

Queensland



# **CHILD PROTECTION AMENDMENT BILL 2000**



Queensland



**CHILD PROTECTION AMENDMENT  
BILL 2000**

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**AMENDMENTS FOR OMISSION OF CHAPTER 7A, PART 7**



**2000**

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**A BILL**

**FOR**

**An Act to amend the *Child Protection Act 1999* to provide for interstate transfers of certain orders and proceedings, and for other purposes**

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**The Parliament of Queensland enacts—**

1

## **PART 1—PRELIMINARY**

2

### **Short title**

3

Clause **1.** This Act may be cited as the *Child Protection Amendment Act 2000*.

4

### **Commencement**

5

Clause **2.(1)** The schedule<sup>1</sup> commences on a day to be fixed by proclamation.

6

**(2)** The *Acts Interpretation Act 1954*, section 15DA,<sup>2</sup> does not apply to the schedule.

7

8

### **Act amended**

9

Clause **3.** This Act amends the *Child Protection Act 1999*.

10

### **Amendment of s 7 (Chief executive's functions)**

11

Clause **4.** Section 7—

12

*insert—*

13

‘(1a) ensuring access by children in licensed residential facilities to advocacy services and cooperating with the services to help ensure that the children’s concerns are dealt with; and’.

14

15

16

### **Amendment of s 17 (Contact with children in school, child care centre, family day care etc.)**

17

18

Clause **5.(1)** Section 17(1)(d), ‘lawfully enters’—

19

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<sup>1</sup> Schedule (Amendments for omission of chapter 7A, part 7)

<sup>2</sup> *Acts Interpretation Act 1954*, section 15DA (Automatic commencement of postponed law)

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	<i>omit, insert—</i>	1
	‘has lawfully entered, and is lawfully remaining at.’.	2
	(2) Section 17(2), ‘, and remain in the school or place,’—	3
	<i>omit.</i>	4
	<b>Replacement of s 23 (Meaning of “parent” in pt 2)</b>	5
Clause	<b>6.</b> Section 23—	6
	<i>omit, insert—</i>	7
	<b>‘Meaning of “parent” in pt 2</b>	8
	‘23. In this part—	9
	<b>“parent”</b> , of a child, means each of the following persons—	10
	(a) the child’s guardian;	11
	(b) a person with custody of the child;	12
	(c) if the child is in a person’s custody or guardianship under this Act—anyone else who would be the child’s guardian if the child were not in the person’s custody or guardianship under this Act.’.	13 14 15
	<b>Amendment of s 28 (Provisions of temporary assessment order)</b>	16
Clause	<b>7.</b> Section 28(2)—	17
	<i>omit.</i>	18
	<b>Replacement of s 34 (Extension of temporary assessment orders)</b>	19
Clause	<b>8.</b> Section 34—	20
	<i>omit, insert—</i>	21
	<b>‘Extension of temporary assessment orders</b>	22
	‘34.(1) An authorised officer or police officer may apply to a magistrate for an order to extend the term of a temporary assessment order for a child.	23 24
	‘(2) This part applies, with all necessary changes, to the application as if it were an application for a temporary assessment order.	25 26

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‘(3) The magistrate may extend the temporary assessment order only if the magistrate is satisfied the order has not ended. 1  
2

‘(4) The temporary assessment order may be extended until the end of the next business day after it would have otherwise ended if the magistrate is satisfied the officer intends to apply for a court assessment order or child protection order for the child within the extended term. 3  
4  
5  
6

‘(5) Unless subsection (4) applies, the temporary assessment order may not be extended to a time ending more than 3 days after the day it was made. 7  
8  
9

‘(6) A temporary assessment order may not be extended more than once under subsection (4).’ 10  
11

**Insertion of new s 34A** 12

Clause 9. After section 34— 13

*insert—* 14

**‘Variation of temporary assessment orders** 15

‘34A.(1) An authorised officer or police officer may apply to a magistrate for an order to vary a temporary assessment order for a child. 16  
17

‘(2) This part applies, with all necessary changes, to the application as if it were an application for a temporary assessment order.’ 18  
19

**Replacement of s 36 (Meaning of “parent” in pt 3)** 20

Clause 10. Section 36— 21

*omit, insert—* 22

**‘Meaning of “parent” in pt 3** 23

‘36. In this part— 24

“parent”, of a child, means each of the following persons— 25

(a) the child’s guardian; 26

(b) a person with custody of the child; 27

(c) if the child is in a person’s custody or guardianship under this 28

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Act—anyone else who would be the child’s guardian if the child were not in the person’s custody or guardianship under this Act.’. 1  
2

**Amendment of s 40 (Notice of application)** 3

Clause **11.** Section 40(3)— 4

*omit, insert—* 5

‘(3) Also, if the applicant is a police officer, the applicant must immediately give a copy of the application to the chief executive. 6  
7

‘(4) A copy of the application served under this section must state— 8

(a) when and where the application is to be heard; and 9

(b) for a copy served on a parent—that the application may be heard and decided even though the parent does not appear in court.’. 10  
11

**Amendment of s 44 (Provisions of court assessment order)** 12

Clause **12.** Section 44(2)— 13

*omit.* 14

**Amendment of s 48 (Extension of court assessment orders)** 15

Clause **13.(1)** Section 48(2)— 16

*omit.* 17

**(2)** Section 48(4)— 18

*omit, insert—* 19

‘(4) The court may extend the term of the order only if the court is satisfied— 20  
21

(a) the order has not ended; and 22

(b) the extension is in the child’s best interests.’. 23

**Insertion of new s 49A** 24

Clause **14.** Chapter 2, part 3, after section 49— 25

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	<i>insert—</i>	1
	<b>‘Effect of court assessment order on existing child protection orders</b>	2
	<b>‘49A.</b> If a court assessment order is made for a child for whom a child protection order is already in force, the court assessment order prevails to the extent of any inconsistency between the orders.’.	3 4 5
	<b>Replacement of s 50 (Meaning of “parent” in pt 4)</b>	6
Clause	<b>15.</b> Section 50—	7
	<i>omit, insert—</i>	8
	<b>‘Meaning of “parent” in pt 4</b>	9
	<b>‘50.</b> In this part—	10
	<b>“parent”</b> , of a child, means each of the following persons—	11
	(a) the child’s guardian;	12
	(b) a person with custody of the child;	13
	(c) if the child is in a person’s custody or guardianship under this Act—anyone else who would be the child’s guardian if the child were not in the person’s custody or guardianship under this Act.’.	14 15 16
	<b>Amendment of s 57 (Making of child protection order)</b>	17
Clause	<b>16.(1)</b> Section 57(1)(e), ‘child’s protection is unlikely to be ensured’—	18
	<i>omit, insert—</i>	19
	‘protection sought to be achieved by the order is unlikely to be achieved’.	20
	<b>(2)</b> Section 57(5), ‘interim order’—	21
	<i>omit, insert—</i>	22
	‘interim order under section 64’.	23
	<b>Insertion of new s 57A</b>	24
Clause	<b>17.</b> After section 57—	25
	<i>insert—</i>	26

**‘Extraterritoriality**

‘57A. To remove doubt, it is declared the Childrens Court may make a child protection order even if the events causing the child to be a child in need of protection happened outside Queensland, or partly in Queensland and partly outside Queensland.’.

