Communities Legislation (Funding Red Tape Reduction) Amendment Bill 2014

Explanatory Notes

Short title

The short title of the Bill is the Communities Legislation (Funding Red Tape Reduction) Amendment Bill 2014.

Policy objectives and the reasons for them

The objective of the Bill is to safeguard funding for the provision of services and products that contribute to Queensland's economic, social and environmental wellbeing and enhance the quality of life of individuals, groups and communities.

The Queensland Government invests significantly in non-government organisations (NGOs) to deliver vital frontline services to Queensland communities. In 2012–13, the Department of Communities, Child Safety and Disability Services (the Department) provided an estimated $1.5 billion to not-for-profit organisations, local governments and other organisations to deliver child safety, disability and community services.

The Department of Communities (and its precursors) have led the development of contemporary funding legislation for specific types of services. These laws have proved effective in safeguarding public funds, and ensuring the accountable and safe delivery of funded services and products.

However, this approach has resulted in the Department administering its investment in service delivery under three separate Acts — the *Community Services Act 2007* (CSA), *Disability Services Act 2006* (DSA) and *Family Services Act 1987* (FSA). Having multiple funding Acts has resulted in duplicative and unnecessary legislative requirements, which increase red tape costs for funded NGOs and local governments.

Following the Commission of Audit Final Report and the Queensland Child Protection Commission of Inquiry Final Report, government is seeking to make its investment more effective and efficient by reducing red tape costs, simplifying regulation and having more consistent funding arrangements across social services agencies.

Achievement of policy objectives

The Bill achieves its objectives by amending the Department's existing funding laws to remove all unnecessary red tape, yet retain essential safeguards for the funding that the Department provides.

The Bill does this by:

- amending and simplifying the CSA so it is capable of being used for all the Department's funding to NGOs, local governments and other external entities;
- repealing parts of the DSA that duplicate the provisions of the CSA; and
- repealing the FSA.

While the revised CSA will primarily be used by the Department, it will also be capable of being used by other departments if they wish.

The Bill simplifies the existing funding laws by removing unnecessary and duplicative requirements and matters that do not need to be legislated. That is, matters which can instead be dealt with administratively or through the department's service agreements.

In particular, the Bill removes provisions from the CSA and DSA:

- requiring entities to become approved service providers before they can apply for funding — instead entities will only need to make one application (i.e. for funding);
- specifying how the Minister approves funding and requiring the Director-General to enter into a written funding agreement — giving more flexibility for these matters to be decided through administrative processes;
- for the making of service standards — funded entities are contractually required to meet quality standards, so it is not necessary to provide for these in generic legislation; and
- setting prescribed requirements in accompanying regulations, a breach of which triggers investigative and remedial powers — instead the revised CSA will provide clarity about use of the safeguarding powers while relieving the compliance burden by specifying four serious concerns (harm to a person; significant failure in service delivery; misuse of funds or a breach of the DSA) that trigger the use of the powers.

The Bill also:

- removes from the CSA provisions setting out a show cause process for the termination of a funding contract where a funded entity has breached the contract – this process is set out in funding contracts and is therefore not needed in legislation;
- amends the object and principles of the CSA to better align with the broader range of services and products that will be subject to it and the narrower scope of the revised Act;
- expands the range of organisations eligible to apply for funding to give departments greater choice and flexibility about the organisations they fund to deliver services; and
- streamlines current review and appeal processes that apply when a department uses its powers under the CSA or the DSA.

The result is that the revised CSA will have a much narrower scope. It will mainly set out investigative and remedial powers that enable a department to take swift and decisive action to investigate and remedy serious concerns about the use of public funds or the delivery of funded products or services and to ensure the continued delivery of essential community services.

These powers will continue to be available only if strict criteria are met. If these criteria are met, a department will continue to be able to issue a compliance notice requiring a funded organisation to take specific remedial action; take steps to recover misspent funds as a debt; or where services or products are critical, appoint an interim manager for the funding. If necessary, a department will also still be able to require certain documents or information to be provided, or appoint suitably-qualified authorised officers to inspect premises.

To provide clarity about which funding is subject to the investigative and remedial powers in the revised CSA, the Bill provides that the Act will apply to funding that is the subject of a Ministerial funding declaration that is, at a minimum, published on a department's website.

Alternative ways of achieving policy objectives

Amending legislation is the only way of achieving the policy objectives.

