (Report after investigation)

(1) Section 58(2), ‘The report may recommend that a service provider (whether or not the service provider to which the complaint relates)’—

omit, insert—

‘A report under subsection (1) or (2) may recommend that a service provider (whether or not a service provider to which a complaint relates)’.

(2) Section 58(3), ‘subsection (2)’—

omit, insert—

‘subsection (3)’.

(3) Section 58(2) and (3)—

renumber as section 58(3) and (4).

(4) Section 58—

insert—

‘(2) As soon as practicable after completing an investigation other than an investigation of a complaint, or ending it under section 56, the commissioner must prepare a written report and give a copy to—

- (a) the chief executive (child safety); and
- (b) if the report relates to the delivery of services to children by a service provider other than the child safety department—the service provider; and
- (c) if the commissioner considers it appropriate—the Minister responsible for a subject matter of the investigation.’.

59 Replacement of s 64 (Purpose of pt 4)

Section 64—

omit, insert—

‘64 Purpose of pt 4

‘The purpose of this part is to provide for community visitors to promote and protect the rights, interests and wellbeing of the following children—

- (a) a child residing at a residential facility or detention centre, or at an authorised mental health service under the *Mental Health Act 2000*;
- (b) a child in the custody or guardianship of the chief executive (child safety) under the *Child Protection Act 1999* who, under section 82 of that Act, has been placed in the care of an approved foster carer or someone else other than a parent of the child;
- (c) a child who, under an agreement entered into by the chief executive (child safety) and a parent of the child, has been placed in the care of someone other than a parent of the child.

‘64A Meaning of “visitable site”

‘A “visitable site” is a place mentioned in section 64(a).

‘64B Meaning of “visitable home”

‘A “visitable home” is a home in which a child mentioned in section 64(b) or (c) is residing.’.

60 Amendment of pt 4, div 2, hdg (Visits to visitable sites)

Part 4, division 2, heading, after ‘*sites*’—

insert—

‘*and homes*’.

61 Amendment of s 65 (Commissioner must arrange regular and frequent visits)

Section 65, after ‘site’—

insert—

‘and each visitable home’.

62 Amendment of s 66 (Requirement to visit or communicate if asked)

Section 66, heading, after ‘visit’—

insert—

‘visitable site’.

63 Insertion of new s 66A

After section 66—

insert—

‘66A Requirement to visit visitable home or communicate if asked

‘(1) A child residing in a visitable home may—

- (a) ask the commissioner to arrange for a community visitor to visit the home to perform the functions of a community visitor; or
- (b) ask a carer of the child to arrange for a community visitor to visit the home to perform the functions of a community visitor; or
- (c) inform a carer of the child that the child wishes to communicate with a stated community visitor.

‘(2) If subsection (1)(b) applies, the carer must tell the commissioner about the request as soon as possible.

‘(3) If subsection (1)(c) applies, the carer must take reasonable steps to inform the community visitor as soon as possible.

‘(4) A community visitor must comply with a request to visit a visitable home, or communicate with a child residing at a visitable home, as soon as practicable after being informed of the request.

‘(5) A person does not commit an offence only by failing to comply with subsection (2), (3) or (4).’.

64 Amendment of s 67 (Report after each visit)

(1) Section 67(1), after ‘site’—

insert—

‘or visitable home’.

(2) Section 67(2), ‘copy of the report’—

omit, insert—

‘copy of a report about a visit to a visitable site’.

(3) Section 67(2)(f), ‘and who asks for the copy or information’—

omit.

(4) Section 67(3), ‘subsection (2)’—

omit, insert—

‘subsection (2) or (3)’.

(5) Section 67(3)—

renumber as section 67(4).

(6) Section 67—

insert—

‘(3) So far as the commissioner considers appropriate, the commissioner may give a copy of a report about a visit to a visitable home, or information from the report, to any of the following entities—

- (a) the chief executive (child safety);
- (b) the chief executive of a department responsible for providing services to the child who is a subject of the report;
- (c) a carer of the child;
- (d) a service provider, holding a licence to provide care services under the *Child Protection Act 1999*, involved in the placement of the child in the home;
- (e) the child.’.

65 Amendment of s 68 (Functions)

(1) Section 68(1), after ‘sites’ (first mention)—

insert—

‘and visitable homes’.

(2) Section 68(1)(e) to (i)—

omit, insert—

- ‘(e) to assess the physical and emotional wellbeing of the children;
- (f) for visitable sites—

- (i) to inspect the sites and assess their appropriateness for the accommodation of the children or the delivery of services to them, having regard to relevant State and Commonwealth laws, policies and standards; and
 - (ii) to observe the treatment of the children, including the extent to which their needs are met by staff of the sites; and
 - (iii) to assess the morale of the staff of the sites; and
 - (iv) for detention centres—to assess whether the programs for the release of children subject to detention orders adequately and appropriately prepare them for release;
- (g) for visitable homes—
- (i) to assess their appropriateness for the accommodation of the children; and
 - (ii) to observe the treatment of the children, including the extent to which their needs are met by persons caring for them at the homes.’.

66 Amendment of pt 4, div 3, sdiv 2, hdg (Power of entry to visitable sites)

Part 4, division 3, subdivision 2, heading, after ‘*sites*’—
insert—
‘and visitable homes’.

67 Amendment of s 69 (Power of entry)

Section 69(2)—
omit, insert—

- ‘(2) A community visitor may enter a visitable home if—
- (a) a carer residing in the home consents to the entry; or
 - (b) the entry is authorised by a warrant.

‘(3) For the purpose of asking a person who is in charge of a visitable site, or who is a carer residing in a visitable home, for consent to enter, a community visitor may, without the person’s consent or a warrant—

- (a) enter land around the site or home to an extent that is reasonable to contact the person; or
- (b) enter part of the site or home the community visitor reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the person.’.

68 Amendment of s 70 (Consent to entry)

(1) Section 70(1)—

omit, insert—

‘(1) This section applies if a community visitor intends to ask a person who is in charge of a visitable site, or who is a carer residing in a visitable home, to consent to the community visitor entering the site or home under section 69(1)(a) or (2)(a).’.

(2) Section 70(6)—

omit, insert—

‘(6) If—

- (a) an issue arises in a proceeding about whether a person who was in charge of a visitable site, or who was a carer residing in a visitable home, consented to the entry; and
- (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove a person mentioned in paragraph (a) consented.’.

69 Amendment of s 71 (Application for warrant)

Section 71(1), after ‘site’—

insert—

‘or visitable home’.

70 Amendment of s 72 (Issue of warrant)

(1) Section 72(1), ‘site’—

omit, insert—

‘visitable site or visitable home’.

(2) Section 72(2)(a)(i), ‘visitable site’—

omit, insert—

‘site or home’.

(3) Section 72(2)(b), after ‘site’—

insert—

‘or home’.

