



# **Working with Children (Indigenous Communities) Amendment Bill 2021**





Queensland

# Working with Children (Indigenous Communities) Amendment Bill 2021

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**2021**

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## **A Bill**

for

**An Act to amend the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984* and the *Working with Children (Risk Management and Screening) Act 2000* to allow for particular persons to provide services involving children in particular indigenous communities**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Working with Children  
(Indigenous Communities) Amendment Act 2021*. 4  
5

**Part 2 Amendment of Working with  
Children (Risk Management  
and Screening) Act 2000** 6  
7  
8

**Clause 2 Act amended** 9

This part amends the *Working with Children (Risk  
Management and Screening) Act 2000*. 10  
11

**Clause 3 Amendment of s 176L (Application by negative notice  
holder prohibited)** 12  
13

Section 176L— 14

*insert—* 15

(3) Subsection (1) does not apply to a person in 16  
relation to a community area application for a 17  
community area if the negative notice was not 18  
issued for a community area application for the 19  
community area. 20

**Clause 4 Amendment of s 187A (Application combined with  
disability worker screening application)** 21  
22

Section 187A(1)— 23

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*omit, insert—*

- (1) A person (an *applicant*) may combine either of the following with a disability worker screening application—
- (a) an application mentioned in section 187(1), other than a community area application;
  - (b) an application mentioned in section 187(2).

**Clause 5      Amendment of s 188 (Form of application)**

Section 188(3)—

*insert—*

- (ba) to state whether the application is for a restricted working with children clearance for 1 or more stated community areas; and
- (bb) if the application is for a working with children clearance mentioned in paragraph (ba)—to consent to the chief executive giving documents and information about the applicant to the community justice group for each community area to which the application relates, as provided for under division 9A; and

**Clause 6      Amendment of s 193 (Effect of application by negative notice holder)**

Section 193—

*insert—*

- (1A) However, this section does not apply to an applicant in relation to a community area application for a community area if the negative notice was not issued for a community area application for the community area.

[s 7]

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<b>Clause 7</b>	<b>Amendment of s 219 (Application of division)</b>	1
	Section 219—	2
	<i>insert</i> —	3
	<i>Note</i> —	4
	For a community area application, see also division 9A.	5
<b>Clause 8</b>	<b>Insertion of new ch 8, pt 4, div 9A</b>	6
	Chapter 8, part 4—	7
	<i>insert</i> —	8
	<b>Division 9A</b>	9
	<b>Community area applications</b>	10
	<b>231B Application of division</b>	11
	(1) This division applies to a community area application if—	12 13
	(a) the application is not withdrawn; and	14
	(b) the applicant has not been convicted of a prescribed serious offence.	15 16
	(2) This division applies despite anything to the contrary in division 9.	17 18
	(3) However, nothing in this division prevents the chief executive from issuing a working with children clearance to the applicant under division 9.	19 20 21 22
	(4) In this section—	23
	<i>prescribed serious offence</i> means an offence that is a serious offence, other than an offence against, or relating to an offence against—	24 25 26
	(a) the Criminal Code, section 409, 419 or 427;	27
	or	28

- 
- (b) the *Drugs Misuse Act 1986*, section 5, 6, 8  
or 9D. 1  
2

**231C Notifying community justice group of  
community area application** 3  
4

- (1) The chief executive must, within 5 business days  
after the community area application is made,  
give notice of the application to the community  
justice group for each community area to which  
the application relates. 5  
6  
7  
8  
9
- (2) The notice must— 10
- (a) be in writing; and 11
- (b) include a copy of the community area  
application. 12  
13

**231D Community justice group may recommend  
issue of interim restricted working with  
children clearance** 14  
15  
16

- (1) A community justice group for a community area  
that is given notice of the community area  
application under section 231C may, at any time  
before the chief executive decides the application,  
recommend to the chief executive the issuing to  
the applicant of an interim restricted working with  
children clearance for the community area. 17  
18  
19  
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21  
22  
23
- (2) The community justice group may make a  
recommendation under this section only if a  
majority of the group's members are satisfied that  
issuing the interim restricted working with  
children clearance would not harm the best  
interests of children in the community area. 24  
25  
26  
27  
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29
- (3) The recommendation must— 30
- (a) be in writing; and 31
- (b) include the community justice group's  
reasons for making the recommendation. 32  
33