Estimated cost for government implementation

Implementation costs of the Bill will include:

- communication and awareness raising with NGO and local government stakeholders;
- making declarations about in-scope funding;
- updating existing documents and policies to support the revised CSA; and
- providing information to departmental staff on the revised CSA.

All costs will be met from within existing resources.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review - *Legislative Standards Act 1992*, section 4(3)(a)

Legislation should not adversely affect rights and liberties, or impose obligations, retrospectively – *Legislative Standards Act 1992*, section 4(3)(g)

Application of the Act — Ministerial funding declarations

The Bill provides that the amended CSA applies to funding that is the subject of a Ministerial funding declaration that is published on a Queensland Government website (see the new sections 10 and 12 in clause 8). These provisions could be regarded as Henry VIII clauses as they allow executive action to determine when the Act applies.

Funding is defined broadly in the Bill (see the new section 8 in clause 7). Declarations will limit the scope of the Act and mean that the investigative and remedial powers in the amended Act only apply to particular funding. A key objective of the Bill is to enable government to take quick and effective action to protect vulnerable service users and to safeguard the use of public funds and the delivery of essential community services. Declarations provide a transparent way of ensuring that the investigative and remedial powers in the amended Act are available where necessary.

The Bill contains safeguards that will apply to the making of declarations. For example, in deciding whether to make a declaration, a Minister may consider a range of factors — including the nature of the product or service to be provided, the importance of the product or service to the community, the vulnerability of service users and the amount government invests in the product or service.

The Bill allows Ministers to make funding declarations before funding is provided to NGOs or after it has already been provided. While this will not adversely affect the rights and liberties of individuals, it could be argued that it adversely affects the rights and liberties of funded entities that have already received funding that was not subject to a declaration when it was provided.

A key objective of the Bill is to safeguard vulnerable users of publicly funded products and services and the department’s significant investment of public funds. Allowing declarations to be made after funding has been provided will ensure the powers in the amended CSA are available where necessary. Applying the amended Act will not impose additional obligations on funded organisations; rather it will provide funding departments with additional powers to

safeguard service users and public funds where a funded organisation seriously fails to meet its obligations.

Importantly, the provisions will allow other departments that choose to use the CSA in the future to apply the Act to their existing investments. The amendments in the Bill have been designed to ensure that the CSA is capable of being used by other departments and declarations will allow departments to safeguard their existing investments.

The Bill includes important limitations on declarations made after funding has already been provided. For example, the powers in the amended CSA can only be exercised prospectively in relation to serious concerns that exist after a declaration is made and when departments have provided written notice to each funded entity within one month of the declaration being made.

Review of key decisions by a tribunal (clauses 34 and 60)

The Bill removes from the CSA and DSA provisions for funded organisations to apply for an external merits-based review to the Queensland Civil and Administrative Tribunal (QCAT) for key decisions about funding. These decisions are: appointing an interim manager and ceasing or suspending funding following a compliance notice process. Provisions enabling organisations to apply for an internal departmental merits-based review of these decisions will be retained.

It could be argued that without external review provisions, the amended Acts will not allow for an appropriate review. However, an important objective of the Acts is to enable government to take quick and effective remedial action to ensure publicly-funded services and products are delivered safely, and to safeguard the use of public funds. Providing an external appeal may impede government's ability to take swift and effective remedial action on these matters.

Funded organisations will still be able to have the decisions reviewed by a senior departmental officer who was not involved in the original decision (an 'internal review'). They will also still have the right to seek a judicial review of any administrative decision, including decisions to use the remedial powers.

The Acts also contain limitations and safeguards on government's use of remedial powers. For example, an interim manager will only be appointed where a serious concern exists and the continued delivery of the funded service is essential. Funding will only be ceased or a funding agreement terminated where a funded entity does not take the required action under a compliance notice to remedy a serious concern.

It should also be noted that while the CSA and DSA have provided for external review of key decisions about funding, such reviews are not necessarily a standard feature of other legislation relating to funding. For example, the *Housing Act 2003* provides for internal reviews only.

Consultation

Extensive consultation was conducted with representatives of peak bodies and state-wide service providers in the human services industry, the Local Government Association of Queensland (LGAQ) and Local Government Managers Australia on proposed funding legislation reforms in 2010–11. Key legislative reforms canvassed at that time are largely similar to those in the Bill (e.g. single-step process for funding applications and description of circumstances when investigative and remedial powers may be used rather than prescribing

requirements in regulations).