71 Replacement of s 73 (Warrants—procedure before entry)

Section 73—

omit, insert—

‘73 Warrants—procedure before entry

‘(1) This section applies if a community visitor named in a warrant issued under this subdivision for a visitable site or visitable home is intending to enter the site or home under the warrant.

‘(2) Before entering the site or home, the community visitor must do or make a reasonable attempt to do the following things—

- (a) identify himself or herself to a person who is in charge of the visitable site, or who is a carer residing in the visitable home, by producing the community visitor’s identity card or another document evidencing the community visitor’s appointment;
- (b) give the person a copy of the warrant;
- (c) tell the person the community visitor is permitted by the warrant to enter the site or home;
- (d) give the person an opportunity to allow the community visitor immediate entry to the site or home without using force.’.

72 Amendment of s 74 (Related powers)

Section 74, heading, after ‘powers’—

insert—

‘for visitable sites’.

73 Amendment of s 75 (Powers in relation to staff of sites)

Section 75, heading, before ‘sites’—

insert—

‘**visitable**’.

74 Amendment of s 76 (Power to require documents to be produced)

Section 76, heading—

omit, insert—

‘76 Power to require staff of visitable site to produce documents’.

75 Insertion of new s 76A

Part 4, division 3, subdivision 3, after section 76—

insert—

‘76A Powers relating to visitable homes

‘(1) After entering a visitable home, a community visitor may do any of the following—

- (a) look around the home and assess its appropriateness for the accommodation of the relevant child;
- (b) have access to the relevant child;
- (c) talk with the relevant child at an appropriate place out of the hearing of other persons at the home;
- (d) require a carer residing in the home to give the visitor reasonable help to exercise the visitor’s powers under paragraphs (a) to (c).

‘(2) An appropriate place under subsection (1)(c) may be a place away from the visitable home (for example, a local park) where the child has asked to talk.

‘(3) A person must comply with a requirement under subsection (1)(d).

‘(4) A person does not commit an offence only by failing to comply with a requirement under subsection (1)(d).

‘(5) In this section—

“relevant child” means a child mentioned in section 64(b) or (c) residing at the home.’.

76 Amendment of s 77 (Child's views and wishes)

(1) Section 77(1)—

insert—

‘(c) including information about the child in a report to the commissioner under section 67(1).’.

(2) Section 77(2) and (3)—

renumber as section 77(3) and (4).

(3) Section 77—

insert—

‘(2) To the greatest extent practicable, a community visitor must seek, and take into account, the views and wishes of a child residing at a visitable home before—

- (a) asking a carer or someone else at the home a question about the child; or
- (b) including information about the child in a report to the commissioner under section 67(1).’.

77 Amendment of s 78 (Community visitor to respect privacy of children residing at a site)

(1) Section 78, heading, ‘**of children residing at a site**’—

omit.

(2) Section 78—

insert—

‘(2) In exercising a power or performing a function in relation to a visitable home, a community visitor must act in a way that—

- (a) preserves, as far as practicable, the privacy of persons residing at the home and does not cause them unnecessary inconvenience; and
- (b) respects the wishes of any of the children residing in the home who does not wish to communicate with the visitor.’.

78 Amendment of s 81 (Appointment)

Section 81(5)—

insert—

‘(d) an approved foster carer.’.

79 Omission of s 89 (Annual report by commissioner)

Section 89—

*omit.***80 Insertion of new pt 4A**

After part 4—

*insert—***‘PART 4A—CHILD DEATHS*****‘Division 1—Child Death Case Review Committee******‘Subdivision 1—Preliminary*****‘89A Definitions for div 1**

‘In this division—

“appointed members” see section 89F(1)(c).**“CDCRC”** see section 89B.**“CDCRC member”** means a person mentioned in section 89F(1)(a) or (b) or an appointed member.**“original reviews”** means reviews carried out under the *Child Protection Act 1999*, chapter 7A¹¹ by the chief executive (child safety).11 *Child Protection Act 1999*, chapter 7A (Child deaths)

“policies” includes guidelines, procedures, protocols, standards and systems.

“review criteria” see section 89S.

‘Subdivision 2—Establishment and functions

‘89B Establishment

‘The Child Death Case Review Committee (the “CDCRC”) is established.

‘89C Functions

‘The CDCRC’s functions are—

- (a) to review all reviews carried out under the *Child Protection Act 1999*, chapter 7A; and
- (b) in relation to matters arising out of its reviews under paragraph (a), to make recommendations to the chief executive (child safety) about—
 - (i) improving the child safety department’s policies relating to the delivery of services to children and families; and
 - (ii) improving the relationships between the child safety department and other entities whose functions include having involvement with children and families; and
 - (iii) whether disciplinary action should be taken against officers or employees of the child safety department in relation to the child safety department’s involvement with a child; and
- (c) to monitor the implementation of its recommendations under paragraph (b); and
- (d) if asked by the Minister, to give the Minister information about particular reviews, or classes or reviews, carried out under this part.

‘89D CDCRC must act independently

‘In performing the CDCRC’s functions under this part, the CDCRC—

- (a) must act independently; and
- (b) is not under the control or direction of any other entity, including the Minister and the commissioner, in relation to the way it performs its functions.

‘89E CDCRC may use expert advisors

‘In performing its functions, the CDCRC may obtain help from anyone whom the CDCRC considers to be appropriately qualified to help.

Example of when CDCRC may decide to obtain help—

The CDCRC may be reviewing the chief executive (child safety’s) review about a child who has died and whose mother has an intellectual disability. It may decide to obtain help from a person with expert knowledge of delivering services to persons with intellectual disabilities. The person’s expert knowledge may help the CDCRC to evaluate an assessment in the chief executive (child safety’s) review about the adequacy and appropriateness of the child safety department’s involvement with the child.

‘Subdivision 3—Membership

‘89F Membership

‘(1) The CDCRC consists of—

- (a) the commissioner; and
- (b) the assistant commissioner; and
- (c) not less than 5, and not more than 7, members appointed by the Minister (“**appointed members**”).

‘(2) A person is eligible for appointment as an appointed member only if the Minister is satisfied—

- (a) the person—
 - (i) has expertise in the field of paediatrics and child health, forensic pathology, mental health, investigations or child protection; or
 - (ii) is otherwise, because of the person’s qualifications, experience or membership of an entity, likely to make a valuable contribution to the CDCRC; and
- (b) the person is otherwise suitable for appointment to the CDCRC.

‘(3) Without limiting the matters to which the Minister may have regard in deciding whether a person is otherwise suitable for appointment, the Minister—

- (a) must not appoint a person if the person does not consent to a criminal history check before appointment; and
- (b) may have regard to the person’s criminal history.

‘(4) The members of the CDCRC must include at least—

- (a) 1 Aboriginal person; and
- (b) 1 Torres Strait Islander.