**Replacement of s 58 (Provisions of child protection orders)**

Clause 18. Section 58—

*omit, insert—*

**‘Provisions of child protection orders**

‘58. The Childrens Court may make any of the following child protection orders it considers to be appropriate in the circumstances—

- (a) an order directing a parent of the child to do or refrain from doing something directly related to the child’s protection;
- (b) an order directing a parent not to have contact, direct or indirect—
  - (i) with the child; or
  - (ii) with the child other than when a stated person or a person of a stated category is present;
- (c) an order requiring the chief executive to supervise the child’s protection in relation to the matters stated in the order;
- (d) an order granting custody of the child to—
  - (i) a suitable person, other than a parent of the child, who is a member of the child’s family; or
  - (ii) the chief executive;
- (e) an order granting short-term guardianship of the child to the chief executive;
- (f) an order granting long-term guardianship of the child to—
  - (i) a suitable person, other than a parent of the child, who is a member of the child’s family; or
  - (ii) another suitable person, other than a member of the child’s

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family, nominated by the chief executive; or 1  
 (iii) the chief executive.’. 2

**Amendment of s 62 (Variation and revocation of child protection orders)** 3  
 4

Clause **19.(1)** Section 62(2)(b)— 5  
*omit.* 6  
**(2)** Section 62(8)— 7  
*insert—* 8  
 ‘ **“child protection order”** does not include an interim order under 9  
 section 64.<sup>3</sup>. 10

**Amendment of s 65 (Court’s other powers on adjournment of proceedings for child protection orders)** 11  
 12

Clause **20.** Section 65(4)— 13  
*omit, insert—* 14  
 ‘**(4)** Without limiting subsection (1)(c), an order mentioned in the 15  
 paragraph may limit the child’s contact with the child’s family or provide 16  
 for how the contact is to happen.’. 17

**Amendment of s 92 (Report about person’s criminal history etc.)** 18

Clause **21.** Section 92(5), ‘*Traffic Act 1949*, section 14A’— 19  
*omit, insert—* 20  
 ‘*Transport Operations (Road Use Management) Act 1995*, section 77’. 21

**Amendment of s 94 (Carrying out medical examinations or treatment)** 22

Clause **22.** Section 94(6), after ‘because of subsection (1)(a)’— 23  
*insert—* 24

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<sup>3</sup> Section 64 (Court’s powers to make interim orders on adjournment)



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‘or because of an order mentioned in subsection (1)(b) that is an assessment order’.

**Amendment of s 96 (Chief executive’s custody or guardianship of child continues pending decision on application for order)**

- Clause **23.**(1) Section 96, heading, ‘Chief executive’s custody’—  
*omit, insert—*  
‘Custody’.
- (2) Section 96(1)—  
*omit, insert—*  
**‘96.(1)** This section applies if—
- (a) a child is in the chief executive’s custody or guardianship, or the custody of a member of the child’s family, under an order; and
  - (b) before the order ends, an application is made for the extension of the order or for another order.’.

**Amendment of ch 3 hdg (Childrens Court proceedings)**

- Clause **24.** Chapter 3, heading, ‘CHILDRENS’—  
*omit.*

**Amendment of s 113 (Costs)**

- Clause **25.** Section 113, ‘, other than the child,’—  
*omit.*

**Amendment of s 115 (How to start appeal)**

- Clause **26.** Section 115(2)—  
*omit.*

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	<b>Omission of ch 4 (Interstate transfers of guardianship and custody of children)</b>	1 2
Clause	<b>27.</b> Chapter 4— <i>omit.</i>	3 4
	<b>Amendment of s 143 (Inquiries about certain persons' suitability)</b>	5
Clause	<b>28.</b> Section 143(5), ' <i>Traffic Act 1949</i> , section 14A'— <i>omit, insert—</i> ' <i>Transport Operations (Road Use Management) Act 1995</i> , section 77'.	6 7 8
	<b>Insertion of new ss 147A and 147B</b>	9
Clause	<b>29.</b> Chapter 5, after section 147— <i>insert—</i>	10 11
	<b>'Regular inspections of licensed residential facilities</b>	12
	<b>'147A.</b> The chief executive must regularly inspect each licensed residential facility to assess whether the care provided to children in the facility meets the standards of care in the statement of standards.	13 14 15
	<b>'Obligation to report harm to children in residential care</b>	16
	<b>'147B.(1)</b> If a responsible person becomes aware, or reasonably suspects, that harm has been caused to a child in residential care, the person must, unless the person has a reasonable excuse, report the harm, or suspected harm, to the chief executive—	17 18 19 20
	(a) immediately; and	21
	(b) if a regulation is in force under subsection (2), in accordance with the regulation.	22 23
	Maximum penalty—20 penalty units.	24
	<b>'(2)</b> A regulation may prescribe the way the report must be given or the particulars that the report must include.	25 26
	<b>'(3)</b> It is a reasonable excuse for the person not to report a matter that	27

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reporting the matter might tend to incriminate the person.	1
‘(4) Subsection (1) does not apply if the person knows, or reasonably supposes, that the chief executive is aware of the harm or suspected harm.	2 3
‘(5) In this section—	4
<b>“child in residential care”</b> means a child who is—	5
(a) in the care of a departmental care service; or	6
(b) residing in a licensed residential facility.	7
<b>“responsible person”</b> means—	8
(a) an authorised officer; or	9
(b) an officer or employee of the department involved in administering this Act; or	10 11
(c) a person employed in a licensed care service.’.	12
 <b>Replacement of ss 161 and 162</b>	13
Clause <b>30.</b> Sections 161 and 162—	14
<i>omit, insert—</i>	15
<b>‘Offence to remove child from carer</b>	16
‘ <b>161.(1)</b> This section applies if a child is in the chief executive’s custody or guardianship under an assessment order or child protection order.	17 18
‘(2) A person must not—	19
(a) unlawfully remove the child from the care of the child’s carer; or	20
(b) if the child has been unlawfully removed from the care of the child’s carer—keep the child.	21 22
Maximum penalty—150 penalty units or 18 months imprisonment.	23
‘(3) Subsection (2) applies whether the removal or keeping of the child is carried out within or outside Queensland.	24 25
 <b>‘Offence to remove child from carer—order made in another State</b>	26
‘ <b>161A.(1)</b> This section applies if a child is in the custody or guardianship	27

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of the interstate officer for another State under an order made under a child welfare law or interstate law of that State.	1 2
‘(2) A person must not, in Queensland—	3
(a) unlawfully remove the child from the care of the child’s carer; or	4
(b) if the child has been unlawfully removed from the care of the child’s carer—keep the child.	5 6
Maximum penalty—150 penalty units or 18 months imprisonment.	7
<b>‘Offence to remove child from custody or guardianship</b>	8
‘162.(1) This section applies if a child is in the custody or guardianship of a person (the “ <b>first person</b> ”) under this Act.	9 10
‘(2) A person must not—	11
(a) unlawfully remove the child from the first person’s custody or guardianship; or	12 13
(b) if the child has been unlawfully removed from the first person’s custody or guardianship—keep the child.	14 15
Maximum penalty—150 penalty units or 18 months imprisonment.	16
‘(3) Subsection (2) applies whether the removal or keeping of the child is carried out within or outside Queensland.	17 18
<b>‘Offence to remove child from custody or guardianship—order made in another State</b>	19 20
‘162A.(1) This section applies if a child is in the custody or guardianship of a person (the “ <b>first person</b> ”) under an order made under a child welfare law or interstate law of another State.	21 22 23
‘(2) A person must not, in Queensland—	24
(a) unlawfully remove the child from the first person’s custody or guardianship; or	25 26
(b) if the child has been unlawfully removed from the first person’s custody or guardianship—keep the child.	27 28
Maximum penalty—150 penalty units or 18 months imprisonment.’.	29

	<b>Insertion of new ch 7, pt 1A</b>	1
Clause	<b>31.</b> After section 165—	2
	<i>insert—</i>	3
	<b>‘PART 1A—PROSECUTION OF CERTAIN INTERSTATE OFFENCES</b>	4 5
	<b>‘Consultation with chief executive before prosecution</b>	6
	<b>‘165A.(1)</b> This section applies to—	7
	(a) an offence against section 161 or 162 <sup>4</sup> relating to the unlawful removal or keeping of a child in another State; or	8 9
	(b) an offence against section 161A or 162A. <sup>5</sup>	10
	<b>‘(2)</b> A person must consult with the chief executive before starting proceedings against a person for the offence.	11 12
	<b>‘(3)</b> However, subsection (2) does not apply to a police officer starting proceedings against a person for the offence by arresting the person if the police officer believes, in the circumstances, it is reasonably necessary to arrest the person without first consulting with the chief executive.	13 14 15 16
	<b>‘(4)</b> If a police officer starts proceedings under subsection (3) by arresting a person without first consulting with the chief executive, the officer must notify the chief executive as soon as practicable after the arrest.	17 18 19
	<b>‘(5)</b> Failure to comply with subsection (2) or (4) in relation to proceedings does not affect the validity of the proceedings.	20 21
	<b>‘Person not to be prosecuted twice</b>	22
	<b>‘165B.</b> If a person has been convicted, found guilty or acquitted of an offence against a child welfare law or interstate law of another State for an	23 24

