



# **Family Services Act 1987**

**Current as at 1 October 2010**

# Information about this reprint

This Act is reprinted as at 1 October 2010. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

## Dates shown on reprints

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

**Replacement reprint date** If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

# Family Services Act 1987

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	3
2	Definitions . . . . .	3
<b>Part 2</b>	<b>Objects and administration</b>	
<b>Division 1</b>	<b>Objects</b>	
3	Objects . . . . .	4
<b>Division 2</b>	<b>Administration</b>	
4	Honorary officers . . . . .	5
5	Engagement of agents . . . . .	6
6	Delegation, and exercise of powers on behalf of chief executive . . . . .	6
7	Advisory committees . . . . .	8
8	Offences with respect to officers of the department etc. . . . .	8
9	Annual report . . . . .	9
<b>Part 3</b>	<b>Family and community services</b>	
10	Chief executive may develop or carry out programs. . . . .	9
11	Grants. . . . .	10
12	Chief executive may inspect books etc. . . . .	11
13	Auditor-general may audit books etc. . . . .	11
<b>Part 5</b>	<b>Miscellaneous</b>	
28	Evidentiary provisions . . . . .	11
28A	Confidentiality of information obtained under previous pt 4 . . . . .	12
29	Liability for offences by bodies corporate and unincorporate . . . . .	13
30	Approved forms . . . . .	14
30A	Delegation . . . . .	14

Contents

---

<b>Part 6</b>	<b>Transitional provisions</b>	
<b>Division 1</b>	<b>Transitional provision for repeal of Family and Youth Services Act 1987</b>	
33	Family and Youth Services Act 1987 references . . . . .	14
<b>Division 2</b>	<b>Transitional provision for Criminal Code and Other Acts Amendment Act 2008</b>	
34	Reference in schedule to Criminal Code offences . . . . .	15
<b>Division 3</b>	<b>Transitional provisions for Criminal History Screening Legislation Amendment Act 2010</b>	
35	Definitions for div 3 . . . . .	15
36	Notice about change in criminal history not given at the commencement . . . . .	15
37	Request for police information not complied with at the commencement . . . . .	16
38	Particular police information obtained before commencement. . .	16
39	Notice not given by prosecuting authority at the commencement	17
40	Use of particular information obtained before commencement . .	17
 <b>Endnotes</b>		
1	Index to endnotes . . . . .	18
2	Date to which amendments incorporated. . . . .	18
3	Key . . . . .	19
4	Table of reprints . . . . .	19
5	Tables in earlier reprints . . . . .	20
6	List of legislation. . . . .	20
7	List of annotations . . . . .	22
8	Table of renumbered provisions . . . . .	28

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# Family Services Act 1987

[as amended by all amendments that commenced on or before 1 October 2010]

## An Act to provide for assistance to be made available to families and children and for other purposes

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Family Services Act 1987*.

#### 2 Definitions

In this Act—

***agent*** means an agent under a contract entered into under section 5.

***approved form*** see section 30.

***charge***, of an offence, means a charge in any form, including, for example, the following—

- (a) a charge on an arrest;
- (b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;
- (c) a complaint under the *Justices Act 1886*;
- (d) a charge by a court under the *Justices Act 1886*, section 42(1A) or another provision of an Act;
- (e) an indictment.

***child*** means a person who has not attained the age of 18 years.

[s 3]

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*commencement*, for part 6, division 3, see section 35.

*engaged by the department*, for part 6, division 3, see section 35.

*guardian* means any person who is recognised in law as a legal guardian of a child.

*honorary officer* means a person holding appointment as an honorary officer under section 4.

*person* includes an association of persons that is not incorporated.

*police commissioner*, for part 6, division 3, see section 35.

*police information*, for part 6, division 3, see section 35.

*unamended Act*, for part 6, division 3, see section 35.

## **Part 2                      Objects and administration**

### **Division 1                Objects**

#### **3                      Objects**

Without limiting the operation of this Act, the objects of this Act include—

- (a) the promotion and support of the welfare of families as the basis of community wellbeing;
- (b) the establishment of services and the encouragement of the development of services that promote, support and protect the wellbeing of families;
- (c) the encouragement of the development of coordinated social welfare services and programs that promote and strengthen local, neighbourhood and community interests;

- (d) the promotion of the wellbeing of the community by assisting individuals and families to overcome social problems with which they are confronted.