‘89G Provision relating to appointment of State Coroner as appointed member

‘(1) If the Minister proposes to appoint the State Coroner as an appointed member—

- (a) the State Coroner is not required to consent under section 89F(3)(a) to a criminal history check before appointment; and
- (b) section 89F(3)(b) does not apply to the Minister’s consideration of the State Coroner’s suitability for appointment.

‘(2) Subsections (3) to (5) apply if the State Coroner is an appointed member.

‘(3) The State Coroner may, by written notice given to the chairperson of the CDCRC, nominate a person to act as the State Coroner’s deputy in relation to the CDCRC.

‘(4) Subject to the terms of the notice, the deputy may act for the State Coroner as a CDCRC member at any time.

‘(5) While the deputy is acting—

- (a) the deputy has all the functions and powers of a CDCRC member; and
- (b) this Act applies to the deputy as if the deputy were a CDCRC member.

‘89H Minister may obtain report from police commissioner

‘(1) This section applies to—

(a) a person who—

(i) the Minister proposes to appoint as a member of the CDCRC; and

(ii) has consented to a criminal history check under section 89F; or

(b) a person who is an appointed member.

‘(2) However, this section does not apply if the person is the State Coroner.

‘(3) The Minister may ask the police commissioner to give the commissioner the following information about the person—

(a) a written report about the person’s criminal history;

(b) a brief description of the circumstances of a conviction or charge mentioned in the person’s criminal history.

‘(4) Subject to subsection (5), the police commissioner must comply with the request.

‘(5) The duty imposed on the police commissioner to comply with the request applies only to information in the police commissioner’s possession or to which the police commissioner has access.

‘(6) The Minister must destroy a report given to the Minister under this section as soon as practicable after it is no longer needed for the purpose for which it was requested.

**‘89I Application of Criminal Law (Rehabilitation of Offenders)
Act 1986**

‘Sections 89F(3) and 89H apply to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

‘89J Conditions of appointment

‘(1) An appointed member holds office for the term, not more than 3 years, stated in the member’s instrument of appointment.

‘(2) An appointed member is appointed on a part-time basis only.

‘(3) An appointed member is entitled to the fees and allowances fixed by the Minister, and otherwise holds office under the conditions of appointment fixed by the Minister.

‘89K Vacation of office of appointed member

‘The office of an appointed member becomes vacant if the appointed member—

- (a) resigns office by signed notice given to the Minister; or
- (b) is removed from office as a member under section 89L.

‘89L Removal from office of appointed members

‘(1) The Minister may remove an appointed member from office if—

- (a) the member is mentally or physically incapable of performing the member’s duties; or
- (b) the Minister is satisfied the member has neglected the member’s duties or performed the member’s duties incompetently or inefficiently; or
- (c) the member is otherwise unsuitable to continue as a member; or
- (d) for a member appointed because of the member’s membership of an entity—the member ceases to be a member of the entity.

‘(2) However, subsection (1) does not apply to an appointed member who is the State Coroner.

‘Subdivision 4—Chairperson

‘89M Chairperson

‘(1) The commissioner is chairperson of the CDCRC.

‘(2) The chairperson is to preside at all meetings of the CDCRC at which the chairperson is present.

‘(3) If the chairperson is not present at a meeting of the CDCRC, a CDCRC member chosen by the members present at the meeting is to preside.

‘Subdivision 5—Conduct of business

‘89N Quorum

‘(1) A quorum for the CDCRC is the number equal to one-half of the number of CDCRC members for the time being holding office or, if one-half is not a whole number, the next higher whole number.

‘(2) However, if the review being carried out by the CDCRC concerns—

- (a) an Aboriginal child, there is not a quorum unless at least 1 CDCRC member present is an Aboriginal person; or
- (b) a Torres Strait Islander child, there is not a quorum unless at least 1 CDCRC member present is a Torres Strait Islander.

‘89O Conduct of meetings

‘(1) A question at a CDCRC meeting is decided by a majority of the votes of the CDCRC members present.

‘(2) Each CDCRC member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding also has a casting vote.

‘89P Minutes

‘The CDCRC must keep minutes of its meetings.

‘89Q Disclosure of interests

‘(1) This section applies to a CDCRC member (the “**interested person**”) if—

- (a) the interested person has a direct or indirect interest in an issue being considered, or about to be considered, by the CDCRC; and
- (b) the interest could conflict with the proper performance of the person’s duties about the consideration of the issue.

‘(2) As soon as practicable after the relevant facts come to the interested person’s knowledge, the person must disclose the nature of the interest to a CDCRC meeting.

‘(3) Unless the CDCRC otherwise directs, the interested person must not—

- (a) be present when the CDCRC considers the issue; or
- (b) take part in a decision of the CDCRC about the issue.

‘(4) The interested person must not be present when the CDCRC is considering whether to give a direction under subsection (3).

‘(5) If there is another person who must, under subsection (2), also disclose an interest in the issue, the other person must not—

- (a) be present when the CDCRC is considering whether to give a direction under subsection (3) about the interested person; or
- (b) take part in making the decision about giving the direction.

‘(6) If—

- (a) because of this section, a CDCRC member is not present at a meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3); and
- (b) there would be a quorum if the member were present;

the remaining persons present are a quorum of the CDCRC for considering or deciding the issue, or for considering or deciding whether to give the direction, at the meeting.

‘(7) A disclosure under subsection (2) must be recorded—

- (a) in the CDCRC’s minutes; and
- (b) if the disclosure relates to a review being carried out by the CDCRC, in the report prepared under section 89T by the CDCRC about the review.

‘(8) Subsection (7)(b) is subject to section 89U(2).

‘89R Conduct of business

‘Subject to this division, the CDCRC may conduct its business, including meetings, in the way it considers appropriate.

‘Subdivision 6—Reviews and reports**‘89S Criteria to be used in carrying out review**

‘(1) The CDCRC must develop criteria (“**review criteria**”) to be used in carrying out its reviews of original reviews.

‘(2) In developing the review criteria, the CDCRC must consult the chief executive (child safety) and may consult other entities the CDCRC considers have a sufficient interest in the performance of its functions.

‘(3) The review criteria must be published in the gazette.

‘(4) The review criteria are a statutory instrument.

‘89T Carrying out review

‘(1) This section applies if the CDCRC is given a copy of a report of an original review under the *Child Protection Act 1999*, section 246D(2).¹²

‘(2) The CDCRC must review the original review using the review criteria, and prepare a report about its review, as soon as practicable but, in any case, so that it can comply with section 89U(1).

‘(3) For its review, the CDCRC may give a notice to the chief executive (child safety) requiring the chief executive (child safety) to give the CDCRC a supplementary report relating to the original review.

‘(4) Also, for its review, the CDCRC may have regard to a report that—

(a) is given, under the *Ombudsman Act 2000*, section 57B,¹³ to the CDCRC; and

(b) relates to the child whose involvement with the child safety department is the subject of the review

‘(5) Without limiting what the CDCRC’s report may contain, the report may recommend that the chief executive (child safety) take stated action within a stated time that is reasonable in the circumstances.