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<sup>4</sup> Section 161 (Offence to remove child from carer) or 162 (Offence to remove child from custody or guardianship)

<sup>5</sup> Section 161A (Offence to remove child from carer—order made in another State) or 162A (Offence to remove child from custody or guardianship—order made in another State)

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act or omission of the person, the person may not be prosecuted for an offence against this Act for the same act or omission.’. 1  
2

**Insertion of new s 169A** 3

Clause 32. Chapter 7, part 2, after section 169— 4

*insert—* 5

**‘Interstate warrants—arrangements for apprehended child until magistrate is available** 6  
7

‘169A.(1) This section applies if a police officer apprehends a child under a warrant issued in another State under a child welfare law of that State. 8  
9  
10

‘(2) The officer may arrange for the child’s safe care until it is practicable to take the child before a magistrate and, in making the arrangements, may use any help provided by the chief executive. 11  
12  
13

*Example—* 14

With the chief executive’s help, the officer may arrange for the child to be cared for by an approved foster carer until it is practicable to take the child before a magistrate.’. 15  
16  
17

**Replacement of ch 7, pt 3 hdg (General powers of authorised officers)** 18

Clause 33. Chapter 7, part 3, heading— 19

*omit, insert—* 20

**‘PART 3—GENERAL POWERS OF AUTHORISED OFFICERS AND POLICE OFFICERS’.** 21  
22**Amendment of s 170 (Application of pt 3)** 23

Clause 34. Section 170, after ‘authorised officer’— 24

*insert—* 25

‘or police officer’. 26

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	<b>Amendment of ch 7, pt 3, div 2 hdg (Power of seizure of authorised officers)</b>	1 2
Clause	<b>35.</b> Chapter 7, part 3, division 2, heading, ‘of authorised officers’— <i>omit.</i>	3 4
	<b>Amendment of s 171 (Power of seizure)</b>	5
Clause	<b>36.</b> Section 171, ‘authorised’— <i>omit.</i>	6 7
	<b>Amendment of s 172 (Procedure after seizure of thing)</b>	8
Clause	<b>37.</b> Section 172(1), ‘authorised’— <i>omit.</i>	9 10
	<b>Amendment of ch 7, pt 3, div 3 hdg (Other powers of authorised officers on entry)</b>	11 12
Clause	<b>38.</b> Chapter 7, part 3, division 3, heading, ‘of authorised officers’— <i>omit.</i>	13 14
	<b>Amendment of s 175 (Power to photograph)</b>	15
Clause	<b>39.</b> Section 175, ‘authorised’— <i>omit.</i>	16 17
	<b>Amendment of s 176 (Evidentiary provisions)</b>	18
Clause	<b>40.</b> Section 176— <i>insert—</i>	19 20
	‘(5) A document purporting to be the consent of an interstate officer or a delegate of an interstate officer, or purporting to be a copy of the consent of an interstate officer or a delegate of an interstate officer, is evidence of the consent.’.	21 22 23 24

	<b>Amendment of s 180 (Confidentiality of notifiers of harm)</b>	1
Clause	<b>41.(1)</b> Section 180(2)(a), ‘this Act’—	2
	<i>omit, insert—</i>	3
	‘this Act or a child welfare law or interstate law of another State’.	4
	<b>(2)</b> Section 180(2)(c), ‘by way of evidence given’—	5
	<i>omit, insert—</i>	6
	‘in evidence’.	7
	<b>Amendment of s 189 (Compliance with provisions about explaining and giving documents)</b>	8
		9
Clause	<b>42.</b> Section 189—	10
	<i>insert—</i>	11
	‘ <b>(1A)</b> Also, this section applies if, under a provision of chapter 7A, the chief executive is required to obtain the consent of a parent.’.	12
		13
	<b>Insertion of new ch 7A</b>	14
Clause	<b>43.</b> After section 191—	15
	<i>insert—</i>	16
	<b>‘CHAPTER 7A—INTERSTATE TRANSFERS OF</b>	17
	<b>CHILD PROTECTION ORDERS AND</b>	18
	<b>PROCEEDINGS</b>	19
	<b>‘PART 1—PRELIMINARY</b>	20
	<i>‘Division 1—Explanation, purpose and guiding principles</i>	21
	<b>‘Explanation and purpose</b>	22
	<b>‘191A.(1)</b> Chapter 2 provides for the making of child protection orders	23
	and the conduct of child protection proceedings in the Childrens Court.	24



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‘(2) Laws of other States and New Zealand provide for similar orders and proceedings.	1 2
‘(3) The purpose of this chapter is to provide for the transfer of the orders and proceedings between Queensland and other States, and between Queensland and New Zealand—	3 4 5
(a) so that children in need of protection may be protected if they move from one jurisdiction to another; and	6 7
(b) so that proceedings relating to the protection of a child may be decided, in a timely and expeditious way, in a court in the most appropriate jurisdiction.	8 9 10
‘(4) The transfer of an order from one jurisdiction to another enables the law of the receiving jurisdiction to provide for the administration and enforcement of the order as if it were made in the receiving jurisdiction.	11 12 13
‘(5) Similarly, the transfer of a proceeding from one jurisdiction to another enables the law of the receiving jurisdiction to provide for the proceeding to be heard and decided as if it had been started there.	14 15 16
 <b>‘Further guiding principle</b>	 17
‘191B.(1) This chapter must be administered under the principle that it is desirable for an order relating to the protection of a child to have effect, and to be enforced, in the State in which the child resides.	18 19 20
‘(2) In exercising its jurisdiction or powers under this chapter, the Childrens Court must observe the principle mentioned in subsection (1).	21 22
‘(3) This section does not limit section 5 or 101. <sup>6</sup>	23
 <b>‘Division 2—Interpretation provisions about child protection orders</b>	 24
 <b>‘References to Queensland orders</b>	 25
‘191C. If a child protection order is in force under this Act—	26

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<sup>6</sup> Section 5 (Principles for administration of Act) or 101 (Court’s paramount consideration)

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(a) the order as in force in Queensland is referred to in this chapter as the <b>“home order”</b> ; and	1 2
(b) the order in the form in which it is proposed to be transferred to another State under this chapter is referred to in this chapter as the <b>“proposed interstate order”</b> .	3 4 5
<b>‘Reference to “child protection order” includes certain orders of other States</b>	6 7
<b>‘191D.(1)</b> This chapter uses the term ‘child protection order’ to refer not only to orders made under this Act, but also to certain orders made under the laws of other States.	8 9 10
<b>‘(2)</b> Specifically, an order made under a child welfare law, or interstate law, of a participating State is a <b>“child protection order”</b> for this chapter if—	11 12 13
(a) the order provides—	14
(i) for the guardianship, custody or supervision of a child; or	15
(ii) for contact with a child; or	16
(iii) that a parent of the child must do or refrain from doing something directly related to the child’s protection; and	17 18
(b) the order is made in favour of, or gives responsibility to, any of the following entities of the participating State—	19 20
(i) a government department or statutory authority;	21
(ii) a person who is head of, is employed in, or otherwise holds an office or other position in, a government department or statutory authority;	22 23 24
(iii) an organisation or the chief executive of an organisation, whether or not the person’s position is given the name of chief executive; and	25 26 27
(c) the order is not made on an interim basis or for the purpose of assessing a child’s protective needs.	28 29
<b>‘(3)</b> A reference in this chapter to a child protection order, if the order is made under a law of another State—	30 31

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- (a) is a reference to the order in the form in which it is transferred, or proposed to be transferred, to Queensland; and 1  
2
- (b) includes a reference to a document, prepared under the law of the other State, stating the conditions applying to the order on its transfer to Queensland. 3  
4  
5

***‘Division 3—Corresponding laws of other States*** 6

**‘Meaning of “law” for div 3** 7

**‘191E.(1)** In this division— 8

**“law”** includes part of a law. 9

**‘(2)** Also, for the application of the *Acts Interpretation Act 1954*, section 14H<sup>7</sup> to a regulation made under this division, the definition “law” for that section includes a law of New Zealand. 10  
11  
12