## **Division 2                      Administration**

### **4                      Honorary officers**

- (1) The chief executive may appoint, in writing, such persons, having qualifications or experience appropriate to the proper discharge of their duties, as the chief executive thinks fit, to be honorary officers—
  - (a) for the purpose of assisting officers of the department in giving effect to this Act or any other Act; and
  - (b) for a term not exceeding 2 years; and
  - (c) upon such terms and conditions as the chief executive thinks fit and specifies in the officers' appointments.
- (2) An honorary officer may be reappointed from time to time for a term not exceeding 2 years in respect of any reappointment.
- (3) The chief executive, by writing addressed to an honorary officer, may remove the officer from his or her appointment at any time.
- (4) The chief executive may pay an honorary officer such amounts as the chief executive thinks fit to reimburse the officer for expenses reasonably incurred, or reasonably expected to be incurred, in the course of the officer's duties.
- (5) The chief executive shall arrange for an honorary officer to receive such training and to be subject to such supervision as the chief executive thinks fit.
- (6) An honorary officer, while carrying out the duties of an honorary officer, is taken to be employed by the chief executive.

[s 5]

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- (7) The chief executive must enter into a contract of insurance with Workcover Queensland or another insurer for insurance for honorary officers.

## **5 Engagement of agents**

The chief executive may enter into contracts for services with such persons having qualifications and experience appropriate to the proper discharge of the contracts as the chief executive thinks fit with a view to those persons acting as the chief executive's agents in giving effect to this Act or any other Act.

## **6 Delegation, and exercise of powers on behalf of chief executive**

- (1) Subject to any direction by the Minister to the contrary, the chief executive, by signed writing, may delegate, either generally or in a particular case and whether given or imposed under this or any other Act, all or any of the chief executive's powers, authorities, functions and duties as specified therein (other than this power of delegation) to—

- (a) any officer of the department; or
- (b) any holder of an office within the department specifying its title but not the name of the holder for the time being; or
- (c) an honorary officer; or
- (d) an agent;

and may in like manner and subject as aforesaid revoke at any time a delegation made by the chief executive under this subsection.

- (2) In making a delegation under subsection (1)(c) or (d) the chief executive may only delegate such of the chief executive's powers, authorities, functions and duties as are necessary to enable the honorary officer to carry out the duties of his or her office or, as the case may be, the agent to discharge his or her contract.



- (3) Subject to any direction by the Minister to the contrary, the chief executive, by signed writing, may delegate to an individual who has the care of a child of whom the chief executive is guardian all or any of the chief executive's powers, authorities, functions and duties specified therein (other than this power of delegation) had by the chief executive as such guardian, and may in like manner and subject as aforesaid revoke at any time a delegation made by the chief executive under this subsection.
- (4) The chief executive may make pursuant to subsection (1) such and as many delegations of the same power, authority, function or duty and to such number of persons as the chief executive considers necessary or desirable.
- (5) A delegation—
  - (a) may be made subject to such conditions as the chief executive thinks fit and specifies in the instrument of delegation or free of any condition; and
  - (b) shall be authority to the delegate thereunder to exercise the delegated power or authority or discharge the delegated function or duty subject to and in accordance with the instrument of delegation; and
  - (c) shall not prevent or prejudice the exercise or discharge by the chief executive of the power, authority, function or duty thereby delegated.
- (6) A delegation under subsection (3) shall not be made, if the child has attained the age of 15 years, unless the child consents thereto.
- (7) If the chief executive is at any time absent from duty or unable to perform the duties of office, any power, authority, function or duty had by the chief executive pursuant to this or any other Act or arising by reason of the chief executive having guardianship or custody of a child may be exercised or discharged by another officer of the department authorised in writing in that behalf by the Minister, without any delegation by the chief executive in respect thereof.

[s 7]

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## **7 Advisory committees**

- (1) The Minister may establish as many advisory committees as the Minister considers appropriate for the administration of this Act.
- (2) An advisory committee has the functions the Minister decides.
- (3) A member of an advisory committee is entitled to be paid the fees and allowances that may be decided by the Governor in Council.

## **8 Offences with respect to officers of the department etc.**

- (1) A person who, with intent to influence any officer of the department or any other person in the exercise of the person's powers or authorities or the discharge of the person's duties or functions under this Act, gives, offers or promises any bribe, recompense, inducement or reward to that officer or other person, or attempts so to do, commits an offence against this Act.

Maximum penalty—40 penalty units or 2 years imprisonment.

- (2) A person who—
  - (a) falsely assumes or uses the name, designation or description of any honorary officer, agent or other person appointed for any purpose of this Act; or
  - (b) pretends that the person is any honorary officer, agent or other person appointed for any purpose of this Act;

for the purpose of assuming to do any act, exercise any power or authority or discharge any duty or function had by, or imposed on, that officer, agent or person pursuant to this Act or any other Act administered in the department commits an offence against this Act.

Maximum penalty for subsection (2)—40 penalty units or 2 years imprisonment.

