



Queensland

Child Protection Reform and Other Legislation Amendment Act 2022

Act No. 7 of 2022

An Act to amend the Adoption Act 2009, the Child Protection Act 1999, the Child Protection Regulation 2011, the Disability Services Act 2006, the Working with Children (Risk Management and Screening) Act 2000 and the legislation mentioned in schedule 1 for particular purposes

[Assented to 20 May 2022]



Queensland

Child Protection Reform and Other Legislation Amendment Act 2022

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The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Child Protection Reform and Other Legislation Amendment Act 2022*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) part 3;
- (b) part 4;
- (c) part 6, division 3;
- (d) part 7;
- (e) schedule 1.

Part 2 Amendment of Adoption Act 2009

3 Act amended

This part amends the *Adoption Act 2009*.

Note—

See also the amendments in schedule 1.

4 Amendment of s 198 (Chief executive to supervise child's wellbeing and interests)

- (1) Section 198(1)(c) and (d)—

[s 5]

omit, insert—

- (c) because the chief executive, whether as the child's guardian or otherwise, placed the child in their custody under a delegation from the Commonwealth Minister; or
- (d) because the Commonwealth Minister, as the child's guardian under the Commonwealth Act, placed the child in their custody.

(2) Section 198—

insert—

(5) In this section—

Commonwealth Act means the *Immigration (Guardianship of Children) Act 1946* (Cwlth).

Commonwealth Minister means the Minister responsible for administering the Commonwealth Act.

5 Insertion of new pt 16, div 4

Part 16—

insert—

Division 4 Transitional provision for Child Protection Reform and Other Legislation Amendment Act 2022

359 Application of new s 198 to particular actions under pt 9, div 3

- (1) This section applies if a child, to whom part 9, division 3 applies, was placed in the custody of prospective adoptive parents during the period—
 - (a) starting on 12 November 2020; and

[s 8]

- (b) to promote the safety of children; and
- (c) to the extent that it is appropriate, to support families caring for children.

8 Amendment of s 5B (Other general principles)

- (1) Section 5B, ‘are general principles for ensuring’—

omit, insert—

general principles are relevant to making decisions relating to

- (2) Section 5B—

insert—

- (n) a child has the right to express the child’s views about what is, and is not, in the child’s best interests.

9 Amendment of s 5C (Additional principles for Aboriginal or Torres Strait Islander children)

- (1) Section 5C(2), ‘the *child placement principles*’—

omit, insert—

together the *Aboriginal and Torres Strait Islander child placement principle*

- (2) Section 5C(2)(b), from ‘participate in’—

omit, insert—

participate in—

- (i) significant decisions under this Act about Aboriginal or Torres Strait Islander children; and
- (ii) decisions relating to the development and delivery of services, provided by the department, that—

- (A) support Aboriginal or Torres Strait Islander families; or
- (B) provide for the care or protection of Aboriginal or Torres Strait Islander children;

10 Amendment of s 5D (Principles about exercising powers and making decisions)

- (1) Section 5D(1)(b)—

insert—

Note—

See also section 5E in relation to the exercise of a power, or the making of a decision, under this Act that affects, or may affect, a child.

- (2) Section 5D(2), after ‘court’—

insert—

or the tribunal

11 Replacement of s 5E (Obtaining child’s views)

Section 5E—

omit, insert—

5E Principles for participation of children

- (1) This section applies if a person—
- (a) exercises, or will exercise, a power under this Act that affects, or may affect, a child; or
 - (b) makes, or will make, a decision under this Act that affects, or may affect, a child.
- (2) Unless a provision of this Act states otherwise, the person must ensure the following in relation to the exercise of the power or the making of the decision—

[s 11]

- (a) the child is given meaningful and ongoing opportunities to participate;
 - (b) the child is allowed to decide whether or not the child will participate;
 - (c) the child is given information that is reasonably necessary to allow the child to participate;
 - (d) the child is advised about what help is available to the child;
 - (e) the person understands and considers, or makes a genuine attempt to understand and consider, any views expressed by the child;
 - (f) the child is allowed to express views that are different to views previously expressed by the child;
 - (g) communication with the child is carried out in a way that is appropriate for the child;
 - (h) a record of views expressed by the child is made that, if appropriate, uses the child's words.
- (3) If the child decides to participate in the exercise of the power or the making of the decision, the person must ensure that—
- (a) the child is allowed to decide how the child will participate; and