Further consultations with targeted key peak bodies were conducted on the proposals in the Bill in October 2013. The bodies consulted were the LGAQ, the Queensland Council of Social Service, National Disability Services, PeakCare and the Queensland Aboriginal and Torres Strait Islander Child Protection Peak. Confidential consultations on a draft Bill were then undertaken with these same organisations in January 2014.

Consistency with legislation of other jurisdictions

The Bill will provide Queensland with more efficient funding laws than those that currently exist in New South Wales, Victoria and Western Australia. None of those states have a common legislative base for funding a range of human and social services. For example, Western Australia uses the *Disability Services Act 1993 (WA)* to provide and safeguard funding for disability services and the *Children and Community Services Act 2004 (WA)* to provide funding for other social services.

While these three states are reducing red tape for their funded NGOs, this is mainly being achieved through changes to their contracting and administrative practices — for example, by developing standard form contracts and removing unnecessary reporting requirements. Queensland is also actively progressing these types of reforms and the Bill will support these reforms and enable further reforms.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014*.

Clause 2 provides that the Bill commences on a day to be fixed by proclamation. This delayed commencement is to allow sufficient time for complementary administrative arrangements to be made and to raise awareness of the Bill.

Part 2 Amendment of *Community Services Act 2007*

Clause 3 provides that this Part amends the *Community Services Act 2007* (the Act).

Clause 4 amends the long title of the Act.

Clause 5 replaces sections 3–5 with new sections 3–5.

The new section 3 sets out the main object of the Act and how it is to be mainly achieved.

The new section 4 sets out the Act's guiding principles and provides that the Act is to be administered in a way that has sufficient regard to those principles.

The new section 5 provides that in administering the Act, it is acknowledged that the State has finite resources available to provide as funding and that there is a need to ensure that those resources are used properly to provide funded products and services.

Clause 6 amends section 6 to renumber the Act's dictionary as schedule 2.

Clause 7 replaces sections 7–9 with new sections 7–9.

The new section 7 sets out the meaning of the terms 'funded entity' and 'funded product or service'. These terms are important for understanding the exercise of the statutory remedial and investigation and enforcement powers. A funded entity includes an entity that is sub-contracted or auspiced to deliver a funded product or service.

The new section 8 sets out the meaning of the terms 'funding' and 'funding agreement'. The term 'funding' is critical for understanding application of the Act.

The new section 9 clarifies that any Queensland Government Minister, department or chief executive providing funding may exercise relevant powers or functions under the Act.

Clause 8 removes Parts 2 to 6 of the Act and inserts a new Part 2 and Part 3.

The new Part 2 sets out general provisions about funding.

The new section 10 specifies that the Act applies to funding that is the subject of a funding declaration.

The new section 11 clarifies that the Act does not limit or prevent the use of other remedies or powers that are available to resolve concerns about funding and/or product or service delivery.

The new section 12 empowers a Minister to declare funding which is to be subject to the Act by making a 'funding declaration' that is published on a Queensland Government website. It provides that a declaration may relate to funding that is, or will be, provided under a program or funding that is provided on a one-off basis. It also outlines the factors a Minister may consider when deciding whether to make a funding declaration.

The new section 13 requires a chief executive to keep and publish on a Queensland Government website, a list of declared funding for funding administered by their department.

The new section 14 provides that where a funding declaration is made after an entity has entered into a funding agreement for the funding, or received the funding, the chief executive must give the funded entity notice of the declaration within one month of the declaration being made. It clarifies that failure to provide notice within a month does not affect the validity of the funding declaration.

The new section 15 provides that before exercising a power under the Act, a chief executive or authorised officer must consider whether it would be more appropriate to seek the funded entity's cooperation or use a remedy available under a funding agreement.

The new Part 3 sets out provisions about managing serious concerns.

The new section 16 sets out the meaning of the term 'serious concern'. This term is a prerequisite for the exercise of particular statutory remedial powers and investigation and enforcement powers.

The new section 17 enables a chief executive to obtain a written report from an authorised officer about whether a serious concern exists for funding received by a funded entity before deciding whether to take action under Part 3.