[s 8]

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- |     |   |                            |
|-----|---|----------------------------|
| (4) | In deciding whether to make the recommendation, the community justice group must have regard to the following—  | 1<br>2<br>3                |
| (a) | any police information, investigative information or disciplinary information about the applicant that the group is aware of and considers relevant;                              | 4<br>5<br>6<br>7           |
| (b) | whether, and in what capacity, the applicant has previously worked with children;   | 8<br>9                     |
| (c) | the applicant's social standing and participation within the community area;  | 10<br>11                   |
| (d) | whether, in the group's reasonable opinion, withholding the recommendation would have a negative impact on the social or economic wellbeing of the community area's inhabitants;  | 12<br>13<br>14<br>15<br>16 |
| (e) | anything else the group reasonably considers to be relevant to the decision.  | 17<br>18                   |
| (5) | If the community justice group makes a recommendation under this section, the chief executive must issue the interim restricted working with children clearance to the applicant. | 19<br>20<br>21<br>22       |

**231E Giving community justice group information about application** 23  
24

- |     |  |  |
|-----|--|--|
| (1) | Within 21 days after the community area application is made, the chief executive must give the community justice group for each community area to which the application relates a written notice containing all information the chief executive considers is relevant to deciding the application. | 25<br>26<br>27<br>28<br>29<br>30<br>31 |
| (2) | The notice must—   | 32                                     |
| (a) | include or be accompanied by—  | 33                                     |

- 
- (i) a copy of each document received by the chief executive in relation to the community area application; and
  - (ii) a written summary of any oral information received by the chief executive in relation to the community area application; and
- (b) if the chief executive is proposing to decide the community area application by issuing a negative notice to the applicant, state—
- (i) the section under which the chief executive is proposing to issue the negative notice; and
  - (ii) the reasons for the chief executive’s proposed decision.
- (3) This section does not apply if the chief executive decides to issue a working with children clearance to the applicant within the 21-day period mentioned in subsection (1).

**231F Community justice group may recommend issue of restricted working with children clearance**

- (1) A community justice group for a community area that is given a notice under section 231E may, within 8 weeks after receiving the notice, recommend to the chief executive the issuing to the applicant of a restricted working with children clearance for the community area.
- (2) The community justice group may make a recommendation under this section only if a majority of the group’s members are satisfied that issuing the restricted working with children clearance would not harm the best interests of children in the community area.
- (3) The recommendation must—

[s 8]

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- (a) be in writing; and 1
- (b) include the community justice group's 2  
reasons for making the recommendation. 3
- (4) In deciding whether to make the recommendation, 4  
the community justice group must have regard to 5  
the following— 6
  - (a) all documents and information mentioned in 7  
or accompanying the notice given under 8  
section 231E; 9
  - (b) whether, and in what capacity, the applicant 10  
has previously worked with children; 11
  - (c) the applicant's social standing and 12  
participation within the community area; 13
  - (d) whether, in the group's reasonable opinion, 14  
withholding the recommendation would 15  
have a negative impact on the social or 16  
economic wellbeing of the community 17  
area's inhabitants; 18
  - (e) anything else the group reasonably 19  
considers to be relevant to the decision. 20
- (5) If the community justice group makes a 21  
recommendation under this section about the 22  
applicant, the chief executive must— 23
  - (a) issue to the applicant the restricted working 24  
with children clearance; and 25
  - (b) if, immediately before the issue of the 26  
clearance under paragraph (a), an interim 27  
restricted working with children clearance 28  
for the community area issued to the 29  
applicant was in force—give the applicant a 30  
written notice that states— 31
    - (i) the interim restricted working with 32  
children clearance is no longer in force; 33  
and 34