Examples of how a child may decide to participate—

- communicating verbally or non-verbally
- communicating directly with a particular person
- communicating indirectly through a trusted person, including, for example, a member of the child's family or family group, the child's carer or the public guardian
- communicating indirectly through an independent person, including, for example,

-
- the child's legal representative or health practitioner
 - communicating indirectly through a written statement or an audio or video recording
 - communicating indirectly through an expert in a report prepared by the expert
 - participating separately from particular persons
- (b) the person listens to and engages with, or makes a genuine attempt to listen to and engage with, the child; and
- (c) the child is given help to participate if the child requires it.
- (4) If the child decides not to participate, or is otherwise unable to participate, in the exercise of the power or the making of the decision, the person must ensure—
- (a) the person obtains, or makes a genuine attempt to obtain, the views of the child in another way that is appropriate for the child; and
- Example of a way to obtain a child's views that may be appropriate—*
- a report prepared by a psychologist for the child
- (b) the child's decision, or inability, does not operate to the detriment of the child in relation to the exercise of the power or the making of the decision.
- (5) This section does not apply to a court or the tribunal.

12 Amendment and renumbering of s 6AA (Principles about Aboriginal and Torres Strait Islander children—chief executive, litigation director and authorised officers)

- (1) Section 6AA(2)(a), 'have regard to the child placement principles'—

[s 13]

omit, insert—

make active efforts to apply the Aboriginal and Torres Strait Islander child placement principle

(2) Section 6AA(3)(b)—

omit, insert—

(b) section 5H applies in relation to the involvement of an independent Aboriginal or Torres Strait Islander entity for the child.

(3) Section 6AA—

insert—

(6) In this section—

active efforts, to apply the Aboriginal and Torres Strait Islander child placement principle, means purposeful, thorough and timely efforts to apply the principle.

(4) Section 6AA—

renumber as section 5F.

13 Amendment and renumbering of s 6AB (Principles about Aboriginal and Torres Strait Islander children—Childrens Court)

(1) Section 6AB(2)(b), ‘child placement principles’—

omit, insert—

Aboriginal and Torres Strait Islander child placement principle

(2) Section 6AB—

renumber as section 5G.

14 Insertion of new s 5H

After section 5G, as renumbered under this Act—

insert—

5H Principle about Aboriginal and Torres Strait Islander children—consent to involvement of independent Aboriginal or Torres Strait Islander entities

- (1) This section applies if—
 - (a) an independent Aboriginal or Torres Strait Islander entity, for an Aboriginal or Torres Strait Islander child, intends to carry out a relevant activity for the child; and
 - (b) either or both of the following apply—
 - (i) if it is appropriate for the child to consent to the carrying out of the relevant activity by the entity—the child does not consent to the carrying out of the relevant activity by the entity;
 - (ii) the child’s family does not consent to the carrying out of the relevant activity by the entity.
- (2) The independent Aboriginal or Torres Strait Islander entity must not carry out the relevant activity for the child.
- (3) In this section—

relevant activity, for an Aboriginal or Torres Strait Islander child, means any of the following activities—

 - (a) facilitating the participation of the child, and the child’s family, in a decision-making process;
 - (b) attending, and participating in, a case planning meeting for the child;
 - (c) participating in the review and preparation of a revised case plan for the child;
 - (d) otherwise participating in a family group meeting for the child;

[s 15]

- (e) attending a court ordered conference, under chapter 2, part 5, division 2, related to the child.

15 Amendment of s 7 (Chief executive's functions)

- (1) Section 7(1)—

insert—

- (fa) ensuring children have meaningful and ongoing opportunities to participate in decisions of the chief executive about programs and services relating to the purposes of this Act; and

- (2) Section 7(1)(n), 'purpose'—

omit, insert—

purposes

- (3) Section 7(1)(fa) to (t)—

renumber as section 7(1)(g) to (u).

16 Amendment of s 11 (Who is a parent)

Section 11, note—

omit, insert—

Note—

See also schedule 3, definition *parent*, paragraph (a).

17 Amendment of s 13F (Mandatory reporting relating to children in departmental or licensed care services)

- (1) Section 13F, heading, from 'in'—

omit, insert—

in care

- (2) Section 13F(1)—

insert—

- (d) an approved carer;
- (e) a person employed in an entity mentioned in section 82(1)(f).

(3) Section 13F(3), ‘written’—

omit.

(4) Section 13F(4), definition *child in care*—

omit, insert—

child in care means a child placed in care under section 82(1).