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## **9 Annual report**

- (1) In each year the chief executive shall furnish to the Minister a report on the operation of this Act and any other Act administered in the department during the year covered by the report.
- (2) The Minister shall lay every such report before the Legislative Assembly within 14 sitting days from the date on which the Minister receives the report.

# **Part 3 Family and community services**

## **10 Chief executive may develop or carry out programs**

- (1) The chief executive may—
  - (a) develop or carry out; or
  - (b) where the Minister so approves under section 11(3), make grants to any body corporate or association of persons that is not incorporated to develop or carry out; programs for the provision of family or community services.
- (2) In considering whether to develop or carry out a program referred to in subsection (1), or whether to recommend to the Minister that a grant be made for that purpose, the chief executive shall consider whether the program has as its object—
  - (a) the promotion and protection of family life; or
  - (b) the development and strengthening of local, neighbourhood and community interests; or
  - (c) the preservation and fostering of the dignity and independence of individuals; or
  - (d) the provision of assistance to individuals who are disadvantaged or disabled; or

[s 11]

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- (e) any other object that is consistent with the objects of this Act.

## **11 Grants**

- (1) An application for a grant under section 10 shall be made in writing to the chief executive and shall be made in accordance with such guidelines as are issued by the chief executive, with the approval of the Minister, and shall contain such information as is required by the chief executive.
- (2) The chief executive may make such inquiries in respect of an application for a grant as the chief executive thinks fit.
- (3) The Minister may approve or refuse an application for a grant as the Minister thinks fit.
- (4) If a grant is approved the Minister may subject to the grant to such conditions as the Minister thinks fit.
- (5) If the chief executive has reasonable cause to suspect that the conditions of a grant are not being, or have not been, complied with, the chief executive may call upon the person who received the grant, by notice served upon the person, to show cause to the chief executive within 21 days of receipt of the notice why further payments of the grant should be made or, as the case may be, moneys paid under the grant should not be refunded.
- (6) If after the expiration of the 21 days, the chief executive, after considering any submission made by the person, is satisfied that the conditions of a grant are not being or have not been complied with, the chief executive, with the approval of the Minister, may refuse to make further payments of the grant.
- (7) If that noncompliance consists of the application of moneys paid under the grant to a purpose other than the purpose for which the grant was approved the amount of those moneys may be recovered from the applicant by action in a court of competent jurisdiction as a debt due and owing to the Crown.

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**12 Chief executive may inspect books etc.**

- (1) If the chief executive has reasonable cause to suspect that the conditions of a grant made under section 10 are not being, or have not been, complied with, the chief executive may request the person to whom the grant has been made to produce to the chief executive any books and records kept by that person in respect of moneys received under that grant.
- (2) The chief executive may examine and make copies of, or take extracts from, the books and records so produced relating to the receipt and expenditure of those moneys.

**13 Auditor-general may audit books etc.**

- (1) If the chief executive has reasonable cause to suspect that the conditions of a grant made under section 10 are not being, or have not been, complied with, the chief executive may request the auditor-general to audit the accounts of the person to whom the grant has been paid.
- (2) The auditor-general shall have with respect to such audit all the powers and authorities conferred on the auditor-general by the *Auditor-General Act 2009* in respect of an audit of the description of audit that the auditor-general is performing under subsection (1) and the provisions of that Act shall apply in respect of such audit and to all persons concerned therein.

**Part 5 Miscellaneous**

**28 Evidentiary provisions**

- (1) This section applies to a proceeding under or in relation to this Act.
- (2) Unless a party, by reasonable notice, requires proof of—
  - (a) the appointment of an honorary officer under this Act;  
or

[s 28A]

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- (b) the authority of an honorary officer to do an act under this Act;  
the appointment or authority must be presumed.
- (3) A signature purporting to be the signature of the chief executive or an honorary officer is evidence of the signature it purports to be.
- (4) A certificate purporting to be signed by the chief executive stating a stated document is a copy of a notice or approval given under this Act is evidence of the matter.

#### **28A Confidentiality of information obtained under previous pt 4**

- (1) This section applies to a person who—
  - (a) is, or has been, a public service employee in the department or a selection panel member; and
  - (b) in that capacity acquired information, or gained access to a document, under previous part 4 about someone else's criminal history or about an investigation relating to the possible commission of a serious offence by someone else.
- (2) The person must not disclose the information, or give access to the document, to anyone else.  
Maximum penalty—100 penalty units or 2 years imprisonment.
- (3) Subsection (2) does not apply to the disclosure of information, or giving of access to a document, about a person—
  - (a) to a public service employee in the department, or a selection panel member, for the purpose of assessing the person's suitability to be, or continue to be, engaged by the department; or
  - (b) with the person's consent; or
  - (c) if the disclosure or giving of access is otherwise required under an Act.

(4) In this section—

*commencement* means the commencement of this section.