12 *Child Protection Act 1999*, section 246D (Report to be prepared and given to CDCRC)

13 *Ombudsman Act 2003*, section 57B (Report may be given to CDCRC)

‘89U CDCRC to give copy of its report to certain persons

‘(1) Within 3 months after being given the report of an original review, the CDCRC must give a copy of its report to—

- (a) the chief executive (child safety); and
- (b) the commissioner.

‘(2) The CDCRC’s report must not include any information identifying, or that is likely to lead to the identification of, any individual.

‘(3) However, the CDCRC may include with the copy of its report given to the chief executive (child safety) a separate document that allows the chief executive (child safety) to identify individuals mentioned in the report.

‘Subdivision 7—Recommendations**‘89V Request to chief executive (child safety)**

‘The CDCRC may ask the chief executive (child safety) to notify the CDCRC, within a reasonable stated time, of the steps taken to give effect to the recommendations contained in its report and, if no steps have been taken, the reasons for this.

‘89W CDCRC may give report to Minister in certain circumstances

‘(1) This section applies if the CDCRC, after considering the response of the chief executive (child safety) given under section 89V, considers that no steps have been taken to give effect to the CDCRC’s recommendations or the steps taken are inadequate or inappropriate.

‘(2) The CDCRC may report on the matter to the Minister and the Minister to whom the chief executive (child safety) is responsible.

‘(3) The CDCRC must attach the following to the report—

- (a) a copy of the CDCRC’s report on the review;
- (b) the response of the chief executive (child safety) under section 89V about the matter.

‘Subdivision 8—Other provisions**‘89X Confidentiality of information**

‘(1) This section applies to a person who gains confidential information because of, or an opportunity given by—

- (a) being a CDCRC member; or
- (b) being a person who is giving, or has given, help to the CDCRC under section 89E; or
- (c) providing administrative support to the CDCRC under section 89ZB.

‘(2) The person must not—

- (a) make a record of the information or intentionally disclose the information to anyone except—
 - (i) to the extent necessary to perform the person’s functions relating to the CDCRC; or
 - (ii) if the person is the State Coroner, to a coroner for use by the coroner to help in an investigation under the *Coroners Act 2003*; or
 - (iii) if the person is the State Coroner’s deputy under section 89G,¹⁴ to the State Coroner or to a coroner for use by the coroner to help in an investigation under the *Coroners Act 2003*; or
- (b) recklessly disclose the information to anyone.

Maximum penalty—100 penalty units.

‘89Y No liability for defamation if report made in good faith

‘It is a lawful excuse for the publication of any defamatory statement made in a report prepared by the CDCRC under this part that the publication is made in good faith and is, or purports to be, made for this Act or the *Child Protection Act 1999*.

14 Section 89G (Provision relating to appointment of State Coroner as appointed member)

‘89Z Information not to be given in evidence

‘(1) A relevant person is neither competent nor compellable—

- (a) to produce, in compliance with a requirement under an Act or legal process, any document in the person’s possession or under the person’s control created by, at the request of, or solely for the purpose of, the CDCRC; or
- (b) to divulge or communicate, in compliance with a requirement under an Act, or legal process, information that came to the person’s notice as a relevant person.

‘(2) Subsection (1) does not apply to a requirement made in proceedings about an act or omission by the relevant person or the CDCRC.

‘(3) In this section—

“**relevant person**” means a person who is, or was—

- (a) a CDCRC member; or
- (b) giving help to the CDCRC under section 89E; or
- (c) providing administrative support to the CDCRC under section 89ZB.

‘89ZA Annual report

‘(1) By 31 October in each year, the CDCRC must give to the Minister a report about the performance of the CDCRC’s functions during the previous financial year.

‘(2) The report must not include information that identifies, or is likely to identify, individuals referred to in reports under section 89T(2).

‘89ZB Administrative support for CDCRC

‘The commissioner must ensure the CDCRC has the administrative support services reasonably required for the CDCRC to carry out its functions effectively and efficiently.

‘Division 2—Commissioner’s functions relating to child deaths

‘89ZC Register

‘The commissioner must keep a register of child deaths in Queensland.

‘89ZD Access to information in the register for research purposes

‘(1) This section applies if a person wants access to information in the register to undertake research to help reduce the likelihood of child deaths.

‘(2) The person may access the information only with the commissioner’s consent.

‘(3) The commissioner may consent only if satisfied—

- (a) the person is a genuine researcher; and
- (b) the information is reasonably necessary for research mentioned in subsection (1).

‘(4) The commissioner must not give the person access to identifying information unless the commissioner reasonably believes—

- (a) the identifying information is necessary for the research to be effective; and
- (b) the opportunity for increased knowledge that may result from the research outweighs the need to protect the privacy of any living or dead person.

‘(5) The commissioner may impose conditions on the consent that the commissioner considers appropriate including, for example, a condition that the person must not disclose identifying information to anyone else or use the information other than for a stated purpose.

‘(6) The person must comply with any condition imposed on the consent, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(7) In this section—

“identifying information” means information that identifies an individual.

“genuine researcher” means—

- (a) a person authorised under the *Health Act 1937*, section 154M¹⁵ to conduct scientific research and studies for the purpose of reducing morbidity or mortality in Queensland; or
- (b) a member of an approved quality assurance committee under the *Health Services Act 1991*, part 4, division 2;¹⁶ or
- (c) another person who the commissioner considers is conducting genuine research.

‘89ZE Other functions relating to information about child deaths

‘The commissioner also has the following functions to help reduce the likelihood of child deaths—

- (a) in relation to the information about child deaths recorded in the register—
 - (i) to classify the deaths according to cause of death, demographic information and other relevant factors; and
 - (ii) to analyse the information to identify patterns or trends;
- (b) to conduct research, alone or in cooperation with other entities;
- (c) to identify areas for further research by the commissioner or other entities;
- (d) to make recommendations, arising from keeping the register and conducting research under this division, about laws, policies and practices.

‘89ZF Reports

‘(1) By 31 October in each year, the commissioner must prepare, and give to the Minister, a report about the following matters for the previous financial year—

- (a) the results of analysing information included in the register;
- (b) the commissioner’s activities relating to research about child deaths;

15 *Health Act 1937*, section 154M (Authority to conduct scientific research and studies)

16 *Health Services Act 1991*, part 4 (Teaching hospitals and quality assurance), division 2 (Quality assurance)

- (c) any persons given access to information in the register for research purposes;
- (d) recommendations the commissioner has made about laws, policies or practices;
- (e) the extent to which previous recommendations of the commissioner have been implemented.

‘(2) The commissioner may also prepare, and give to the Minister, other reports arising from the performance of the commissioner’s functions under section 89ZE.