18 Amendment and renumbering of s 21A (Unborn children)

(1) Section 21A(3), from ‘child to—’—

omit, insert—

child to facilitate the participation of the pregnant woman and the child’s family in relation to a matter mentioned in subsection (2).

(2) Section 21A—

renumber as section 22.

19 Omission of s 23 (Meaning of *parent* in pt 2)

Section 23—

omit.

20 Omission of s 37 (Meaning of *parent* in pt 3)

Section 37—

omit.

[s 21]

21 Omission of s 51AA (Meaning of *parent* in pt 3AA)

Section 51AA—

omit.

22 Omission of s 51F (Meaning of *parent* in pt 3A)

Section 51F—

omit.

23 Amendment of s 51L (Who should be involved)

Section 51L(5)(b)—

omit, insert—

- (b) section 5H applies in relation to the entity's attendance or participation.

24 Amendment of s 51V (Review of plan—no long-term guardian)

(1) Section 51V—

insert—

- (4A) Without limiting subsections (2) to (4), the child may, at any time, ask the chief executive to review the child's case plan.
- (4B) On a request under subsection (5), the chief executive may decide not to review the plan if satisfied—
 - (a) the child's circumstances have not changed significantly since the plan was finalised or, if it has been reviewed, since the most recent review; or
 - (b) for another reason, it would not be appropriate in all the circumstances.
- (4C) If, on a request under subsection (5), the chief

executive decides not to review the case plan, the chief executive must give written notice of the decision to the child.

(4D) The notice mentioned in subsection (7) must comply with the QCAT Act, section 157(2).

(2) Section 51V(5), ‘Subsection (6)’—

omit, insert—

Subsection (10)

(3) Section 51V(4A) to (7)—

renumber as section 51V(5) to (11).

25 Amendment of s 51W (Who may participate)

Section 51W(6)(b)—

omit, insert—

(b) section 5H applies in relation to the entity’s attendance or participation.

26 Omission of s 52 (Meaning of *parent* in pt 4)

Section 52—

omit.

27 Amendment of s 59A (Additional matters about making permanent care orders for Aboriginal or Torres Strait Islander children)

Section 59A(2)(b), ‘child placement principles’—

omit, insert—

Aboriginal and Torres Strait Islander child placement principle

[s 28]

28 Amendment of s 67 (Court’s powers to make interim orders on adjournment)

Section 67(6)—

omit.

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

(1) Section 74(2), ‘for a child in care in schedule 1’—

omit.

(2) Section 74(4)—

insert—

(ba) is regularly told about the obligations of the chief executive under subsection (2); and

(d) is regularly told about the child’s right to contact the chief executive if the child has any questions or concerns about the child’s protection and care needs.

(3) Section 74(4)(ba) to (d)—

renumber as section 74(4)(c) to (e).

(4) Section 74—

insert—

(5) A communication mentioned in subsection (4) must—

(a) use language that is appropriate for the child; and

(b) be carried out in a way that is appropriate for the child.

30 Amendment of s 74A (Chief executive’s obligations to children under particular child protection orders)

(1) Section 74A(2)(a)—

omit, insert—

-
- (a) is regularly told about the charter of rights and its effect; and
- (2) Section 74A(2)(b), before ‘given’—
insert—
regularly
- (3) Section 74A(2)(c) to (e), before ‘told’—
insert—
regularly
- (4) Section 74A—
insert—
(3) A communication mentioned in subsection (2) must—
(a) use language that is appropriate for the child; and
(b) be carried out in a way that is appropriate for the child.

31 Amendment of s 83 (Additional provisions for placing Aboriginal and Torres Strait Islander children in care)

Section 83(3)(c)—

omit, insert—

- (c) section 5H applies in relation to the entity’s involvement.

32 Amendment of s 83A (Giving information to carers and children)

- (1) Section 83A(1)(a), ‘placement; and’—

omit, insert—

placement, including, for example, the following information—

[s 32]

- (i) information about why the chief executive has custody or guardianship of the child;
- (ii) information about any special needs of the child;

Examples of special needs of a child—

- physical or intellectual disabilities or impairments the child has
 - allergies, other physical or mental health conditions, or other medical conditions the child has
 - medications the child requires
- (iii) the proposed length of time of the placement;
 - (iv) information the carer will reasonably need to ensure the safety of the child, the carer and other members of the carer's household; and

(2) Section 83A(2)(a)—

insert—

Examples of information a carer may reasonably need to provide care for a child under this Act—

- information that corrects or updates the information given to the carer under subsection (1)
- a copy of the child's case plan
- information about the child's goals, personality, preferences and behaviours
- information about any special behavioural management needs of the child
- information about the child's family, culture and background
- information about any arrangements for contact between the child and the child's family group
- information about the cultural needs of the child

(3) Section 83A—

insert—

(5A) The chief executive must ensure the information given under this section is—

- (a) comprehensive; and
- (b) in a form that will be easily understood by the person to whom the information is given.