*conviction* includes a finding of guilt by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

*criminal history*, of a person, means—

- (a) every conviction of the person for an offence, in Queensland or elsewhere; and
- (b) every charge made against the person for an offence, in Queensland or elsewhere.

*engaged by the department* means engaged by the department within the meaning of section 14(2) of this Act as in force from time to time before the commencement.

*previous part 4* means part 4 of this Act as in force from time to time before the commencement.

*selection panel member* means a member of a panel formed to make a recommendation to the chief executive about a person's engagement by the department.

*serious offence* means serious offence as defined under section 2 of this Act as in force from time to time before the commencement.

## 29 Liability for offences by bodies corporate and unincorporate

- (1) Where an offence against this Act is committed by a body corporate each of the following persons is deemed to have committed the offence and may be proceeded against and punished in respect of the offence—
  - (a) the body corporate;
  - (b) the managing director, manager or other governing officer (by whatever name called).
- (2) Where an offence against this Act is committed and any association of persons that is not incorporated is by this Act

[s 30]

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liable therefor, each member of the committee or other governing body (by whatever name called) of the association is deemed to have committed the offence and may be proceeded against and punished in respect of the offence.

- (3) If an individual referred to in subsection (1) or (2) is charged with an offence against this Act it shall be a defence to show that the contravention or failure to comply in question occurred without his or her consent or connivance and that he or she exercised all due diligence to prevent it.

### **30 Approved forms**

The chief executive may approve forms for use under this Act.

### **30A Delegation**

- (1) The Minister may delegate the Minister's powers under section 11(3), (4) and (6) to an appropriately qualified public service officer or employee.
- (2) In this section—  
*appropriately qualified*, for a person to whom a power may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

## **Part 6 Transitional provisions**

### **Division 1 Transitional provision for repeal of Family and Youth Services Act 1987**

#### **33 Family and Youth Services Act 1987 references**

In an Act or document, a reference to the *Family and Youth Services Act 1987* is a reference to this Act.



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**Division 2**                      **Transitional provision for Criminal Code and Other Acts Amendment Act 2008**

**34**            **Reference in schedule to Criminal Code offences**

The schedule applies as if the reference to the Criminal Code, section 415 included a reference to the Criminal Code, sections 415, 416 and 417 as in force at any time before their repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

**Division 3**                      **Transitional provisions for Criminal History Screening Legislation Amendment Act 2010**

**35**            **Definitions for div 3**

In this division—

*commencement* means the commencement of this section.

*engaged by the department* means engaged by the department within the meaning of section 14 of the unamended Act.

*police commissioner* means the commissioner of the police service.

*police information* means a report or other information mentioned in section 22(2) of the unamended Act.

*unamended Act* means this Act as in force from time to time before the commencement.

**36**            **Notice about change in criminal history not given at the commencement**

(1) This section applies if—

[s 37]

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- (a) before the commencement, there is a change in the criminal history of a person engaged by the department; and
  - (b) at the commencement, the person has not disclosed the details of the change to the chief executive as required by section 19 of the unamended Act.
- (2) Despite section 19 of the unamended Act, the person is no longer required to give the details to the chief executive under this Act.

*Note—*

See, however, the *Public Service Act 2008*, sections 155B and 257.

### **37 Request for police information not complied with at the commencement**

- (1) This section applies if—
- (a) the chief executive has, under section 22 of the unamended Act, asked the police commissioner for police information about a person; and
  - (b) at the commencement, the police commissioner has not given the police information to the chief executive.
- (2) Despite section 22(3) of the unamended Act, the police commissioner is no longer required to comply with the chief executive's request.

### **38 Particular police information obtained before commencement**

- (1) This section applies if—
- (a) before the commencement, the police commissioner gave the chief executive a person's police information under section 22 of the unamended Act; and
  - (b) at the commencement, the chief executive has not, in relation to the police information, made an assessment about the person's suitability for engagement, or

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continued engagement, by the department under section 24 of the unamended Act.

- (2) The chief executive must immediately—
- (a) destroy the police information; and
  - (b) stop making the assessment.

*Note—*

Now see the following in relation to the engagement, or continued engagement, of the person by the department—

- (a) the *Public Service Act 2008*, chapter 5, part 6;
- (b) the *Commission for Children and Young People and Child Guardian Act 2000*, chapter 8.

### **39 Notice not given by prosecuting authority at the commencement**

- (1) This section applies if—
- (a) before the commencement, a person engaged by the department is charged with an indictable offence; and
  - (b) at the commencement, the police commissioner or director of public prosecutions has not given information about the charge to the chief executive as required by section 23 of the unamended Act.
- (2) Despite section 23 of the unamended Act, the police commissioner or director of public prosecutions is no longer required to give the information to the chief executive.