‘(3) The commissioner must not include in a report any comments adverse to an entity identifiable from the report, unless the entity has been given a copy of the comments and given a reasonable opportunity to respond to them.

‘(4) If the entity gives the commissioner a written statement in response to the comments and asks that the statement be included in the report, the commissioner must include the statement in the report.

‘(5) However, the commissioner is not required by subsection (4) to include a statement so far as it contains information that the commissioner considers should not be publicly disclosed on the ground that—

- (a) disclosure of the information may adversely affect the outcome of an inquiry or investigation by a complaints agency or the police service, or an investigatory body established under a law of the Commonwealth; or
- (b) the information concerns a matter before a court.

‘(6) It is a lawful excuse for the publication of any defamatory statement made in a report that the publication is made in good faith and is, or purports to be, made for this Act.

‘(7) Within 14 sitting days after receiving a report under this section, the Minister must table it in the Legislative Assembly.

‘89ZG Government entity may enter into arrangement with commissioner

‘(1) A government entity may—

- (a) enter into an arrangement with the commissioner about providing to the commissioner information or a document that the

commissioner reasonably needs to perform the commissioner's functions under this division; and

- (b) provide information or a document to the commissioner under the arrangement.

'(2) The government entity and the commissioner must, as far as practicable, protect the persons to whom the information or document relates from unjustified intrusion on their privacy.

'(3) The government entity may charge a fee for a service under the arrangement that is not more than the actual cost of providing the service.

'(4) This section does not apply to—

- (a) the Children Services Tribunal; or
- (b) the registrar under the *Births, Deaths and Marriages Registration Act 2003*; or
- (c) the State Coroner or the chief executive of the department in which the *Coroners Act 2003* is administered.

'(5) A person does not, by providing access to information or a document under this section—

- (a) contravene a provision of an Act or a law imposing a statutory or commercial obligation or restriction to maintain secrecy in relation to the information or document; or
- (b) incur any civil liability in relation to the information or document.

'(6) To remove doubt, for the purpose of the *Health Services Act 1991*, section 63, it is declared an officer, employee or agent mentioned in that section is authorised to give information under this section.

'89ZH Disclosure of information

'The commissioner may disclose information obtained under this division, to the State Coroner, for use by a coroner to help in—

- (a) an investigation under the *Coroners Act 2003*; or
- (b) an inquiry into a death under the *Coroners Act 1958*.'

81 Insertion of new pt 7A

After part 7—

insert—

**‘PART 7A—COMMISSIONER MAY APPLY FOR
REVIEW OF PARTICULAR DECISIONS**

‘140A Meaning of “reviewable decision” for pt 7A

‘(1) In this part—

“reviewable decision” means any of the following—

- (a) if, under the *Child Protection Act 1999*, section 14(1),¹⁷ the chief executive (child safety) is required to take action under section 14(1)(a) or (b), a decision by the chief executive about the action;
- (b) a decision, under the *Child Protection Act 1999*, section 87(2),¹⁸ by the chief executive (child safety) not to take action under that subsection;
- (c) a decision by the chief executive (child safety) to take, or not to take, a step for the purpose of ensuring a child who, under the *Child Protection Act 1999*, is placed in the care of an approved foster carer, licensed care service or departmental care service is cared for in a way that meets the statement of standards under section 122 of that Act;
- (d) a decision that is a reviewable decision under the *Child Protection Act 1999*,¹⁹ other than—
 - (i) a decision about a licence under section 129 of that Act; or
 - (ii) a decision about a certificate of approval under section 136 of that Act; or

17 *Child Protection Act 1999*, section 14 (Chief executive may investigate alleged harm)

18 *Child Protection Act 1999*, section 87 (Chief executive to provide contact between child and child’s parents)

19 See the *Child Protection Act 1999*, schedule 3 (Dictionary), definition “reviewable decision”. Reviewable decisions are in schedule 2 (Reviewable decisions and aggrieved persons) of that Act.

(iii) a decision about an authority under section 137, 138 or 140 of that Act.

‘(2) For paragraph (a) of the definition “reviewable decision” in subsection (1), if the chief executive (child safety) is required to take action under the *Child Protection Act 1999*, section 14(1)(a) or (b) and fails to take the action, the failure is taken to be a decision by the chief executive (child safety) not to take any action.

‘(3) For paragraph (c) of the definition “reviewable decision” in subsection (1), a failure by the chief executive (child safety) to decide to take a step for the purpose mentioned in that paragraph is taken to be a decision not to take the step.

‘(4) Subsection (5) applies if, in the course of the commissioner seeking to have a reviewable decision resolved to the commissioner’s satisfaction—

- (a) the chief executive (child safety) amends, or substitutes another reviewable decision for, the first reviewable decision and the amended reviewable decision or substituted reviewable decision does not resolve the matter to the commissioner’s satisfaction; or
- (b) in relation to a failure to take action or to decide to take a step as mentioned in subsection (2) or (3)—the chief executive (child safety) actually makes a reviewable decision and the reviewable decision does not resolve the matter to the commissioner’s satisfaction.

‘(5) For section 140B, the amended or substituted reviewable decision, or the reviewable decision actually made, becomes the reviewable decision.

‘140B Commissioner may apply for review of reviewable decisions

‘(1) This section applies if, in performing the commissioner’s child guardian functions, the commissioner—

- (a) is dissatisfied with a reviewable decision; and
- (b) has been unable to resolve the matter with the chief executive (child safety) to the commissioner’s satisfaction.

‘(2) The commissioner may apply to the Children Services Tribunal to have the reviewable decision reviewed.

‘(3) The commissioner may apply to the Children Services Tribunal only if the commissioner is satisfied that to do so would be in the child’s best interests.

‘(4) Before the commissioner may apply to the Children Services Tribunal to have the reviewable decision reviewed, the commissioner must give the chief executive (child safety) a written notice stating—

- (a) the commissioner is dissatisfied with the decision; and
- (b) the reasons the commissioner is dissatisfied with the decision; and
- (c) the matter has not been resolved to the commissioner’s satisfaction; and
- (d) the commissioner intends to apply to the Children Services Tribunal for a review of the decision.’.

82 Amendment of s 159 (Relationship with complaints agencies)

Section 159(2)—

omit, insert—

‘(2) The commissioner may—

- (a) liaise with a complaints agency about the exercise by the commissioner and the complaints agency of their functions relating to complaints about services provided to children; and
- (b) enter into an arrangement with the complaints agency aimed at avoiding inappropriate duplication of activities relating to those functions.’.

83 Amendment of s 161 (Protection from liability)

Section 161(3), definition “official”—

insert—

‘(d) a member of the Child Death Case Review Committee.’.

84 Insertion of new s 163A

After section 163—

insert—

‘163A Annual report by commission

‘The commission’s annual report under the *Financial Administration and Audit Act 1977* for a financial year must include—

- (a) a report on the performance of the commissioner’s child guardian functions during the year; and
- (b) a report on the operations of community visitors during the year.’.