(4) Section 83A(5A) and (6)—

renumber as section 83A(6) and (7).

33 Amendment of s 86 (Chief executive to notify parents of placing child in care—child protection order)

(1) Section 86(2)(a)—

omit, insert—

- (a) the person in whose care the child is placed;
 - (aa) where the child is living;

(2) Section 86(2)(aa) to (e)—

renumber as section 86(2)(b) to (f).

(3) Section 86(5)(a)—

omit, insert—

- (a) that the chief executive has decided not to tell the child's parents—
 - (i) the person in whose care the child is placed; or
 - (ii) where the child is living;

34 Replacement of s 99 (Custody or guardianship of child continues pending decision on application for order)

Section 99—

omit, insert—

[s 35]

99 Particular orders continue pending decision on application for extension, variation, revocation or substitution

- (1) This section applies if—
 - (a) an order made under this chapter (the *relevant order*) applies in relation to a child; and
 - (b) before the relevant order ends, an application is made by the chief executive or litigation director for the extension, variation, revocation or substitution of the relevant order.
- (2) The relevant order, and any ancillary order for the relevant order, continues until the application is decided unless—
 - (a) if the relevant order was made by a magistrate—a magistrate, or the Childrens Court, otherwise orders; or
 - (b) if the relevant order was made by the Childrens Court—the Childrens Court otherwise orders.
- (3) This section does not affect the application of section 67 in relation to the child.
- (4) Despite subsections (1) and (2), the relevant order, and any ancillary order for the relevant order, ends when the child turns 18 years.
- (5) In this section—

ancillary order, for a relevant order, means an order about any matter that is made to support the relevant order.

35 Amendment of s 99D (Principles for tribunal in matters relating to this Act)

Section 99D, heading—

omit, insert—

99D Tribunal to have regard to particular principles

36 Amendment of s 117 (Who may appeal)

Section 117(3)—

omit.

37 Insertion of new s 118A

After section 118—

insert—

118A Appellant may ask clerk of court for hearing before respondent is served

Despite section 118(2), the appellant may ask the clerk of the appellate court to arrange for the appeal to be heard by the court before a person is served under that subsection.

38 Replacement of s 121 (Powers of appellate court)

Section 121—

omit, insert—

121 Powers of appellate court—appearance of respondent

- (1) This section applies if a respondent appears before an appellate court at the hearing for an appeal.
- (2) In deciding the appeal, the appellate court may—
 - (a) confirm the decision appealed against; or
 - (b) vary the decision appealed against; or
 - (c) set aside the decision appealed against and either—
 - (i) substitute another decision; or

[s 38]

- (ii) remit the matter to the magistrate or Childrens Court that made the decision.

121A Powers of appellate court—absence of respondent

- (1) An appellate court may hear an appeal in the absence of a respondent if the court—
 - (a) is satisfied the respondent has been served under section 118(2); or
 - (b) dispenses with the requirement for service under section 118(2).
- (2) If an appellate court hears an appeal under this section, the court may—
 - (a) confirm the decision appealed against; or
 - (b) vary the decision appealed against; or
 - (c) set aside the decision appealed against and either—
 - (i) substitute another decision; or
 - (ii) remit the matter to the magistrate or Childrens Court that made the decision; or
 - (d) stay the decision appealed against under section 119; or
 - (e) make an order (a *temporary order*) that—
 - (i) temporarily varies the decision appealed against; or
 - (ii) temporarily sets aside the decision appealed against and substitutes another decision; or
 - (f) adjourn the appeal, whether or not the court stays the decision appealed against or makes a temporary order.

39 Insertion of new s 123A

After section 123—

insert—

123A Meaning of *risk-assessed role*

- (1) A *risk-assessed role* is a role for which the normal duties are likely to require, permit or facilitate contact with a child, that is of a type, or happens in a context, that may create an unacceptable level of risk for the child.
- (2) For subsection (1), the normal duties of a person's role are likely to require or permit the type of contact mentioned in that subsection if the duties include—
 - (a) physically touching a child; or
 - (b) building a rapport with a child as an integral and ordinary part of the performance of the duties.
- (3) For subsection (1), the normal duties of a person's role are likely to facilitate the type of contact mentioned in that subsection if the duties allow access to a child's personal details, including, for example, a child's contact details.
- (4) In this section—

contact includes—

 - (a) physical contact; and
 - (b) face-to-face contact; and
 - (c) oral, written and electronic communication.

rapport means a relationship or understanding that is more than merely polite and functional.