The new section 18 sets out the circumstances when a chief executive may issue a compliance notice. It clarifies that a compliance notice can be issued to a funded entity even if the entity's funding has been suspended.

The new section 19 gives a chief executive power to issue a funded entity with a compliance notice requiring the entity to remedy a serious concern or comply with a requirement notice given under s129 of the Act. It outlines matters that must be included in the compliance notice, including that it is an offence not to comply with the notice unless the entity has a reasonable excuse — maximum penalty is 100 penalty units. It also provides a range of other sanctions that the chief executive may use if the funded entity fails to comply with a notice.

The new section 20 allows a chief executive to appoint an interim manager for funding received by a funded entity.

The new section 21 specifies the grounds on which a chief executive may appoint an interim manager. The chief executive may only make the appointment if satisfied:

- the appointment is reasonably necessary to remedy a serious concern for the funding;
- it is essential for the funded product or service to continue to be provided; and
- an administrator, liquidator or receiver has not been appointed to the funded entity.

The new section 22 provides for the chief executive to recover unspent or improperly used funds as a debt owing to the State. Unspent funds include funds that have not been spent by a funded entity after funding has been suspended or stopped or when a funding agreement has ended. Improperly used funds are funds that have been used for a purpose other than a purpose for which the funds were received.

Clause 9 replaces sections 39 and 40 with new sections 39 and 40.

The new section 39 explains the purpose of Part 7 of the Act, including that it provides for the appointment of authorised officers to deal with compliance issues under the Act and ensure the proper and efficient delivery of funded products and services.

The new section 40 outlines the functions of an authorised officer.

Clause 10 removes sections 41 to 43 and provides for the insertion of new sections 41 and 42.

The new section 41 provides that a chief executive may appoint a public service employee, another employee of their department or another person as an authorised officer. However, the appointing chief executive may only appoint a person as an authorised officer if satisfied the person is appropriately qualified.

The new section 42 provides that in exercising a power given under the Act, an authorised officer is subject to the directions of the officer's appointing chief executive.

Clause 11 amends section 45(1) to provide that an appointing chief executive must give an identity card to each person he or she appoints as an authorised officer.

Clause 12 amends section 53 to reflect terminology used in the Bill and to expand the circumstances in which a magistrate may issue a warrant under the Act to include to check whether a funded entity that receives funding to provide disability services to which the *Disability Services Act 2006* applies, is complying with that Act.

Clause 13 adds an example to section 57(3)(g) in relation to an authorised officer's powers.

Clause 14 replaces sections 60 and 61 with new sections 60 and 61.

The new section 60 applies where a chief executive or an authorised officer believe an offence against the Act has been committed or a serious concern exists and an entity may be able to give information about the offence or serious concern. The section gives the chief executive or an authorised officer the power to require the entity to provide the information related to the offence or serious concern within a reasonable time and in a stated way, by giving notice to that effect. When making this requirement the chief executive or authorised officer must warn the entity it is an offence not to comply unless the entity has a reasonable excuse. The chief executive or authorised officer may also require the entity to certify a copy of a document as a true copy.

The new section 61 makes it an offence to not comply with information or certification requirements, unless the entity has a reasonable excuse — maximum penalty 50 units.

Clause 15 inserts a new section 61A that imposes a duty on authorised officers to take all reasonable steps to avoid inconvenience and minimise damage when exercising their powers.

Clause 16 amends section 63(1) to clarify that compensation may be claimed from the State, not the chief executive.

Clause 17 replaces section 68 with a new section that specifies that Part 8 of the Act applies to the appointment of an interim manager.

Clause 18 removes sections 69 and 70 from the Act. The matters in these sections are now dealt with in the new sections 20 and 21.

Clause 19 amends section 71(2)(a) to reflect terminology used in the Bill.

Clause 20 amends section 72 to reflect terminology used in the Bill.

Clause 21 replaces section 73 with a new section that provides, after appointing an interim manager, a chief executive must give the funded entity notice of the appointment and a copy of the appointment. If there is another funded entity for the funding, the chief executive must also give notice of the appointment to that entity.

Clause 22 replaces section 74 with a new section which provides that before an interim manager exercises a power under the Part, the chief executive may direct them to inform

people receiving a product or service from the funded entity of the appointment or any variation of the appointment.

Notification may be provided to persons using the funded product or service in a variety of ways, for example, by posting a notice of the appointment at the funded entity's premises where it is likely to be seen.