**‘Child welfare laws** 13

**‘191F.** A regulation may declare a law of another State about the protection of children to be a child welfare law of that State. 14  
15

**‘Interstate laws** 16

**‘191G.(1)** If the Minister is satisfied a law of another State substantially corresponds to this chapter, the Minister may recommend that the Governor in Council— 17  
18  
19

- (a) declare the law to be an interstate law of that State; and 20
- (b) declare that State to be a participating State; and 21
- (c) declare the holder (from time to time) of a stated office to be the interstate officer for that State. 22  
23

**‘(2)** The Governor in Council may make the declaration by regulation. 24

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<sup>7</sup> *Acts Interpretation Act 1954*, section 14H (References taken to be included in citation of law)

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***‘Division 4—Meaning of “parent”***

**‘Meaning of “parent” for ch 7A**

**‘191H.** In this chapter—

**“parent”**, of a child, means—

(a) other than in part 7—

(i) the child’s guardian;

(ii) a person with custody of the child;

(iii) if the child is in a person’s custody or guardianship under this Act—anyone else who would be the child’s guardian if the child were not in the person’s custody or guardianship under this Act; or

(b) in part 7—a parent as defined in section 191ZS.<sup>8</sup>

**‘PART 2—TRANSFER OF AN ORDER TO ANOTHER STATE**

***‘Division 1—Orders that may be transferred***

**‘Orders that may be transferred**

**‘191I.** A child protection order in force under this Act may be transferred to a participating State under this part, unless the order is—

(a) an interim order under section 64; or

(b) an order granting long term guardianship of a child to someone other than the chief executive.

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<sup>8</sup> Section 191ZS (Definitions for pt 7)

***‘Division 2—Administrative transfers***

1

**‘Chief executive may transfer order**

2

**‘191J.(1)** The chief executive may transfer a child protection order to a participating State if—

3

4

(a) the chief executive is satisfied an order to the same or a similar effect as the home order could be made under a child welfare law of that State; and

5

6

7

(b) the home order is not the subject of an appeal under chapter 3, part 4<sup>9</sup> and, if no appeal has been started, the time for starting an appeal has expired; and

8

9

10

(c) the home order is not the subject of an application under section 62;<sup>10</sup> and

11

12

(d) the interstate officer for that State has given written consent to the transfer and to the provisions of the proposed interstate order; and

13

14

(e) each person whose consent to the transfer is required under section 191L has consented; and

15

16

(f) the chief executive has given the notices required under section 191M.

17

18

**‘(2)** For subsection (1)(a), in deciding whether an order to the same or a similar effect as the home order could be made under a child welfare law of the participating State, the chief executive must not take into account the period for which an order of that type could have been made in that State.

19

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**‘Provisions of proposed interstate order**

23

**‘191K.(1)** The provisions of the proposed interstate order are the provisions decided by the chief executive under this section.

24

25

**‘(2)** Before transferring the child protection order, the chief executive may vary the home order in a way that the chief executive is satisfied is reasonably necessary because of the transfer.

26

27

28

<sup>9</sup> Chapter 3 (Court proceedings), part 4 (Court appeals)

<sup>10</sup> Section 62 (Variation and revocation of child protection orders)

*Child Protection Amendment**Example—*

A child protection order is made under chapter 2, part 4, granting short-term guardianship of a child to the chief executive.

The child moves to Victoria. The chief executive decides to transfer the order to Victoria. In deciding the provisions of the proposed interstate order, the chief executive varies the home order so that it grants short-term guardianship of the child to the interstate officer for Victoria.

**‘(3) The proposed interstate order—**

- (a) must be of the same or a similar effect as the home order; and
- (b) may only include provisions that could be included in an order of that type under a child welfare law of the participating State.

**‘(4) The chief executive must state in the proposed interstate order the time for which it is to have effect in the participating State.**

**‘(5) The stated time must be the lesser of—**

- (a) the time for which the home order would have effect if it were not transferred to that State; and
- (b) the maximum time for which an order of that type, made under a child welfare law of that State, could be given effect.

**‘Persons whose consent is required**

**‘191L.(1) The order may not be transferred unless all the following persons give written consent to the transfer and to the provisions of the proposed interstate order—**

- (a) the child’s parents;
- (b) if the child is at least 12 years, the child;
- (c) if the child is in the care of a carer who has moved, or is moving, with the child to the participating State, the carer.

**‘(2) Before obtaining a person’s consent under subsection (1), the chief executive must—**

- (a) tell the person why the chief executive considers it is appropriate to transfer the order; and

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- (b) explain to the person the terms and effect of the proposed interstate order. 1  
2

**‘Notice of decision’** 3

‘**191M.(1)** If the chief executive decides to transfer the order, the chief executive must give a written notice of the decision and a copy of the proposed interstate order to each of the following persons— 4  
5  
6

- (a) the child; 7  
(b) each person whose consent to the transfer is required; 8  
(c) anyone else who the chief executive considers ought to be notified of the decision. 9  
10

‘**(2)** The notice must be given within 3 days after the day the decision is made (the “**decision day**”). 11  
12

‘**(3)** The notice must— 13

- (a) state the decision day; and 14  
(b) state that anyone who wishes to make a judicial review application in relation to the decision must make the application, and give notice of the application to the chief executive, within 28 days after the decision day. 15  
16  
17  
18

**‘Limited time for applying for judicial review’** 19

‘**191N.(1)** Despite the *Judicial Review Act 1991*, sections 26 and 46,<sup>11</sup> a person may only make a judicial review application in relation to the decision to transfer the order within 28 days after the decision day. 20  
21  
22

‘**(2)** The Supreme Court may not extend the time stated in this section for making the application. 23  
24

‘**(3)** The application is taken not to have been made until notice of the application is given to the chief executive. 25  
26

‘**(4)** The application stays the operation of the chief executive’s decision. 27

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<sup>11</sup> *Judicial Review Act 1991*, sections 26 (Period within which application must be made) and 46 (Time of making application)

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<b><i>Division 3—Judicial transfers</i></b>	1
<b>‘Application for transfer</b>	2
<b>‘191O.</b> The chief executive may apply to the Childrens Court for an order transferring a child protection order to a participating State.	3 4
<b>‘Procedural matters</b>	5
<b>‘191P.</b> The following provisions apply to the application as if any reference in the provisions to a child protection order were a reference to an order transferring a child protection order to a participating State—	6 7 8
• section 52(2)	9
• sections 53 to 56	10
• chapter 2, part 5	11
• chapter 3, parts 1 to 3.	12
<b>‘Court may transfer order</b>	13
<b>‘191Q.</b> On receiving the application, the Childrens Court may order the transfer of the child protection order to the participating State if—	14 15
(a) the home order is not the subject of an appeal under chapter 3, part 4 <sup>12</sup> and, if no appeal has been started, the time for starting an appeal has expired; and	16 17 18
(b) the interstate officer for that State has given written consent to the transfer and to the provisions of the proposed interstate order; and	19 20
(c) a family meeting has been held or reasonable attempts to hold a family meeting have been made; and	21 22
(d) if the application is contested, a conference between the parties has been held or reasonable attempts to hold a conference have been made; and	23 24 25

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<sup>12</sup> Chapter 3 (Court proceedings), part 4 (Court appeals)



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- (e) the child’s wishes or views, if able to be ascertained, have been made known to the court. 1  
2

**‘Provisions of proposed interstate order’ 3**

‘**191R.(1)** If the Childrens Court decides to order the transfer of the child protection order to the participating State, it must decide the provisions of the proposed interstate order. 4  
5  
6

‘**(2)** The court must be satisfied— 7

(a) the proposed interstate order is an order that could be made under a child welfare law of that State; and 8  
9

(b) the protection sought to be achieved by the proposed interstate order is unlikely to be achieved by an order on less intrusive terms; and 10  
11  
12

(c) the proposed interstate order— 13

(i) is of the same or a similar effect as the home order; or 14

(ii) is otherwise in the child’s best interests. 15

‘**(3)** In deciding the provisions of the proposed interstate order, the court must— 16  
17