85 Amendment of s 165 (Delegation by commissioner)

(1) Section 165, heading, after ‘**commissioner**’—

insert—

‘**or assistant commissioner**’.

(2) Section 165(2)—

renumber as section 165(3).

(3) Section 165—

insert—

‘(2) The assistant commissioner may delegate the assistant commissioner’s powers under this Act to—

- (a) an appropriately qualified member of the commission’s staff; or
- (b) another individual whom the assistant commissioner considers is an appropriately qualified person to exercise the powers delegated to the person.’.

86 Insertion of new pt 9, div 6

Part 9, after division 5—

insert—

***‘Division 6—Transitional provisions for Child Safety Legislation
Amendment Act 2004***

‘183 Commissioner

‘(1) Subject to this Act, the current commissioner continues in office under this Act as the Commissioner for Children and Young People and Child Guardian until the end of the term stated in the person’s appointment.

‘(2) Unless the context otherwise requires, a reference in a document to the Commissioner for Children and Young People is taken to be a reference to Commissioner for Children and Young People and Child Guardian.

‘(3) In this section—

“commencement day” means the day the *Child Safety Legislation Amendment Act 2004*, section 39 commences.

“current commissioner” means the person who, immediately before the commencement day, was the Commissioner for Children and Young People.

‘184 Commission

‘(1) The current commission continues as the Commission for Children and Young People and Child Guardian.

‘(2) Unless the context otherwise requires, a reference in a document to the Commission for Children and Young People is taken to be a reference to Commission for Children and Young People and Child Guardian.

‘(3) In this section—

“commencement day” means the day the *Child Safety Legislation Amendment Act 2004*, section 39 commences.

“current commission” means the office that, immediately before the commencement day, was the Commission for Children and Young People.

‘185 Child deaths

‘(1) As far as is practicable, the commissioner must include, in the register under section 89ZC, a record of the child deaths that happened before the commencement day and on or after 1 January 2001.

‘(2) The first report prepared under section 89ZF(1) is due by 31 October 2005 and must include the matters stated in section 89ZF(1) for the period from the commencement day to 1 July 2005.

‘(3) In this section—

“**commencement day**” means the day the *Child Safety Legislation Amendment Act 2004*, section 80 commences.

‘186 References to child safety department

‘If the *Child Protection Act 1999* is administered only in a part of a department, a reference in this Act to the child safety department is a reference only to that part.

‘187 First report under s 89ZA

‘The first report prepared under section 89ZA is due by 31 October 2005 and must relate to the period starting on the day that section commences and ending on 30 June 2005.’.

87 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions “carer”, “chief executive (families)”, “commission”, “commissioner” and “visitable site”—

omit.

(2) Schedule 4—

insert—

‘**“appointed members”**, for part 4A, division 1, see section 89A.

“**approved foster carer**” means an approved foster carer under the *Child Protection Act 1999*.

“**assistant commissioner**” means the assistant commissioner appointed under section 28A.

“**carer**”—

- (a) in relation to a child residing in a visitable home, means a person in whose care the child has been placed; or
- (b) in relation to a child care service, see the *Child Care Act 2002*, section 56.

“**CDCRC**”, for part 4A, division 1, see section 89A.

“**CDCRC member**”, for part 4A, division 1, see section 89A.

“**chief executive (child safety)**” means the chief executive of the child safety department.

“**child guardian functions**”, of the commissioner, see section 15(2).

“**child safety department**” means the department in which the *Child Protection Act 1999* is administered.

“**child safety system**” see the definition “in the child safety system”.

“**commission**” means the Commission for Children and Young People and Child Guardian.

“**commissioner**” means the Commissioner for Children and Young People and Child Guardian.

“**in the child safety system**” see section 11A.

“**licensee**”, for part 2A, see section 31B(b).

“**monitoring functions**”, of the commissioner, see section 15(3).

“**original reviews**”, for part 4A, division 1, see section 89A.

“**police service**” means the Queensland Police Service.

“**policies**”, for part 4A, division 1, see section 89A.

“**relevant service providers**”, for part 2A, see section 31B.

“**review criteria**”, for part 4A, division 1, see section 89A.

“**reviewable decision**”, for part 7A, see section 140A.

“**State Coroner**” means the State Coroner under the *Coroners Act 2003*.

“**visitable home**” see section 64B.

“**visitable site**” see section 64A.

“**woman**” includes any female.’

(3) Schedule 4, definition “prescribed department”, paragraphs (b) and (c)—

renumber as paragraphs (c) and (d).

(4) Schedule 4, definition “prescribed department”—

insert—

‘(b) the department responsible for community services; or’.

PART 6—AMENDMENT OF CORONERS ACT 2003

88 Act amended in pt 6

This part amends the *Coroners Act 2003*.

89 Amendment of s 9 (“Death in care” defined)

Section 9(1)—

insert—

‘(e) the person was a child in a placement with the consent of a parent or guardian.’.

90 Insertion of new s 10A

Part 2, after section 10—

insert—

‘10A State Coroner to notify children’s commissioner of deaths

‘(1) If the death of a child is reported to the State Coroner under section 7, the State Coroner must, within 30 days after receiving the report—

- (a) notify the children’s commissioner of the death; and
- (b) if a report about the death was given under section 7(3) by a police officer to a coroner—give the children’s commissioner a copy of the report unless the State Coroner considers that giving the report is likely to prejudice an investigation by a coroner or police officer.

‘(2) Before giving the children’s commissioner a copy of a report under subsection (1)(b), the State Coroner must ensure that all information in the report that identifies anyone is obliterated.

‘(3) However, the State Coroner need not obliterate information if the State Coroner reasonably believes the person’s identity is necessary for the children’s commissioner’s child death research functions.’.

91 Amendment of s 45 (Coroner’s findings)

(1) Section 45(4)(c)—

renumber as section 45(4)(d).

(2) Section 45(4)—

insert—

‘(c) if the deceased person was a child—the children’s commissioner; and’.

92 Amendment of s 46 (Coroner’s comments)

Section 46(2)—

insert—

‘(e) if the comments relate to the death of a child—the children’s commissioner.’.

93 Amendment of s 47 (Coroner’s comments and findings for deaths in care or custody)

Section 47(3), definition “relevant Act”, paragraph (a)—

insert—

‘(vii)for the death of a person mentioned in section 9(1)(e)—the *Child Protection Act 1999*; or’.

94 Insertion of new ss 54A–54C

After section 54—

insert—

‘54A Access to investigation documents by the children’s commissioner

‘(1) The chief executive may enter into an arrangement with the children’s commissioner about giving the commissioner access to the following documents for the commissioner’s child death research functions—

- (a) an investigation document, other than a report mentioned in section 7(3), that relates to the death of a particular child;
- (b) all investigation documents, other than reports mentioned in section 7(3), that relate to the deaths of children.