Clause 23 inserts a new subsection into section 76 to clarify that the appointment of an interim manager cannot be varied to apply to other funding received by the funded entity and to update a cross reference and the terminology used in the section.

Clause 24 amends section 77(1) to update a section cross-reference and inserts a new subsection (2) and (3). The new subsection (2) provides that a chief executive must end an interim manager's appointment if the chief executive becomes aware the funded entity is insolvent or being wound up voluntarily. The new subsection (3) requires the chief executive to give notice about the ending of the appointment.

Clause 25 replaces sections 79 and 80 with new sections 79 and 80.

The new section 79 provides that an interim manager's functions are to remedy a serious concern for the funding received by a funded entity and ensure the funded product or service continues to be provided.

The new section 80 provides that so far as is necessary to carry out his or her functions, an interim manager may:

- enter the premises of the funded entity;
- use the facilities or things in the premises that (it appears) are intended to be used, or are ordinarily used, to provide a funded product or service;
- ask for and accept payments owing to the funded entity; and
- do anything in relation to a funded product or service, on behalf of the funded entity, that the funded entity is permitted or required to do.

Clause 26 amends section 82 to reflect terminology used in the Bill and insert a new example.

Clause 27 amends section 86(1) to reflect terminology used in the Bill and insert a new subsection (2). The new subsection provides that a funded entity, or an executive officer of it, may disclose to an interim manager information that the manager reasonably needs to carry out his or her functions, despite other provisions in this Act or another.

Clause 28 amends section 87 to reflect terminology used in the Bill. It also adds a new subsection (2)(e) to provide that a person may share confidential information if the person reasonably believes a serious concern exists. The person can report their belief to an entity that can take appropriate action.

Clause 29 amends section 91(1) to clarify that compensation may be claimed from the State, not the chief executive.

Clause 30 amends section 93 to remove the requirement for a chief executive to notify an interested person that they may apply to the tribunal for a further review of the decision.

Clause 31 amends section 94(2) to clarify that the notice comes from a chief executive.

Clause 32 replaces subsection 95(3) to (6) with new subsections (3) to (5). The new subsections provide that a chief executive may stay an original decision to secure the effectiveness of a review.

Clause 33 amends section 96(4) to provide that instead of giving the interested party a QCAT

information notice about the decision, the chief must give the person notice of the decision and the reasons for it.

Clause 34 removes Part 9, Division 3, which provides that an interested party may apply to the Queensland Civil and Administrative Tribunal for a review of a chief executive's review decision.

Clause 35 removes sections 124 to 126 and provides for the insertion of new sections 124 and 125.

The new section 124 applies where a funded entity receives funding from more than one department. It provides that a chief executive of one of the departments may, by written consent, authorise the chief executive of another department that funds the entity, to act on their behalf in exercising a power under the Act. Nothing in the section limits the power of a chief executive under the Act.

The new section 125 applies if, under the Act, a chief executive is required to give notice to a funded entity that has received funding. It clarifies that a chief executive is not required to give notice to a funded entity that is not an approved subcontractor of another funded entity.

Clause 36 amends section 128 to clarify that the section applies to other employees of a department who are not public servants and to update the terminology in the section. It also adds a new subsection (2)(e) to provide that a person may share confidential information if the person reasonably believes a serious concern exists. The person can report their belief to an entity that can take appropriate action.

Clause 37 replaces section 129 with a new section 129. The new section provides that a chief executive may issue a requirement notice, requiring a funded entity to provide information relating to the delivery of a funded product or service by the entity. The funded entity must comply with the requirement notice.

Clause 38 amends section 130 to reflect terminology used in the Bill and remove references to an 'approved service provider'.

Clause 39 replaces section 131 with a new section 131. The new section clarifies that a chief executive may give information regarding a funded entity, without their consent, to other entities that have an interest in the proper and efficient delivery of a funded product or service or another department providing funding to the entity. For example, a chief executive may collaborate with other entities providing funding to the funded entity to make long term plans for product or service delivery in particular geographic areas, or to ensure any actions taken in addressing a serious concern are co-ordinated with, or not duplicating actions taken by another entity.

Clause 40 replaces section 132 with a new section that provides that a Minister or chief executive may delegate their functions under the Act to an appropriately qualified public service employee or other employee of the department.