### **40 Use of particular information obtained before commencement**

Section 24(2) of the unamended Act continues to apply in relation to information about a person received by the chief executive under part 4 of the unamended Act as if the *Criminal History Screening Legislation Amendment Act 2010* had not been enacted.

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	18
3 Key . . . . .	19
4 Table of reprints . . . . .	19
5 Tables in earlier reprints . . . . .	20
6 List of legislation . . . . .	20
7 List of annotations . . . . .	22
8 Table of renumbered provisions . . . . .	28

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 October 2010. Future amendments of the Family Services Act 1987 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Amendments to	Reprint date
1	1994 Act No. 87	1 December 1994	8 February 1995
1A	1995 Act No. 57	28 November 1995	24 September 1996
1B	1996 Act No. 75	1 February 1997	24 March 1997
2	1999 Act No. 52	17 December 1999	17 December 1999

Reprint No.	Amendments included	Effective	Notes
2A	2004 Act No. 36	27 October 2004	
2B	2006 Act No. 12	1 July 2006	
2C	2007 Act No. 36	29 August 2007	
2D	2008 Act No. 55	1 December 2008	R2D withdrawn, see R3
3	—	1 December 2008	
3A	2009 Act No. 9	1 July 2009	
3B	2010 Act No. 5	1 April 2010	

Endnotes

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Reprint No.	Amendments included	Effective	Notes
3C	2010 Act No. 33	1 October 2010	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	1
Changed names and titles	1
Corrected minor errors	2
Obsolete and redundant provisions	1
Renumbered provisions	1, 2

## 6 List of legislation

### **Family Services Act 1987 No. 32 (prev Family and Youth Services Act 1987)**

date of assent 30 April 1987

ss 1–2, 69(4) and (5), 69(1) to the extent that it provides for amdts made by ss 22–27 of sch hereto and ss 22–27 thereof commenced on date of assent

ss 3–17, 56–60, 68, 69(2)–(3), (6)–(11) and (13), 69(1) to the extent that it provides for amdts made by ss 1(a), 2, 3(b), 4, 9–10, 16, 18, 20–21, 28–30, 32–36 and 38 of sch hereto and ss 1(a), 2, 3(b), 4, 9–10, 16, 18, 20–21, 28–30, 32–36 and 38 thereof commenced 9 June 1987 (proc pubd gaz 30 May 1987 p 846)

remaining provisions never proclaimed into force and rep 1994 No. 87 s 3 sch 3, pt 1

amending legislation—

### **Acts Amendment and Construction Act 1988 No. 47 s 3 sch 1**

date of assent 12 May 1988

commenced on date of assent

### **Child Care Act 1991 No. 79 ss 1–2, 85 sch 1**

date of assent 9 December 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 5 June 1992 (1992 SL No. 119)

### **Juvenile Justice Act 1992 No. 44 ss 1–2, 235 sch 3**

date of assent 19 August 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 1 September 1993 (1993 SL No. 313)

### **Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 3, pt 1**

date of assent 1 December 1994

commenced on date of assent

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 2**

date of assent 28 November 1995  
commenced on date of assent

**WorkCover Queensland Act 1996 No. 75 ss 1–2, 535 sch 2**

date of assent 12 December 1996  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 February 1997 (1996 SL No. 442)

**Child Protection Act 1999 No. 10 ss 1, 2(2), 205 sch 3**

date of assent 30 March 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 10 September 1999 (1999 SL No. 205)

**Family Services Amendment Act 1999 No. 52 pts 1–2**

date of assent 18 November 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 17 December 1999 (1999 SL No. 334)

**Child Safety Legislation Amendment Act (No. 2) 2004 No. 36 ss 1–2(1), pt 7**

date of assent 27 October 2004  
ss 1–2 commenced on date of assent  
remaining provisions commenced on date of assent (see s 2(1))

**Disability Services Act 2006 No. 12 ss 1–2, 241 sch 1**

date of assent 4 April 2006  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2006 (2006 SL No. 160)

**Statute Law (Miscellaneous Provisions) Act 2007 No. 36**

date of assent 29 August 2007  
commenced on date of assent

**Criminal Code and Other Acts Amendment Act 2008 No. 55 ss 1–2, 150 sch**

date of assent 23 October 2008  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 December 2008 (2008 SL No. 386)

**Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2009 (2009 SL No. 80)

**Criminal History Screening Legislation Amendment Act 2010 No. 5 pts 1, 11**

date of assent 4 March 2010  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 April 2010 (2010 SL No. 53)

**Child Protection and Other Acts Amendment Act 2010 No. 33 ss 1, 2(3), pt 6**

date of assent 8 September 2010  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 October 2010 (2010 SL No. 272)