(a) decide the time for which it would be appropriate for the proposed interstate order to have effect in the participating State; and 18  
19  
20

(b) state the time in the proposed interstate order. 21

‘**(4)** The stated time must not be more than the maximum time for which an order of that type, made under a child welfare law of that State, could be given effect in that State. 22  
23  
24

‘**(5)** In deciding whether the proposed interstate order is of the same or a similar effect as the home order, the court must not take into account the time for which the proposed interstate order is to have effect in the participating State. 25  
26  
27  
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<b>‘Notice of decision</b>	1
<b>‘191S.(1)</b> This section applies if the court decides the application by ordering the transfer of the child protection order.	2 3
<b>‘(2)</b> As soon as practicable after the court makes the decision, the chief executive must give to each party to the proceeding for the application—	4 5
(a) a copy of the court’s order; and	6
(b) a written notice—	7
(i) explaining the terms and effect of the court’s order; and	8
(ii) stating that the party may appeal against the decision within 10 business days after the party receives the notice; and	9 10
(iii) stating how to appeal.	11
 <b><i>‘Division 4—Effect of transfer and registration</i></b>	 12
 <b>‘Application of div 4</b>	 13
<b>‘191T.</b> This division applies if a child protection order is transferred to a participating State under this part and registered under an interstate law of that State.	14 15 16
 <b>‘Order ceases to have effect under this Act</b>	 17
<b>‘191U.</b> The order ceases to have effect under this Act.	18
 <b>‘Order may be revived under this Act</b>	 19
<b>‘191V.(1)</b> If the registration of the order is revoked under an interstate law of the participating State before its original expiry day, the home order resumes having effect under this Act until its original expiry day.	20 21 22
<b>‘(2)</b> The home order does not resume having effect under this Act if—	23
(a) the transferred order (rather than its registration) is revoked under a child welfare law of that State; or	24 25
(b) the transferred order expires.	26

‘(3) In this section—	1
“original expiry day”, of an order, means the day the order would cease to have effect under this Act if it were not transferred under this part.	2 3
<b>‘PART 3—TRANSFER OF AN ORDER TO QUEENSLAND</b>	4 5
<b>‘Application of pt 3</b>	6
<b>‘191W.</b> This part applies to the transfer of a child protection order to Queensland, from a participating State, under an interstate law of that State.	7 8
<b>‘Chief executive’s consent to transfer</b>	9
<b>‘191X.(1)</b> The order may not be transferred to Queensland unless the chief executive gives written consent to the transfer and to the provisions of the order.	10 11 12
<b>‘(2)</b> The chief executive must give the required consent, if asked by the interstate officer for the participating State, unless the chief executive is satisfied—	13 14 15
(a) the order includes a provision that may not be included in an order made under chapter 2, part 4; <sup>13</sup> or	16 17
(b) the transfer or the provisions of the order would not be in the child’s best interests.	18 19
<b>‘Filing and registration of order</b>	20
<b>‘191Y.(1)</b> This section applies if—	21
(a) the chief executive gives written consent to the transfer and to the provisions of the order; and	22 23
(b) the chief executive is satisfied that, under the interstate law—	24

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<sup>13</sup> Chapter 2 (Protection of children), part 4 (Child protection orders)

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- 
- (i) the period for appealing, or applying for review of, the interstate transfer decision relating to the transfer has expired; and 1  
2  
3
- (ii) the decision is not the subject of an appeal or application for review; and 4  
5
- (iii) the decision is not stayed. 6
- ‘(2) As soon as practicable after receiving a copy of the order, the chief executive must file the copy in the Childrens Court. 7  
8
- ‘(3) On the filing of the copy, the registrar of the court must register the order. 9  
10
- ‘(4) Immediately after registering the order, the registrar must notify the interstate officer for the participating State and the registrar of the Childrens Court in that State. 11  
12  
13
- ‘Effect of registration 14**
- ‘**191Z.(1)** The order is taken to be a child protection order of the Childrens Court in Queensland made on the day of its registration, except for the purposes of an appeal against the order. 15  
16  
17
- ‘(2) Without limiting subsection (1), the order may be enforced, varied, revoked, or extended in operation, as if it had been made under chapter 2, part 4.<sup>14</sup> 18  
19  
20
- ‘Revocation of registration 21**
- ‘**191ZA.(1)** Any of the following persons may apply to the Childrens Court to revoke the registration of the order— 22  
23
- (a) the chief executive; 24
- (b) the child the subject of the order; 25
- (c) a parent of the child; 26
- (d) a party to a proceeding in which the interstate transfer decision was made. 27  
28

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<sup>14</sup> Chapter 2 (Protection of children), part 4 (Child protection orders)

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- 
- ‘(2) The registrar must immediately give a copy of the application to— 1
- (a) the interstate officer for the participating State; and 2
  - (b) each person mentioned in subsection (1). 3
- ‘(3) The court may grant the application and revoke the registration only 4  
if it is satisfied that, when the order was registered— 5
- (a) the period for appealing, or applying for review of, the interstate 6  
transfer decision had not expired; or 7
  - (b) the decision was the subject of an appeal or application for 8  
review; or 9
  - (c) the decision was stayed. 10
- ‘(4) Immediately after the registration of the order is revoked, the 11  
registrar must— 12
- (a) notify the interstate officer for the participating State and the 13  
registrar of the Childrens Court in that State; and 14
  - (b) return the copy of the order that was filed in the court under 15  
section 191Y. 16
- ‘(5) Revocation of the registration of the order does not prevent a re- 17  
registration of the order. 18

**‘PART 4—TRANSFER OF PROCEEDINGS TO 19  
ANOTHER STATE 20**

**‘Application for transfer 21**

‘191ZB.(1) If there is a child protection proceeding pending in the 22  
Childrens Court, an authorised officer may apply to the court for an order 23  
transferring the proceeding to the Childrens Court in a participating State. 24

‘(2) The application must— 25

- (a) state the grounds on which it is made; and 26
- (b) state the nature of the order sought; and 27

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- (c) comply with applicable rules of court; and 1
- (d) be filed in the court. 2

**‘Registrar to fix time and place for hearing** 3

**‘191ZC.** When the application is filed, the registrar of the Childrens 4  
 Court must immediately fix the time and place for hearing the application 5  
 having regard to the principle that it is in the best interests of the child for 6  
 the application to be heard as early as possible. 7

**‘Notice of application** 8

**‘191ZD.(1)** As soon as practicable after the application is filed, the 9  
 applicant must— 10

- (a) personally serve a copy of it on each of the child’s parents; and 11
- (b) tell the child about the application.<sup>15</sup> 12

**‘(2)** However, if it is not practicable to serve the copy personally, a copy 13  
 of the application may be served on a parent by leaving it at, or by sending it 14  
 by post to, the parent’s residential address last known to the applicant. 15

**‘(3)** The copy of the application served under this section must state— 16

- (a) when and where the application is to be heard; and 17
- (b) that the application may be heard and decided even though the 18  
 parent does not appear in court. 19

**‘Court may transfer proceeding** 20

**‘191ZE.** On receiving the application, the court may order the transfer of 21  
 the proceeding to the participating State if the interstate officer for that State 22  
 has given written consent to the transfer. 23

**‘Considerations for Childrens Court** 24

**‘191ZF.(1)** In deciding whether to order the transfer, the court must have 25

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<sup>15</sup> Section 189 deals with compliance with provisions about giving information.