Clause 41 amends section 133 to reflect terminology used in the Bill and clarify that an interim manager is not civilly liable for a loss incurred by a funded entity unless the loss is due to the manager's dishonesty or negligence.

Clause 42 amends section 136 to note that particular terms have been omitted by the Bill.

Clause 43 omits Part 13, Division 2 as it is no longer necessary.

Clause 44 inserts a new Division into Part 13 setting out new provisions establishing transitional arrangements for the amendments contained in the Bill.

The new section 147 defines key terms that are used in Division 4.

The new section 148 applies to service agreements made under the *Family Services Act 1987* that are in force immediately before commencement of the Bill. It clarifies that these agreements continue in force despite the repeal of that Act.

The new section 149 applies to service agreements made under the Act that are in force immediately before commencement of the Bill. It clarifies that these agreements continue in force despite the repeal of Part 4 of the Act.

The new section 150 applies if, immediately before commencement of the Bill, a service provider had received assistance and the repealed section 27(4) applied but the service provider has not yet entered into a service agreement. It provides that the chief executive must stop the assistance if the service provider does not enter into a funding agreement within the specified time.

The new section 151 applies if a service agreement or a provision of the unamended Act relating to the service agreement was contravened before the commencement of the Bill. It clarifies that the unamended Act continues to apply to the contravention.

The new section 152 provides that an authorised officer who held office under the Act or the *Disability Services Act 2006* immediately before commencement of the Bill is taken to be an authorised officer under the amended Act.

The new section 153 provides that any interim manager appointed before the Bill commences will continue to be subject to the unamended Act that applied when they were appointed.

The new section 154 applies to decisions that were reviewable before the commencement of the Bill but are no longer. It clarifies that the unamended Act continues to apply to those decisions.

The new section 155 provides for the renumbering of the Act on commencement of the Bill.

Clause 45 replaces schedule 1 with a new schedule 1 that outlines the decisions of the chief executive that can be reviewed and who can apply for a review.

Clause 46 amends schedule 4 to omit definitions that are no longer necessary, incorporate definitions for new terms used throughout the Act and update cross references to sections of the Act.

Part 3 Amendment of *Child Protection Act 1999*

Clause 47 provides that this Part of the Bill amends the *Child Protection Act 1999* (the CPA).

Clause 48 inserts a new Part 1A into Chapter 5 of the CPA setting out provisions relating to the appointment of honorary officers. Honorary officers are currently appointed under the *Family Services Act 1987*, which will be repealed by clause 76 of the Bill.

The new section 155A provides that the function of an honorary officer is to assist the chief executive with the administration of the CPA.

The new section 155B provides that the chief executive may appoint an appropriately qualified person to be an honorary officer.

The new section 155C provides that an honorary officer holds office for the term stated in the instrument of appointment, being no more than 2 years.

The new section 155D provides that an honorary officer holds office on the conditions stated in their instrument of appointment.

Clause 49 amends section 182 to include a reference to an honorary officer.

Clause 50 inserts a new Part 8 into Chapter 9 of the CPA setting out new provisions establishing transitional arrangements for the amendments contained in the Bill.

The new section 270 provides that an honorary officer appointed under the *Family Services Act 1987* before the Bill commences is taken to be an honorary officer under the CPA.

Clause 51 amends schedule 3 to omit the definition of 'appropriately qualified' as it is now dealt with in schedule 1 of the *Acts Interpretation Act 1954* and inserts a definition of 'honorary officer'.

Part 4 Amendment of *Disability Services Act 2006*

Clause 52 provides that this Part of the Bill amends the *Disability Services Act 2006* (the DSA).

Clause 53 omits section 16, which defines the term 'approved non-government service provider'.

Clause 54 omits Parts 3 and 4 that set out provisions dealing with the disability service standards and the process for certifying whether service providers meet those standards, respectively.

Clause 55 omits a note to section 41 that refers to Part 11 as Part 11 is repealed by the Bill.

Clause 56 omits Parts 6, 7 and 8 that set out provisions dealing with approved non-government service providers, the funding of non-government service providers and prescribed requirements, respectively.

Clause 57 amends a note in the heading to Part 10A, Division 4, Subdivision 3 to refer to section 19 of the amended *Community Service Act 2007* rather than the repealed section 161 of the DSA.