## 7 List of annotations

**This reprint has been renumbered—see table of renumbered provisions in endnote 8.**

**Long title** amd 1988 No. 47 s 3 sch 1; 1991 No. 79 s 85 sch 1

**Short title**

**s 1** amd 1988 No. 47 s 3 sch 1

**Definitions**

**prov hdg** sub 1999 No. 52 s 4(1)

**s 2** prev s 2 om 1999 No. 10 s 205 sch 3

pres s 2

def “**agent**” ins 1999 No. 10 s 205 sch 3

def “**approved form**” ins 1999 No. 52 s 4(2)

def “**certificate of approval**” om 1999 No. 10 s 205 sch 3

def “**charge**” ins 1999 No. 52 s 4(2)

amd 2007 No. 36 s 2 sch

def “**child care**” om 1991 No. 79 s 85 sch 1

def “**conviction**” ins 1999 No. 52 s 4(2)

om 2010 No. 5 s 205(1)

def “**commencement**” ins 2010 No. 5 s 205(2)

def “**criminal history**” om 1999 No. 10 s 205 sch 3

ins 1999 No. 52 s 4(2)

om 2010 No. 5 s 205(1)

def “**Department**” om R1 (see RA s 39)

def “**engaged by the department**” ins 1999 No. 52 s 4(2)

sub 2010 No. 5 s 205

def “**family day care**” om 1991 No. 79 s 85 sch 1

def “**family day care agent**” om 1991 No. 79 s 85 sch 1

def “**foster care**” amd 1992 No. 44 s 235 sch 3

om 1999 No. 10 s 205 sch 3

def “**foster care agent**” om 1999 No. 10 s 205 sch 3

def “**foster parent**” om 1999 No. 10 s 205 sch 3

def “**honorary officer**” ins 1999 No. 10 s 205 sch 3

def “**license**” amd 1991 No. 79 s 85 sch 1

om 1999 No. 10 s 205 sch 3

def “**local authority**” om R1 (see RA s 39)

def “**Minister**” om R1 (see RA s 39)

def “**parent**” om 1999 No. 10 s 205 sch 3

def “**permanent head**” om R1 (see RA s 39)

def “**police commissioner**” ins 2010 No. 5 s 205(2)

def “**police information**” ins 2010 No. 5 s 205(2)

def “**police officer**” om R1 (see RA s 39)

def “**premises**” om 1999 No. 10 s 205 sch 3

def “**residential care**” om 1999 No. 10 s 205 sch 3

def “**sentence**” ins 1999 No. 52 s 4(2)

om 2010 No. 5 s 205(1)



def “**serious offence**” ins 1999 No. 52 s 4(2)  
 om 2010 No. 5 s 205(1)  
 def “**unamended Act**” ins 2010 No. 5 s 205(2)

**Objects**

**s 3** prev s 3 om 1991 No. 79 s 85 sch 1  
 pres s 3 amd 1988 No. 47 s 3 sch 1

**Honorary officers**

**s 4** amd 1992 No. 44 s 235 sch 3; 1996 No. 75 s 535 sch 2

**Engagement of agents**

**s 5** amd 1992 No. 44 s 235 sch 3

**Delegation, and exercise of powers on behalf of chief executive**

**s 6** prev s 6 om 1999 No. 10 s 205 sch 3  
 pres s 6 amd 1999 No. 10 s 205 sch 3

**Advisory committees**

**s 7** prev s 7 om 1999 No. 10 s 205 sch 3  
 pres s 7 sub 1999 No. 10 s 205 sch 3

**Offences with respect to officers of the department etc.**

**s 8** amd 1992 No. 44 s 235 sch 3; 1999 No. 10 s 205 sch 3

**Annual report**

**s 9** amd 1992 No. 44 s 235 sch 3

**PART 3—FAMILY AND COMMUNITY SERVICES**

**pt hdg** amd 1988 No. 47 s 3 sch 1

**Chief executive may develop or carry out programs**

**s 10** amd 1988 No. 47 s 3 sch 1; 2010 No. 5 s 206

**Auditor-general may audit books etc.**

**s 13** amd 2009 No. 9 s 136 sch 1

**PART 4—CRIMINAL HISTORIES OF PERSONS ENGAGED BY THE DEPARTMENT**

**pt hdg** orig pt 4 hdg om 1994 No. 87 s 3 sch 3  
 prev pt 4 hdg ins 1999 No. 52 s 5  
 om 2010 No. 5 s 207

**Division 1—Preliminary**

**div hdg** ins 1999 No. 52 s 5  
 om 2010 No. 5 s 207

**Persons engaged by the department**

**s 14** orig s 14 amd 1988 No. 47 s 3 sch 1  
 om 1994 No. 87 s 3 sch 3  
 prev s 14 ins 1999 No. 52 s 5  
 om 2010 No. 5 s 207