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regard to the following matters—	1
(a) whether there are any child protection orders for the child in force in the participating State;	2 3
(b) whether any other proceedings relating to the child are pending, or have been heard and decided, under a child welfare law in the participating State;	4 5 6
(c) where the matters giving rise to the proceedings happened;	7
(d) the place of residence, and likely future place of residence, of the child, the child’s parents and other persons significant to the child.	8 9
‘(2) This section does not limit sections 101 and 191B. <sup>16</sup>	10
<b>‘Court may make interim order</b>	11
<b>‘191ZG.(1)</b> If the Childrens Court orders the transfer of the proceeding to the participating State, it may also make an interim order—	12 13
(a) granting custody of the child to any person; or	14
(b) giving responsibility for the child’s supervision to the interstate officer for that State or another person in that State to whom the responsibility may be given under a child welfare law of that State.	15 16 17 18
‘(2) The interim order must state the time, not more than 30 days, for which it has effect.	19 20
<b>‘Notice of decision to transfer</b>	21
<b>‘191ZH.(1)</b> This section applies if the court decides the application by ordering the transfer of the proceeding.	22 23
‘(2) As soon as practicable after the court makes the decision, the chief executive must give to each party to the proceeding for the application—	24 25
(a) a copy of the court’s order; and	26
(b) a written notice—	27

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<sup>16</sup> Sections 101 (Court’s paramount consideration) and 191B (Further guiding principle)

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(i)	explaining the terms and effect of the court's order; and	1
(ii)	stating that the party may appeal against the decision within 10 business days after the party receives the notice; and	2 3
(iii)	stating how to appeal.	4
	<b>'Effect of registration of order</b>	5
	<b>'191ZI.</b> If the court's order transferring the proceeding to the participating State is registered in that State's Childrens Court under its interstate law—	6 7 8
(a)	the proceeding is discontinued in the Childrens Court in Queensland; and	9 10
(b)	any interim order made by the Childrens Court in Queensland on ordering the transfer ceases to have effect under this Act.	11 12
	 <b>'PART 5—TRANSFER OF PROCEEDINGS TO QUEENSLAND</b>	13 14
	<b>'Application of pt 5</b>	15
	<b>'191ZJ.</b> This part applies to the transfer of a child protection proceeding to Queensland, from a participating State, under an interstate law of that State.	16 17 18
	<b>'Chief executive's consent to transfer</b>	19
	<b>'191ZK.(1)</b> The proceeding may not be transferred to Queensland unless the chief executive gives written consent to the transfer.	20 21
	<b>(2)</b> The chief executive must give the consent, if asked by the interstate officer for the participating State, unless the chief executive is satisfied the transfer would not be in the child's best interests.	22 23 24



<b>‘Filing and registration of interstate transfer decision</b>	1
<b>‘191ZL.(1)</b> This section applies if—	2
(a) the chief executive gives written consent to the transfer; and	3
(b) the chief executive is satisfied—	4
(i) the period for appealing, or applying for review of, the interstate transfer decision relating to the transfer has expired; and	5 6 7
(ii) the decision is not the subject of an appeal or application for review; and	8 9
(iii) the decision is not stayed.	10
<b>‘(2)</b> As soon as practicable after receiving a copy of the decision, the chief executive must file the copy in the Childrens Court.	11 12
<b>‘(3)</b> Also, if an interstate government officer of the participating State is a party to the proceeding, the chief executive must—	13 14
(a) nominate an authorised officer to become a party to the proceeding in place of the interstate government officer; and	15 16
(b) file in the Childrens Court a notice stating the name of the nominated officer.	17 18
<b>‘(4)</b> If there is an associated interim order in force, the chief executive must also file a copy of the associated interim order in the Childrens Court as soon as practicable after receiving the copy.	19 20 21
<b>‘(5)</b> On the filing of a copy of an interstate transfer decision or associated interim order under this section, the registrar of the court must register the decision or order.	22 23 24
<b>‘(6)</b> Immediately after registering the decision or order, the registrar must notify the interstate officer for the participating State and the registrar of the Childrens Court in that State.	25 26 27
<b>‘(7)</b> In this section—	28
<b>“interstate government officer”</b> , of a participating State, means the interstate officer for that State or another officer of a department of government of that State.	29 30 31

**‘Effect of registration of interstate transfer decision**

**‘191ZM.(1)** The transferred proceeding is taken to be a proceeding started in the Childrens Court in Queensland on the day of registration of the interstate transfer decision and may be continued in the court.

**‘(2)** The authorised officer nominated under section 191ZL(3) is a party to the proceeding in place of the interstate government officer for the participating State.

**‘(3)** The court—

- (a) is not bound by any finding of fact made by the Childrens Court in the participating State; and
- (b) may inform itself on a matter using a transcript of the proceeding in that court or evidence tendered in the proceeding.

**‘Effect of registration of associated interim order**

**‘191ZN.(1)** An associated interim order filed in the Childrens Court in Queensland is taken to be an order of the court made on the day of its registration, except for the purposes of an appeal against the order.

**‘(2)** The order may be enforced as if it had been made by the court under section 64,<sup>17</sup> even if it includes provisions that could not otherwise be included in an order under that section.

**‘(3)** However, the court may not extend the operation of the order or vary the order in any other way.

**‘(4)** This section does not limit the court’s powers to revoke the order or make another order under section 64.

**‘Revocation of registration**

**‘191ZO.(1)** Any of the following persons may apply to the Childrens Court to revoke the registration of an interstate transfer decision or associated interim order under this part—

- (a) the chief executive;

<sup>17</sup> Section 64 (Court’s powers to make interim orders on adjournment)

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- 
- (b) the child the subject of the proceeding; 1
- (c) a parent of the child; 2
- (d) a party to the proceeding; 3
- (e) a person entitled under the interstate law of the participating State to receive notice of the proceeding. 4  
5
- ‘(2) The registrar must immediately give a copy of the application to— 6
- (a) the interstate officer for the participating State; and 7
- (b) each person mentioned in subsection (1). 8
- ‘(3) The court may grant the application and revoke the registration only if it is satisfied that, when the interstate transfer decision or associated interim order was registered— 9  
10  
11
- (a) the period for appealing, or applying for review of, the decision or order had not expired; or 12  
13
- (b) the decision or order was the subject of an appeal or application for review; or 14  
15
- (c) the decision or order was stayed. 16
- ‘(4) Immediately after the registration of the decision or order is revoked, the registrar must— 17  
18
- (a) notify the interstate officer for the participating State and the registrar of the Childrens Court in that State; and 19  
20
- (b) return the documents relating to the decision or order that were filed in the court under section 191ZL. 21  
22
- ‘(5) To remove doubt, it is declared that revocation of the registration of the interstate transfer decision or associated interim order does not prevent a re-registration of the decision or order. 23  
24  
25

**‘PART 6—MISCELLANEOUS**

1

***‘Division 1—Appeals***

2

**‘Appeal against decision of Childrens Court**

3

**‘191ZP.(1)** This section applies to a decision of the Childrens Court (the **“original decision”**) on an application for an order transferring a child protection order or child protection proceeding to a participating State.

4

5

6

**‘(2)** A party to the proceeding for the application may appeal to the appellate court against the decision.

7

8

**‘(3)** The appeal is started by filing a written notice of appeal with the registrar of the appellate court.

9

10

**‘(4)** The appellant must file the notice of appeal, and serve a copy of the notice on the other persons entitled to appeal against the decision, within the following times—

11

12

13

(a) if the original decision is to order the transfer of a child protection order—within 10 business days after receiving the notice under section 191S;

14

15

16

(b) if the original decision is to order the transfer of a child protection proceeding—within 10 business days after receiving the notice under section 191ZH;

17

18

19

(c) otherwise—within 10 business days after the decision.

20

**‘(5)** The appellate court may not extend the period for filing and serving the notice of appeal.

21

22

**‘(6)** The notice of appeal must state fully the grounds of the appeal and the facts relied on.

23

24

**‘(7)** The original decision is stayed until the appellate court decides the appeal.

25

26

**‘(8)** The appeal must be decided on the evidence and proceedings before the Childrens Court.

27

28

**‘(9)** However, the appellate court may order that the appeal be heard afresh, in whole or part.

29

30

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‘(10) The appellate court must hear and decide the appeal as soon as possible. 1  
2

‘(11) In deciding the appeal, the appellate court may— 3

(a) confirm the original decision; or 4

(b) vary the original decision; or 5

(c) set aside the original decision and substitute another decision. 6

**‘Interim orders 7**

‘191ZQ.(1) This section applies if a person appeals against an order transferring a child protection proceeding to a participating State. 8  
9

‘(2) If an interim order is in force under section 191ZG— 10

(a) the interim order is not affected merely because of the appeal; but 11

(b) the appellate court may— 12

(i) stay the operation of the interim order; or 13

(ii) vary or revoke the interim order; or 14

(iii) extend the time for which the interim order has effect. 15

‘(3) Also, the appellate court may make any interim order that could be made by the Childrens Court under section 191ZG. 16  
17

**‘Division 2—Court files 18**

**‘Transfer of court file 19**

‘191ZR.(1) This section applies if— 20

(a) a court has made an order transferring a child protection order or proceeding to a participating State; and 21  
22

(b) the time, if any, for an appeal against the court’s order has expired; and 23  
24

(c) the court’s order is not subject to a stay. 25

‘(2) The registrar of the court must give the court file for the child 26

protection order or proceeding to the registrar of the Childrens Court of the participating State.