- 
- (ii) the applicant must return the working with children card issued for the interim restricted working with children clearance to the chief executive immediately, unless the applicant has a reasonable excuse. 1  
2  
3  
4  
5  
6
- (6) An applicant who is given a written notice under subsection (5)(b) must give the working with children card to which the notice relates to the chief executive immediately after the chief executive gives the notice, unless the applicant has a reasonable excuse. 7  
8  
9  
10  
11  
12
- Maximum penalty—20 penalty units. 13
- (7) The chief executive must not decide the community area application until the earlier of the following happens— 14  
15  
16
- (a) each community justice group that was given a notice under section 231E has either made a recommendation, or notified the chief executive it will not be making a recommendation, under this section in relation to the application; 17  
18  
19  
20  
21  
22
- (b) the period mentioned in subsection (1) ends. 23
- 231G Notifying community justice group of changes in police information** 24  
25
- (1) This section applies if— 26
- (a) a community justice group for a community area has made, and not revoked, a recommendation under section 231D or 231F about an applicant; and 27  
28  
29  
30
- (b) the chief executive is given a notice, under section 323, that police information about the applicant has changed. 31  
32  
33
- (2) The chief executive must give the community 34

[s 8]

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- justice group— 1
- (a) a copy of the notice; and 2
- (b) any other document or information obtained 3  
by the chief executive under this Act in 4  
relation to the change in police information. 5

**231H Community justice group may revoke 6  
recommendation 7**

- (1) A community justice group for a community area 8  
may, by written notice given to the chief 9  
executive, revoke a recommendation made by the 10  
group about an applicant under section 231D or 11  
231F. 12
- (2) The community justice group may revoke the 13  
recommendation only if a majority of the group’s 14  
members are satisfied that— 15
  - (a) the recommendation was based on wrong or 16  
incomplete information and, based on the 17  
correct or complete information, the group 18  
would not have made the recommendation; 19  
or 20
  - (b) there has been a change in circumstances 21  
affecting the applicant and, had the changed 22  
circumstances existed when the group made 23  
the recommendation, the group would not 24  
have made the recommendation. 25
- (3) The revocation must include the community 26  
justice group’s reasons for the revocation. 27
- (4) In deciding whether to revoke a recommendation, 28  
the community justice group must have regard 29  
to— 30
  - (a) the matters to which the group had regard 31  
when deciding to make the 32  
recommendation; and 33

- 
- (b) any documents or information given to the group under section 231G; and
- (c) anything else the group reasonably considers is relevant to the decision.
- (5) If a community justice group revokes a recommendation under this section, the chief executive must—
- (a) cancel the interim restricted working with children clearance or restricted working with children clearance (each a *cancelled clearance*) issued as a result of the recommendation; and
- (b) give the holder of the cancelled clearance a written notice that states the cancelled clearance is cancelled; and
- (c) if the cancelled clearance is a restricted working with children clearance—substitute a negative notice.
- Note—*
- See section 304P for the requirement for a person whose working with children authority is cancelled to return the person's working with children card to the chief executive.

**231I Effect of interim restricted working with children clearance or restricted working with children clearance for this Act**

- (1) A person who is issued an interim restricted working with children clearance or restricted working with children clearance for a community area is taken to hold a working with children clearance—
- (a) if the clearance is issued in relation to regulated employment—only for regulated employment in the community area; or

[s 8]

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- (b) if the clearance is issued in relation to a regulated business—only for carrying on a regulated business in the community area. 1  
2  
3
- (2) An interim restricted working with children clearance for a community area that is issued to a person remains in force only until the chief executive issues a working with children clearance or negative notice to the person. 4  
5  
6  
7  
8

**231J Effect of interim restricted working with children clearance or restricted working with children clearance for other Acts** 9  
10  
11

- (1) This section applies if an Act (a *relevant Act*) authorises or permits a person to perform a function or duty, provide a service or carry out another activity, whether generally or for a particular place, if the person or another person is the holder of a working with children clearance. 12  
13  
14  
15  
16  
17
- (2) For the relevant Act, a person who is issued an interim restricted working with children clearance or restricted working with children clearance for a community area is taken to hold a working with children clearance only for— 18  
19  
20  
21  
22
  - (a) performing the function or duty, providing the service or carrying out the activity in the community area; or 23  
24  
25
  - (b) a place in the community area. 26

**231K Information requirement about interim restricted working with children clearance or restricted working with children clearance** 27  
28  
29

- (1) This section applies in relation to a provision of an Act that requires— 30  
31
  - (a) a document, including for example, an application, to include information about a 32  
33