**Purpose**

**s 15** orig s 15 om 1994 No. 87 s 3 sch 3

prev s 15 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**This part applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986**

**s 16** orig s 16 amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3  
prev s 16 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Chief executive to advise of duties of disclosure etc.**

**s 17** orig s 17 om 1994 No. 87 s 3 sch 3  
prev s 17 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Division 2—Disclosure of criminal history**

**div hdg** ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Persons seeking to be engaged by the department must disclose criminal history**

**s 18** orig s 18 om 1994 No. 87 s 3 sch 3  
prev s 18 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Persons engaged by the department must disclose changes in criminal history**

**s 19** orig s 19 om 1994 No. 87 s 3 sch 3  
prev s 19 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Requirements for disclosure**

**s 20** orig s 20 amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3  
prev s 20 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**False, misleading or incomplete disclosure or failure to disclose**

**s 21** orig s 21 om 1994 No. 87 s 3 sch 3  
prev s 21 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Division 3—Chief executive may obtain information from other entities about criminal history and certain investigations**

**div hdg** ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Chief executive may obtain report from commissioner of police service**

**s 22** orig s 22 om 1994 No. 87 s 3 sch 3  
prev s 22 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Prosecuting authority to notify chief executive about committal, conviction etc.**

**s 23** orig s 23 om 1994 No. 87 s 3 sch 3  
prev s 23 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Division 4—Controls on use of information about criminal history and certain investigations**

**div hdg** ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Use of information obtained under this part**

**s 24** orig s 24 om 1994 No. 87 s 3 sch 3  
prev s 24 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Persons to be advised of information obtained**

**s 25** orig s 25 om 1994 No. 87 s 3 sch 3  
prev s 25 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Confidentiality**

**s 26** orig s 26 om 1994 No. 87 s 3 sch 3  
prev s 26 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**Guidelines for dealing with information**

**s 27** orig s 27 amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3  
prev s 27 ins 1999 No. 52 s 5  
om 2010 No. 5 s 207

**PART 5—MISCELLANEOUS**

**pt hdg** prev pt 5 hdg om 1994 No. 87 s 3 sch 3

**Evidentiary provisions**

**s 28** sub 1999 No. 10 s 205 sch 3

**Confidentiality of information obtained under previous pt 4**

**s 28A** ins 2010 No. 5 s 208

**Division 1—Application of Part**

**div hdg** prev pt 5 div 1 hdg om 1994 No. 87 s 3 sch 3

**Approved forms**

**s 30** prev s 30 om 1991 No. 79 s 85 sch 1  
pres s 30 ins 1999 No. 52 s 6

**Delegation**

**s 30A** ins 2004 No. 36 s 62

**Division 2—Licences**

**div hdg** prev pt 5 div 2 hdg om 1994 No. 87 s 3 sch 3

**References to “Minister”**

**s 31** prev s 31 om 1994 No. 87 s 3 sch 3  
pres s 31 ins 1999 No. 52 s 6  
om 2006 No. 12 s 241 sch 1

**References to “department” and “chief executive”**

- s 32** orig s 32 om 1994 No. 87 s 3 sch 3  
prev s 32 om 1994 No. 87 s 3 sch 3  
ins 1999 No. 52 s 6  
om 2006 No. 12 s 241 sch 1

**PART 6—TRANSITIONAL PROVISIONS**

- pt hdg** prev pt 6 hdg om 1994 No. 87 s 3 sch 3  
pres pt 6 hdg ins 1995 No. 57 s 4 sch 2  
amd 2008 No. 55 s 150 sch

**Division 1—Transitional provision for repeal of Family and Youth Services Act 1987**

- div hdg** ins 2010 No. 5 s 209

**Family and Youth Services Act 1987 references**

- s 33** prev s 33 amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3  
pres s 33 sub 1995 No. 57 s 4 sch 2

**Division 2—Transitional provision for Criminal Code and Other Acts Amendment Act 2008**

- div hdg** ins 2010 No. 5 s 210

**Reference in schedule to Criminal Code offences**

- s 34** prev s 34 amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3  
pres s 34 ins 2008 No. 55 s 150 sch

**Division 3—Transitional provisions for Criminal History Screening Legislation Amendment Act 2010**

- div hdg** ins 2010 No. 5 s 211

**Definitions for div 3**

- s 35** prev s 35 amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3  
pres s 35 ins 2010 No. 5 s 211

**Notice about change in criminal history not given at the commencement**

- s 36** prev s 36 om 1994 No. 87 s 3 sch 3  
pres s 36 ins 2010 No. 5 s 211

**Request for police information not complied with at the commencement**

- s 37** prev s 37 om 1994 No. 87 s 3 sch 3  
pres s 37 ins 2010 No. 5 s 211

**Particular police information obtained before commencement**

- s 38** prev s 38 om 1994 No. 87 s 3 sch 3  
pres s 38 ins 2010 No. 5 s 211  
amd 2010 No. 33 s 124