1  
2

## **‘PART 7—INTERSTATE TRANSFERS FOR NON-PARTICIPATING STATES**

3  
4

### **‘Definitions for pt 7**

5

‘191ZS. In this part—

6

“interstate order”, for a child, means an order made by a court in another State for the child.

7  
8

“parent”, of a child, means the person who would be the child’s guardian if a child protection order or interstate order was not in force for the child.

9  
10  
11

### **‘Transfer from a non-participating State**

12

‘191ZT.(1) This section applies if—

13

(a) an interstate welfare authority in a non-participating State has custody or guardianship of a child under an interstate order; and

14  
15

(b) the child has entered, or is about to enter, Queensland; and

16

(c) the authority asks the chief executive to make a declaration under this section.

17  
18

‘(2) The chief executive may, by written declaration, assume custody or guardianship of the child—

19  
20

(a) if the interstate order is effective for less than 2 years—for not more than the remainder of the period stated in it; or

21  
22

(b) if the interstate order is effective for 2 years or more but is not effective until the child turns 18 years—for the lesser of—

23  
24

(i) the remainder of the period stated in it; or

25

(ii) 2 years; or

26

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- (c) if the interstate order is effective until the child turns 18 years—until the child turns 18 years. 1  
2

(3) On the making of the declaration, the interstate order is taken to be a child protection order under the terms stated in the declaration. 3  
4

(4) For subsection (3), the chief executive may declare the interstate order applies to the chief executive’s custody or guardianship to and only to the stated extent, or with the stated changes necessary, to make it consistent with this Act. 5  
6  
7  
8

**‘Notice of declaration’** 9

‘191ZU. As soon as practicable after making the declaration about assuming the custody or guardianship of a child, the chief executive must— 10  
11

- (a) give a copy of the declaration to the child and the child’s parents; 12  
and 13

- (b) explain the terms and effects of the declaration to them. 14

**‘Transfer to a non-participating State’** 15

‘191ZV.(1) The chief executive may arrange for an interstate welfare authority in a non-participating State to assume the custody or guardianship of a child who is under the chief executive’s custody or guardianship under this Act. 16  
17  
18  
19

‘(2) Before making the arrangement, the chief executive must give written notice of the arrangement to the following persons— 20  
21

- (a) the child; 22

- (b) the child’s parents; 23

- (c) if the child is in the care of a carer who has moved, or is moving, with the child to the non-participating State—the carer. 24  
25

‘(3) The notice must state the following— 26

- (a) the grounds for the arrangement; 27

- (b) the facts and circumstances forming the basis for the grounds; 28

- (c) that the person given the notice may make, within a stated period 29

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of at least 14 days, written submissions to the chief executive about why the arrangement should not be made.

‘(4) If, after considering all written submissions made within the stated time, the chief executive still considers grounds exist to make the arrangement, the chief executive may make the arrangement.

‘(5) The arrangement can not take effect until—

- (a) the end of the time to appeal against the decision to make the arrangement; or
- (b) if an appeal is made against the decision—the appeal is decided.

‘(6) The chief executive must give written notice of the chief executive’s decision to each person entitled to be given a notice under subsection (2).

‘(7) The notice must—

- (a) be given as soon as practicable after the decision is made; and
- (b) state the reasons for the decision; and
- (c) state that the person given the notice may appeal to a tribunal against the decision to make the arrangement within 28 days after the notice is received.

**‘Effect of State becoming a participating State**

‘191ZW. A child protection order made by declaration under section 191ZT is not affected if the State in which the relevant interstate order was made becomes a participating State.’.

**Insertion of new s 193A**

Clause 44. Chapter 8, after section 193—

*insert—*

**‘Numbering and renumbering of Act**

‘193A. In the next reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.



	<b>Amendment of ch 9 hdg (Repeals, savings and transitional provisions)</b>	1
		2
Clause	<b>45.</b> Chapter 9, heading, ‘REPEALS,’—	3
	<i>omit.</i>	4
	<b>Omission of ch 9, pt 1 (Repeals)</b>	5
Clause	<b>46.</b> Chapter 9, part 1—	6
	<i>omit.</i>	7
	<b>Omission of ch 9, pt 2 hdg (Savings and transitional provisions)</b>	8
Clause	<b>47.</b> Chapter 9, part 2, heading—	9
	<i>omit.</i>	10
	<b>Amendment of s 196 (Definitions for pt 2)</b>	11
Clause	<b>48.(1)</b> Section 196, heading, ‘pt 2’—	12
	<i>omit, insert—</i>	13
	‘ch 9’.	14
	<b>(2)</b> Section 196, ‘In this part’—	15
	<i>omit, insert—</i>	16
	‘In this chapter’.	17
	<b>(3)</b> Section 196, definition “commencing day”, ‘this part’—	18
	<i>omit, insert—</i>	19
	‘this chapter’.	20
	<b>(4)</b> Section 196, definition “repealed Act”—	21
	<i>omit, insert—</i>	22
	‘ <b>“replaced Act”</b> means the <i>Childrens Services Act 1965</i> as in force before the commencing day.’.	23
		24
	<b>(5)</b> Section 196, ‘repealed Act’—	25

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	<i>omit, insert—</i>	1
	‘replaced Act’.	2
	<b>Amendment of s 197 (Existing section 47 declarations and care and protection orders)</b>	3
		4
Clause	<b>49.</b> Section 197(2) and (3), ‘repealed Act’—	5
	<i>omit, insert—</i>	6
	‘replaced Act’.	7
	<b>Amendment of s 199 (Existing section 134 declarations)</b>	8
Clause	<b>50.(1)</b> Section 199(6)(a), ‘section 120’—	9
	<i>omit, insert—</i>	10
	‘section 191ZT’.	11
	<b>(2)</b> Section 199—	12
	<i>insert—</i>	13
	‘ <b>(7)</b> In this section—	14
	<b>“interstate order”</b> , for a child, means an order made by a court in another State for the child.’.	15
		16
	<b>Amendment of s 200 (Licensed institutions under repealed Act)</b>	17
Clause	<b>51.(1)</b> Section 200, heading, ‘repealed Act’—	18
	<i>omit, insert—</i>	19
	‘replaced Act’.	20
	<b>(2)</b> Section 200(1), ‘repealed Act’—	21
	<i>omit, insert—</i>	22
	‘replaced Act’.	23

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	<b>Amendment of s 201 (Approved foster parents)</b>	1
Clause	<b>52.</b> Section 201(1), ‘repealed Act’—	2
	<i>omit, insert—</i>	3
	‘replaced Act’.	4
	<b>Replacement of s 202 (Existing applications and proceedings for care and protection orders)</b>	5
		6
Clause	<b>53.</b> Section 202—	7
	<i>omit, insert—</i>	8
	<b>‘Existing applications and proceedings for care and protection orders and care and control orders</b>	9
		10
	<b>‘202.(1)</b> This section applies to—	11
	(a) an application under the replaced Act for an order that a child be—	12
	(i) admitted to the chief executive’s care and protection; or	14
	(ii) committed to the chief executive’s care and control; and	15
	(b) a proceeding in the Childrens Court for an application mentioned in paragraph (a).	16
		17
	<b>‘(2)</b> If the application or proceeding is not finally dealt with at the commencing day, it may be continued and dealt with under this Act as if it were an application, or a proceeding for an application, for a child protection order granting short-term guardianship of the child to the chief executive.’.	18
		19
		20
		21
	<b>Amendment of s 203 (Applications to revoke or substitute certain orders under repealed Act)</b>	22
		23
Clause	<b>54.</b> Section 203, ‘repealed Act’—	24
	<i>omit, insert—</i>	25
	‘replaced Act’.	26