‘(2) Without limiting what may be included in an arrangement, the arrangement may provide for the following—

- (a) when investigation documents may be accessed by the children’s commissioner, including, for example, whether access will be given to the children’s commissioner while a coroner is investigating the death to which the document relates;
- (b) how and where the children’s commissioner may access the investigation documents.

‘(3) The State Coroner may provide access to an investigation document to the children’s commissioner under the arrangement.

‘(4) Sections 53, 54 and 55 do not apply in relation to access to an investigation document under the arrangement.

‘(5) However, access to an investigation document under the arrangement is subject to the other provisions of this division.

‘(6) In this section—

“investigation document” includes a document obtained under the *Coroners Act 1958* that is similar in nature to an investigation document as defined in schedule 2.

‘54B Limitations on access under s 54A

‘(1) This section contains particular provisions limiting access to investigation documents under an arrangement under section 54A.

‘(2) Before giving the children’s commissioner access to an investigation document, the State Coroner must ensure that all information in the document that identifies anyone is obliterated.

‘(3) However, the State Coroner need not obliterate information if the State Coroner reasonably believes the person’s identity is necessary for the children’s commissioner’s child death research functions.

‘(4) If the investigation document is a police document and the State Coroner decides under subsection (3) not to obliterate information that identifies someone, the State Coroner may give access to the document only if the commissioner of the police service agrees to the document being accessed under the arrangement.

‘(5) If the investigation document is not a coronial document for an investigation under this Act or a police document, the State Coroner may give access to the document only if the chief executive of the entity that prepared the document agrees to the document being accessed under the arrangement.

‘(6) In this section—

“**investigation document**” includes a document obtained under the *Coroners Act 1958* that is similar in nature to an investigation document as defined in schedule 2.

‘54C Fees for access under s 54A

‘(1) The chief executive may charge the children’s commissioner a fee for access to investigation documents provided under section 54A that is not more than the actual cost of providing the access.

‘(2) A fee prescribed under a regulation for access to an investigation document does not apply to access to an investigation document provided under section 54A.

‘(3) In this section—

“**investigation document**” includes a document obtained under the *Coroners Act 1958* that is similar in nature to an investigation document as defined in schedule 2.’.

95 Amendment of s 71 (Functions and powers of State Coroner)

(1) Section 71(6)—

renumber as section 71(7).

(2) Section 71—

insert—

‘(6) Despite subsection (4), the State Coroner may be appointed as, and perform the functions of, a member of the Child Death Case Review Committee under the *Commission for Children and Young People and Child Guardian Act 2000*.’.

96 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

insert—

‘ **“chief executive (child safety)”** means the chief executive of the department in which the *Child Protection Act 1999* is administered.

“child death research functions”, for the children’s commissioner, means the functions set out in the *Commission for Children and Young People and Child Guardian Act 2000*, part 4A, division 2.

“child in a placement with the consent of a parent or guardian” means a child—

- (a) about whom an authorised officer is investigating, or has investigated, alleged harm or alleged risk of harm under the *Child Protection Act 1999*, section 14; and
- (b) who is residing with someone other than the person with whom the child normally resides as a result of an agreement between a parent or guardian of the child and the chief executive (child safety).

“children’s commissioner” means the Commissioner for Children and Young People and Child Guardian appointed under the *Commission for Children and Young People and Child Guardian Act 2000*.’.

(2) Schedule 2, definition “investigation document”—

insert—

- ‘(e) a document connected to the investigation that is given, under the *Child Protection Act 1999*, section 246H,²⁰ to the State Coroner for use by a coroner; or

²⁰ *Child Protection Act 1999*, section 246H (Chief executive to give reports to State Coroner)

- (f) a document connected to the investigation that is given, under the *Ombudsman Act 2001*, section 57A,²¹ to the State Coroner for use by a coroner.’.

PART 7—AMENDMENT OF HEALTH SERVICES ACT 1991

97 Act amended in pt 7

This part amends the *Health Services Act 1991*.

98 Amendment of s 57 (Duty of confidentiality of officials)

Section 57(4)(b), ‘(gb)’—

omit, insert—

‘(j)’.

99 Amendment of s 63 (Confidentiality)

(1) Section 63(2)(g)—

omit, insert—

‘(g) to the giving of information to the Commonwealth or another State, or an entity of the Commonwealth or another State, by the chief executive if giving the information—

(i) is required or allowed under an agreement—

(A) between Queensland and the Commonwealth, State or entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest; or

21 *Child Protection Act 1999*, section 57A (Report may be given to State Coroner or Attorney-General)

(gaa)to the giving of information to an entity of the State by the chief executive if giving the information—

(i) is required or allowed under an agreement—

(A) between the chief executive and the entity; and

(B) prescribed under a regulation for this paragraph; and

(ii) is considered by the chief executive to be in the public interest; or’.

(2) Section 63(2)(ga), ‘(gb)’—

omit, insert—

‘(j)’.

(3) Section 63(2)—

insert—

‘(gc)to the giving of information to another officer, employee or agent of the department for evaluating, managing, monitoring or planning health services; or

(gd) to the giving of information to an entity prescribed under a regulation for this paragraph for the purpose of evaluating, managing, monitoring or planning health services as stated in the regulation; or’.

(4) Section 63(2)(gaa) to (j)—

renumber as section 63(2)(h) to (o).

(5) Section 63(3), after ‘(2)(g)’—

insert—

‘or (h)’.

(6) Section 63(3)(a)—

omit, insert—

‘(a) must not give it to anyone else unless allowed to do so by the agreement or in writing by the chief executive; and’.

(7) Section 63(4A)(b), ‘(gb)’—

omit, insert—

‘(j)’.

(8) Section 63(4B)(a), ‘(gb)’—

omit, insert—

‘(j)’.

(9) Section 63(6), ‘subsection (2)(i)’—

omit, insert—

‘this section’.

(10) Section 63(6)—

insert—

‘**“entity of the State”** includes a department and an entity established under an Act for a public purpose.’.

PART 7A—AMENDMENT OF LEGAL PROFESSION ACT 2004

99A Act amended in pt 7A

This part amends the *Legal Profession Act 2004*.

99B Amendment of s 161 (Defaults relating to financial services or investments)

Section 161(2), from ‘However’ to ‘placed’—

omit, insert—

‘Without limiting subsection (1), this part does not apply to a default of a law practice if the default happens in relation to money or property that was placed’.

99C Amendment of s 252 (Chapter also applies to law practice employees)

Section 252—

insert—

‘(2) Also, this chapter applies to former law practice employees in relation to conduct happening while they were law practice employees in the same way as it applies to persons who are law practice employees, and so applies with necessary changes.

‘(3) In this section—

“**former law practice employee**” includes a person who was a law practice employee in this jurisdiction before the commencement of this definition but is not a law practice employee on the commencement.’.