**Notice not given by prosecuting authority at the commencement**

- s 39** prev s 39 amd 1991 No. 79 s 85 sch 1

om 1994 No. 87 s 3 sch 3  
pres s 39 ins 2010 No. 5 s 211

**Use of particular information obtained before commencement**

**s 40** prev s 40 amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3  
pres s 40 ins 2010 No. 5 s 211

**Suspension etc., of certificates of approval**

**s 41** amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3

**Registration of persons having care of certain of children**

**s 42** om 1994 No. 87 s 3 sch 3

**Offence to have certain children in care if not registered**

**s 43** om 1994 No. 87 s 3 sch 3

**Licensees may appoint individuals to carry out duties**

**s 44** om 1994 No. 87 s 3 sch 3

**Disclosure of criminal histories**

**s 45** om 1994 No. 87 s 3 sch 3

**Division 3—Supervision**

**div hdg** om 1994 No. 87 s 3 sch 3

**Permanent head to supervise standard of programs and premises**

**s 46** om 1994 No. 87 s 3 sch 3

**Power to enter premises**

**s 47** om 1994 No. 87 s 3 sch 3

**Supervision by licensees**

**s 48** amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3

**Division 4—General**

**div hdg** om 1994 No. 87 s 3 sch 3

**Production of licences and certificates**

**s 49** om 1994 No. 87 s 3 sch 3

**Licensees to produce records and furnish information**

**s 50** om 1994 No. 87 s 3 sch 3

**Permanent head to authorize receipt into care of certain children**

**s 51** om 1994 No. 87 s 3 sch 3

**Deaths and serious injuries to be notified**

**s 52** om 1994 No. 87 s 3 sch 3

**Offence not to have licence or certificate of approval**

**s 53** amd 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3

Endnotes

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**Offence to conduct programme or provide care while licence or certificate suspended**

**s 54**      amd 1991 No. 79 s 85 sch 1  
            om 1994 No. 87 s 3 sch 3

**Members of Legislative Assembly may be foster parents**

**s 55**      om 1994 No. 87 s 3 sch 3

**Service of documents**

**s 56**      om 1999 No. 10 s 205 sch 3

**Right to appear**

**s 57**      om 1999 No. 10 s 205 sch 3

**General penalty**

**s 58**      amd R1 (see RA s 39)  
            om 1999 No. 10 s 205 sch 3

**Saving of registration of certain persons**

**s 64**      om 1994 No. 87 s 3 sch 3

**Saving of approval of persons as foster parents**

**s 65**      om 1994 No. 87 s 3 sch 3

**Saving of family day care licences, etc.**

**s 66**      om 1991 No. 79 s 85 sch 1

**Saving of day care centre licences**

**s 67**      om 1991 No. 79 s 85 sch 1

**Numbering and renumbering of Act**

**s 69**      orig s 69 om 1994 No. 87 s 3 sch 3  
            prev s 69 ins 1999 No. 10 s 205 sch 3  
            om R2 (see RA s 37)

**SCHEDULE—OTHER SERIOUS OFFENCE PROVISIONS OF THE CRIMINAL CODE**

orig sch amd 1988 No. 47 s 3 sch 1; 1991 No. 79 s 85 sch 1  
om 1994 No. 87 s 3 sch 3  
prev sch ins 1999 No. 52 s 6A  
amd 2008 No. 55 s 150 sch  
om 2010 No. 5 s 212

## **8 Table of renumbered provisions**

under the Reprints Act 1992 s 43 as required by the Family Services Act 1987, s 69

[Reprint No. 2]

Previous	Renumbered as
4.....	2
5.....	3

Previous	Renumbered as
8.....	4
8(1A).....	4(2)
8(2).....	4(3)
8(3).....	4(4)
8(4).....	4(5)
8(5).....	4(6)
8(6).....	4(7)
9.....	5
10.....	6
10(1A).....	6(2)
10(2).....	6(3)
10(3).....	6(4)
10(4).....	6(5)
10(5).....	6(6)
10(6).....	6(7)
11.....	7
12.....	8
13.....	9
14.....	10
15.....	11
16.....	12
17.....	13
18.....	14
19.....	15
20.....	16
21.....	17
22.....	18
23.....	19
24.....	20
25.....	21
26.....	22
27.....	23
28.....	24
29.....	25
30.....	26
31.....	27
pt 6.....	pt 5
59.....	28
60.....	29
61.....	30
62.....	31
63.....	32
pt 7.....	pt 6
68.....	33

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