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working with children clearance held by a person; or	1 2
(b) information about a working with children clearance held by a person to be given to another person in another way.	3 4 5
(2) If a person holds an interim restricted working with children clearance or restricted working with children clearance for a community area, the provision is taken to require the inclusion or giving of the following information for the person—	6 7 8 9 10 11
(a) whether the person’s working with children clearance is an interim restricted working with children clearance or restricted working with children clearance;	12 13 14 15
(b) the community area to which the clearance relates.	16 17
<b>Clause 9 Amendment of s 347 (Replacement of lost or stolen card)</b>	18
(1) Section 347—	19
<i>insert—</i>	20
(1A) However, the requirement to apply for a replacement working with children card under subsection (1)(b)(i) stops applying to the person if—	21 22 23 24
(a) the working with children card is for an interim restricted working with children clearance for a community area; and	25 26 27
(b) the chief executive issues a restricted working with children clearance for the community area to the person within the period mentioned in subsection (1).	28 29 30 31
(2) Section 347—	32
<i>insert—</i>	33

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[s 10]

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	(2A)	If the application is for the replacement of a working with children card for an interim restricted working with children clearance for a community area and, before the application is decided, the chief executive issues a restricted working with children clearance for the community area to the applicant—	1 2 3 4 5 6 7
	(a)	the application lapses; and	8
	(b)	the chief executive must refund the prescribed fee for the application to the applicant.	9 10 11
	(3)	Section 347(3)(b), after ‘subsection (1)(b)(i)’— <i>insert</i> — and subsection (2A) does not apply	12 13 14
<b>Clause 10</b>	<b>Amendment of s 375 (Working with children card is evidence of authority)</b>	Section 375(1), ‘a working with children clearance’— <i>omit, insert</i> — the type of working with children clearance for which the card was issued	15 16 17 18 19 20
<b>Clause 11</b>	<b>Insertion of new ch 11, pt 21</b>	Chapter 11— <i>insert</i> — <b>Part 21</b>	21 22 23 24
		<b>Transitional provision for Working with Children (Indigenous Communities) Amendment Act 2021</b>	25 26 27 28

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<b>594 Existing working with children check (general) applications</b>	1
	2
(1) This section applies if—	3
(a) a working with children check (general) application was made, other than as part of a combined application, before the commencement; and	4 5 6 7
(b) on the commencement, the application has not been decided or withdrawn.	8 9
(2) At any time before the working with children check (general) application is decided, the applicant may give the chief executive written notice that the application is for a restricted working with children clearance for a community area.	10 11 12 13 14 15
(3) The notice must include the person’s consent to the chief executive giving documents and information about the person to the community justice group for each community area to which the working with children check (general) application relates, as provided for under chapter 8, part 4, division 9A.	16 17 18 19 20 21 22
(4) If the applicant gives the chief executive a written notice under this section, the working with children check (general) application is taken—	23 24 25
(a) to be an application for a restricted working with children clearance for a community area stated in the notice; and	26 27 28
(b) to have been made on the day the notice was given to the chief executive.	29 30

<b>Clause 12 Amendment of sch 7 (Dictionary)</b>	31
(1) Schedule 7—	32
<i>insert—</i>	33

[s 12]

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**community area** means a community area under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*.

**community area application** means a working with children check (general) application that is for a restricted working with children clearance for a community area.

**community justice group**, for a community area, means a community justice group established under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, part 4 for the community area.

**interim restricted working with children clearance**, for a community area, means a working with children clearance that—

(a) applies only for regulated employment or carrying on a regulated business in the community area; and

(b) is issued to an applicant for a community area application for a period until the chief executive decides the application.

**restricted working with children clearance**, for a community area, means a working with children clearance that applies only for regulated employment or carrying on a regulated business in the community area.

(2) Schedule 7, definition *working with children card*, paragraph (b)—

*insert—*

(iv) if the working with children authority is an interim restricted working with children clearance, or restricted working with children clearance, for a community area—a statement to that effect.

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<b>Part 3</b>	<b>Amendment of Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</b>	1 2 3 4
<b>Clause 13</b>	<b>Act amended</b>	5
	<i>This part amends the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i>.</i>	6 7
<b>Clause 14</b>	<b>Amendment of s 19 (Functions and powers)</b>	8
	Section 19(1)—	9
	<i>insert—</i>	10
	(da) making recommendations under the <i>Working with Children (Risk Management and Screening) Act 2000</i> , chapter 8, part 4, division 9A;	11 12 13 14