99D Amendment of s 316 (Application of ch 4)

Section 316(2), ‘this part’—

omit, insert—

‘this chapter’.

99E Amendment of s 491 (Functions and powers of board)

(1) Section 491, heading, after ‘**board**’—

insert—

‘**etc.**’.

(2) Section 491—

insert—

‘(3) Fees payable to the board under section 42²² are not moneys payable to the Supreme Court Library Committee under the *Supreme Court Library Act 1968*, section 11.²³

‘(4) The board is a statutory body for the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*.’.

22 Section 42 (Fees payable)

23 *Supreme Court Library Act 1968*, section 11 (Fees received from Barristers’ Board and Solicitors’ Board)

99F Amendment of s 492 (Administrative support of the board)

Section 492—

insert—

‘(2) Under an agreement with the law society, the board must pay the law society for the administrative support from fees received by the board.’.

99G Amendment of s 594 (Approved forms)

Section 594(2)(b), ‘the body’—

omit, insert—

‘the chairperson of the tribunal for the tribunal, and the committee for the committee’.

PART 8—AMENDMENT OF OMBUDSMAN ACT 2001**100 Act amended in pt 8**

This part amends the *Ombudsman Act 2001*.

101 Insertion of new ss 57A and 57B

Part 6, after section 57—

insert—

‘57A Copy of report may be given to particular persons

‘(1) This section applies if a report prepared by the ombudsman under this part relates to the death of a person that—

- (a) was a reportable death under the *Coroners Act 2003*; or
- (b) was the subject of an inquiry under the *Coroners Act 1958*.

‘(2) The ombudsman may give a copy of the report—

- (a) to the State Coroner—

- (i) for use by a coroner to help in an investigation under the *Coroners Act 2003* or an inquiry under the *Coroners Act 1958*; or
- (ii) for use by the State Coroner in relation to the State Coroner's functions and powers under the *Coroners Act 2003*; or
- (b) to the Attorney-General, for use by the Attorney-General for his or her functions and powers under the *Coroners Act 2003* or *Coroners Act 1958*; or
- (c) to the Minister under the *Coroners Act 2003* or *Coroners Act 1958*, for use by that Minister for his or her functions and powers under that Act.

‘(3) This section applies despite any other provision of this Act.

‘(4) In this section—

“**State Coroner**” means the State Coroner under the *Coroners Act 2003*.

‘57B Report may be given to CDCRC

‘(1) This section applies if a report prepared by the ombudsman under this part—

- (a) relates to the death of a child; and
- (b) the CDCRC is carrying out a review, or has carried out a review, under the *Commission for Children and Young People and Child Guardian Act 2000*, part 4A, division 1,²⁴ relating to the child.

‘(2) The ombudsman may give a copy of the report to the CDCRC.

‘(3) This section applies despite any other provision of this Act.

‘(4) In this section—

“**CDCRC**” means the Child Death Case Review Committee established under the *Commission for Children and Young People and Child Guardian Act 2000*, part 4A, division 1.’.

²⁴ *Commission for Children and Young People and Child Guardian Act 2000*, part 4A (Child deaths), division 1 (Child Death Case Review Committee)

PART 9—AMENDMENT OF OTHER ACTS

102 Consequential amendments

(1) In each provision mentioned in schedule 2, part 1—

omit ‘Commission for Children and Young People Act 2000’

insert ‘Commission for Children and Young People and Child Guardian Act 2000’.

(2) In each provision mentioned in schedule 2, part 2—

omit ‘Commissioner for Children and Young People’ or ‘commissioner for children and young people’

insert ‘Commissioner for Children and Young People and Child Guardian’.

(3) In each provision mentioned in schedule 2, part 3—

omit ‘Commission for Children and Young People’

insert ‘Commission for Children and Young People and Child Guardian’.

SCHEDULE 1**MINOR AMENDMENTS OF COMMISSION FOR
CHILDREN AND YOUNG PEOPLE ACT 2000**

section 30

- 1 Section 20(2)(a), 46(1) and (2) and 158(1), ‘chief executive (families)’—**
omit, insert—
‘chief executive (child safety)’.

- 2 Section 20(3), example, ‘chief executive (families)’—**
omit, insert—
‘chief executive (child safety)’.

- 3 Section 81(5)(b), ‘department in which the *Child Protection Act 1999* is administered’—**
omit, insert—
‘child safety department’.

SCHEDULE 2**AMENDMENT OF REFERENCES TO COMMISSION
FOR CHILDREN AND YOUNG PEOPLE ACT 2000,
COMMISSIONER AND COMMISSION**

section 102

**PART 1—REFERENCES TO COMMISSION FOR
CHILDREN AND YOUNG PEOPLE ACT 2000****1 Child Care Act 2002**

- section 26(2), note
- section 27
- section 45(1)(e)
- section 54(8)
- section 74, heading
- section 74(1)(b)
- part 9, division 2, heading
- section 165(1)
- section 166(2)
- schedule 2, definitions “apply for a suitability notice” and “suitability notice”

2 Child Protection Act 1999

- section 186(2)(d)

3 Education (Accreditation of Non-State Schools) Act 2001

- section 15
- section 140

SCHEDULE 2 (continued)

- section 146(2)
 - section 168, heading
 - section 168(1)(b) and (2)(b)
 - schedule 3, definition “positive notice”
- 4 Education (Teacher Registration) Act 1988**
- section 71B(3)
- 5 Grammar Schools Act 1975**
- section 46G(5)
- 6 Juvenile Justice Act 1992**
- section 291
- 7 Mental Health Act 2000**
- section 342(4)(b)(ii)
- 8 Ombudsman Act 2001**
- schedule 3, definition “complaints entity”

**PART 2—REFERENCES TO COMMISSIONER FOR
CHILDREN AND YOUNG PEOPLE**

- 9 Child Care Act 2002**
- section 74(2)(a)
 - section 140(2) and (3)

SCHEDULE 2 (continued)

10 Crime and Misconduct Act 2001

- section 278(1)(d)

11 Education (Accreditation of Non-State Schools) Act 2001

- schedule 3, definition “commissioner”

12 Education (Teacher Registration) Act 1988

- section 71B, heading
- section 71B(3)

13 Juvenile Justice Act 1992

- section 291

14 Mental Health Act 2000

- section 342(4)(b)(ii)

15 Ombudsman Act 2001

- schedule 3, definition “complaints entity”

16 Parliament of Queensland Act 2001

- section 67(1)(e)

17 Police Powers and Responsibilities Act 2000

- section 157(5)(e)

18 Public Service Act 1996

- schedule 1, item 3

SCHEDULE 2 (continued)

**PART 3—REFERENCES TO COMMISSION FOR
CHILDREN AND YOUNG PEOPLE****19 Public Service Act 1996**

- schedule 1, item 3