	<b>Replacement of s 204 (Exemption from expiry of Children’s Services Regulation 1966)</b>	1
		2
Clause	<b>55.</b> Section 204—	3
	<i>omit, insert—</i>	4
	<b>‘References to replaced Act</b>	5
	<b>‘204.</b> In an Act or document, other than this Act, a reference to the <i>Children’s Services Act 1965</i> may, if the context permits, be taken to be a reference to this Act.’.	6
		7
		8
	<b>Insertion of new s 204A</b>	9
Clause	<b>56.</b> Chapter 10, before section 205—	10
	<i>insert—</i>	11
	<b>‘Amendment of Children’s Services Act 1965</b>	12
	<b>‘204A.(1)</b> This section amends the <i>Children’s Services Act 1965</i> .	13
	<b>‘(2)</b> <i>Omit</i> all provisions other than the title and sections 1, 8 and 69A.	14
	<b>‘(3)</b> Title, words from ‘the children’—	15
	<i>omit, insert—</i>	16
	‘children’.	17
	<b>‘(4)</b> Section 8, heading—	18
	<i>omit, insert—</i>	19
	<b>‘Meaning of “child” ’.</b>	20
	<b>‘(5)</b> Section 8, all definitions other than definition “child”—	21
	<i>omit.</i>	22
	<b>‘(6)</b> Section 69A—	23
	<i>insert—</i>	24
	<b>‘(2)</b> Proceedings for an offence against this section are to be taken in a summary way under the <i>Justices Act 1886</i> .’.	25
		26

	<b>Amendment of sch 2 (Appealable decisions and aggrieved persons)</b>	1
Clause	<b>57.(1)</b> Schedule 2, sixth item, from ‘Arranging’ to ‘child’s carer’—	2
	<i>omit.</i>	3
	<b>(2)</b> Schedule 2, at the end—	4
	<i>insert—</i>	5
	‘Arranging for an interstate welfare authority to assume custody or guardianship of a child (section 191ZV)	6
	A person to whom notice of the decision must be given under section 191ZV(6)’.	7
		8
		9
	<b>Amendment of sch 4 (Dictionary)</b>	10
Clause	<b>58.(1)</b> Schedule 4, definitions “child protection order”, “interim order” and “interstate order”—	11
	<i>omit.</i>	12
	<b>(2)</b> Schedule 4—	13
	<i>insert—</i>	14
	‘ <b>“associated interim order”</b> , in relation to a proceeding transferred to Queensland by a court under an interstate law, means an interim order made by the court when ordering the transfer of the proceeding.	15
		16
		17
		18
	<b>“child protection order”</b> —	19
	(a) means a child protection order under chapter 2, part 4, including—	20
		21
	(i) an order extending, varying or revoking a child protection order; and	22
		23
	(ii) an interim order under section 64 in relation to a proceeding for a child protection order; and	24
		25
	(b) for chapter 7A, includes an order mentioned in section 191D. <sup>18</sup>	26
	<b>“child protection proceeding”</b> means—	27

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<sup>18</sup> Section 191D (Reference to “child protection order” includes certain orders of other States)

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- 
- (a) a proceeding under this Act for the making, extension, amendment or revocation of a child protection order; or 1  
2
- (b) a proceeding under a child welfare law of a participating State for— 3  
4
- (i) the making, extension, amendment or revocation of a child protection order or interim order; or 5  
6
- (ii) if, under that law, the making of a particular finding is a prerequisite to the making of a child protection order—the making of the finding. 7  
8  
9
- “Childrens Court”**, of another State, means the court in that State that may hear and decide a child protection proceeding at first instance. 10  
11
- “child welfare law”**, of another State, means a law declared under section 191F to be a child welfare law of that State. 12  
13
- “home order”** see section 191C(a). 14
- “interstate government officer”** see section 191ZL(7). 15
- “interstate law”**, of another State, means a law declared under section 191G to be an interstate law of that State. 16  
17
- “interstate officer”**, for another State, means the officer declared to be the interstate officer for that State under section 191G. 18  
19
- “interstate order”**, for chapter 7A, part 7, see section 191ZS. 20
- “interstate transfer decision”** means— 21
- (a) an order of a court in a participating State, made under an interstate law of that State, transferring a child protection order or child protection proceeding from that State to Queensland; or 22  
23  
24
- (b) a decision of the interstate officer of a participating State, made under an interstate law of that State, to transfer a child protection order from that State to Queensland. 25  
26  
27
- “judicial review application”** means an application for a statutory order of review, or an application for review, under the *Judicial Review Act 1991*. 28  
29  
30
- “licensed residential facility”** means licensed premises in which children reside. 31  
32

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“non-participating State” means a State other than a participating State.	1
“participating State” means a State declared to be a participating State under section 191G.	2 3
“proposed interstate order” see section 191C(b).	4
“State” includes New Zealand.’.	5
(3) Schedule 4, definition “appellate court”, paragraph (a), after ‘child protection order’—	6 7
<i>insert—</i>	8
‘, or for an order transferring a child protection order or child protection proceeding to a participating State’.	9 10
(4) Schedule 4, definition “chief executive for transport”, ‘ <i>Traffic Act 1949</i> ’—	11 12
<i>omit, insert—</i>	13
‘ <i>Transport Operations (Road Use Management) Act 1995</i> ’.	14
(5) Schedule 4, definition “court assessment order”, paragraph (b), after ‘interim order’—	15 16
<i>insert—</i>	17
‘under section 64’.	18
(6) Schedule 4, definition “parent”, paragraphs (d) and (e)—	19
<i>omit, insert—</i>	20
(d) chapter 7A, parts 2 to 6—see section 191H;	21
(e) chapter 7A, part 7—see section 191ZS;	22
(f) other provisions—see section 11.19’.	23

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<sup>19</sup> In chapter 2, parts 2 to 4, and chapter 7A, parts 2 to 6, “parent” has a narrower meaning. The meaning given the term in the provisions is the same.

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(7) Schedule 4, definition “traffic history”, after ‘section 16 of the *Traffic Act 1949*—

*insert—*

‘, section 79 of the *Transport Operations (Road Use Management) Act 1995*’.

1  
2  
3  
4  
5  
6



<b>SCHEDULE</b>	1
<b>AMENDMENTS FOR OMISSION OF CHAPTER 7A, PART 7</b>	2 3
section 3	4
<b>1. Section 191H—</b>	5
<i>omit, insert—</i>	6
<b>‘Meaning of “parent” for ch 7A</b>	7
<b>‘191H.</b> In this chapter—	8
<b>“parent”</b> , of a child, means each of the following persons—	9
(a) the child’s guardian;	10
(b) a person with custody of the child;	11
(c) if the child is in a person’s custody or guardianship under this Act—anyone else who would be the child’s guardian if the child were not in the person’s custody or guardianship under this Act.’.	12 13 14
<b>2. Chapter 7A, part 7—</b>	15
<i>omit.</i>	16
<b>3. Chapter 9, after ch 9 hdg—</b>	17
<i>insert—</i>	18
<b>‘PART 1—SAVINGS AND TRANSITIONAL PROVISIONS FOR ACT No. 10 of 1999’.</b>	19 20
<b>4. Chapter 9, after section 204—</b>	21
<i>insert—</i>	22

## SCHEDULE (continued)

**‘PART 2—SAVINGS PROVISION FOR CHILD PROTECTION AMENDMENT ACT 2000**

**‘Declarations under repealed s 191ZT (Transfer from a non-participating State)**

**‘204AA.** A child protection order made by declaration under section 191ZT before the repeal of that section, and in force immediately before the repeal, is not affected by the repeal.’.

**5. Schedule 2, entry for ‘Arranging for an interstate welfare authority to assume custody or guardianship of a child (section 191ZV)’—**

*omit.*

**6. Schedule 4, definitions “interstate order”, “interstate welfare authority” and “non-participating State”—**

*omit.*

**7. Schedule 4, definition “parent”, paragraphs (d) to (f)—**

*omit, insert—*

‘(d) chapter 7A—see section 191H;<sup>20</sup>

(e) other provisions—see section 11.’.

<sup>20</sup> Section 191H (Meaning of “parent” for ch 7A)