Clause 58 amends a note in the heading to Part 10A, Division 8, Subdivision 2 to refer to section 19 of the amended *Community Service Act 2007* rather than the repealed section 161 of the DSA.

Clause 59 omits Parts 11 and 12 that set out provisions dealing with monitoring and enforcement of the DSA and the appointment of interim managers, respectively. Under the Bill, the powers in the amended *Community Services Act 2007* will be available to monitor and enforce compliance with the DSA.

Clause 60 omits Part 14 that sets out provisions dealing with the review of particular decisions made under the DSA.

Clause 61 amends section 193 to remove reference to an authorised officer.

Clause 62 amends section 194 to remove reference to an authorised officer.

Clause 63 amends section 195 to remove reference to an authorised officer.

Clause 64 amends section 222 to remove reference to an authorised officer and an interim manager and provide that a person that is authorised by the chief executive to carry out research related to the objects of the Act is subject to the confidentiality provision in subsection (2).

Clause 65 inserts a new section s226A that provides that the functions of an authorised officer under the *Community Services Act 2007* include investigating and monitoring

compliance with the DSA.

Clause 66 amends section 227 to omit subsection (2) and replace it with a new subsection that provides that the Minister must not delegate the review of the DSA. It also omits subsection (3) as the definition of ‘appropriately qualified’ is now dealt with in schedule 1 of the *Acts Interpretation Act 1954*.

Clause 67 amends section 228 to omit the definition of ‘appropriately qualified’ for the same reason given under clause 66 above.

Clause 68 amends section 229(3) to remove from the definition of ‘official’ an interim manager and an authorised officer.

Clause 69 inserts a note into section 237(2) that provides that the definition of ‘approved non-government service provider’ is omitted by the Bill.

Clause 70 inserts a note into section 238(3) that provides that the definition of ‘funding agreement’ is omitted by the Bill.

Clause 71 amends section 239(1) to insert a note that provides that the definition of service standards is omitted by the Bill.

Clause 72 amends section 240(1) to insert a note that provides that the definition of ‘disability sector quality system’ is omitted by the Bill.

Clause 73 inserts a new Division into Part 16 setting out new provisions establishing transitional arrangements for the amendments contained in the Bill.

The new section 326 sets out definitions used in the Division.

The new section 327 applies to funding agreements in force immediately before commencement of the Bill. It provides that those agreements continue in force but an agreement that contains a term complying with the previous section 58(1)(j) is of no effect and the agreement is taken to include a term requiring the non-government service provider to comply with the Human Services Quality Standards instead.

The new section 328 applies if, immediately before commencement of the Bill, a non-government service provider had received funding and the repealed section 56(4) applied but the service provider has not yet entered into a funding agreement. It clarifies that the chief executive must stop the funding if the service provider does not enter into a funding agreement within the specified time.

The new section 329 applies if a service agreement or a provision of the unamended DSA relating to the service agreement was contravened before the commencement of the Bill. It clarifies that the unamended DSA continues to apply to the contravention.

The new section 330 provides that any interim manager appointed before the Bill commences will continue to be subject to the unamended Act.

The new section 331 provides that any interim manager or authorised officer appointed under repealed provisions of the DSA continues to be subject to the appropriate duty of confidentiality.

The new section 332 applies to decisions that were reviewable before the commencement of the Bill but are no longer. It clarifies that the unamended DSA continues to apply to those decisions.

The new section 333 provides for the renumbering of the Act on commencement of the Bill.

Clause 74 omits schedule 2 and replaces it with a new schedule 2 that renumbers cross-references to the DSA in the Acts listed in it.

Clause 75 removes definitions from the dictionary in schedule 7 that are no longer needed.

Part 5 Repeal of *Family Services Act 1987*

Clause 76 repeals the *Family Services Act 1987*.

Part 6 Minor and consequential amendments

Clause 77 provides that Schedule 1 of the Bill amends the Acts it mentions.

Schedule 1 Minor and consequential amendments

Community Services Act 2007

These clauses update the *Community Services Act 2007* to reflect terminology used in the Bill.

Maintenance Act 1965

These clauses replace references to the repealed *Family Services Act 1987* with references to the *Community Services Act 2007*.

Police Service Administration Act 1990

The clause removes a reference to the repealed *Family Services Act 1987*.

Public Service Act 2008

The clause removes a reference to the repealed *Family Services Act 1987*.

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