[s 40]

40 Amendment of s 126 (Restrictions on granting application)

(1) Section 126(b)(iii), ‘the care service’—

omit, insert—

a care service

(2) Section 126(b)(iv)—

omit, insert—

(iv) the persons who will be, or are, performing risk-assessed roles for a care service the subject of the application; and

41 Amendment of s 129A (Licensee’s obligations)

Section 129A(a) and (b)—

omit, insert—

(a) care services provided by a licensed care service operated under the licence comply with the standards of care stated in the statement of standards; and

(b) each person performing a risk-assessed role for a licensed care service operated under the licence is a suitable person; and

42 Amendment of s 134 (Process to renew a certificate)

Section 134(8)(a) and (b), ‘2 years’—

omit, insert—

3 years

43 Amendment of s 135 (Restrictions on granting application)

(1) Section 135—

insert—

-
- (1A) However, subsection (1)(b)(ii) to (v) does not apply if the applicant is an approved kinship carer for 1 or more other children.
- (2) Section 135(1A) and (2)—
renumber as section 135(2) and (3).

44 Amendment of s 137 (Amendment of authority on application of holder)

- (1) Section 137—
insert—
- (5A) If the amendment is about adding a licensed premises to a licence, the chief executive must, in deciding whether the amendment is necessary or desirable, consider the following matters—
- (a) whether each care service that is, or will be, provided at the premises complies with the standards of care stated in the statement of standards;
 - (b) whether each person responsible for directly managing a care service that is, or will be, provided at the premises—
 - (i) is a suitable person; and
 - (ii) either—
 - (A) holds a working with children authority; or
 - (B) has made a current working with children check application;
 - (c) whether the methods for the selection, training and management of people engaged in providing a care service, that is, or will be, provided at the premises are suitable;
 - (d) if the premises are a licensed residential facility—whether the premises are suitable

[s 45]

for providing accommodation to children in need of protection.

(2) Section 137(8), ‘Subsection (7)(c) and (d) do’—

omit, insert—

Subsection (8)(c) and (d) does

(3) Section 137(5A) to (8)—

renumber as section 137(6) to (9).

45 Amendment of s 138 (Amendment of authority by the chief executive)

(1) Section 138—

insert—

(1A) Also, the chief executive may amend a licence at any time, to remove a licensed premises from the licence, if the chief executive considers it is necessary or desirable because—

(a) a licensed care service provided at the premises does not comply with the standards of care stated in the statement of standards; or

(b) a person responsible for directly managing a licensed care service provided at the premises—

(i) is not a suitable person; or

(ii) does not hold a working with children authority; or

(c) the methods for the selection, training and management of people engaged in providing a licensed care service at the premises are not suitable; or

(d) if the premises are a licensed residential facility—the premises are not suitable for

providing accommodation to children in need of protection; or

(e) of another circumstance prescribed under a regulation.

(2) Section 138(2), after ‘subsection (1)(b)’—

insert—

or (2)

(3) Section 138(1A) to (8)—

renumber as section 138(2) to (9).

46 Amendment of s 138A (Amendment of kinship carer certificate to extend its expiry day)

Section 138A(3)(b), ‘2 years’—

omit, insert—

3 years

47 Amendment of s 139 (Authority may be suspended or cancelled)

Section 139(7), definition *relevant person*, paragraphs (c) and (d)—

omit, insert—

(c) a person responsible for directly managing a licensed care service operated under the licence; or

(d) a person who is performing a risk-assessed role for a licensed care service operated under the licence.

48 Insertion of new s 140B

After section 140A—

insert—

[s 49]

140B Amendment, suspension and cancellation of licences

- (1) This section applies if the chief executive—
 - (a) grants an application, or otherwise decides, to amend a licence; or
 - (b) decides to suspend or cancel a licence, other than under subdivision 3.
- (2) If subsection (1)(a) applies, the amendment of the licence takes effect on the later of—
 - (a) the day on which notice of the decision to amend the licence is given under subdivision 1; or
 - (b) if a later day is stated in the notice mentioned in paragraph (a)—the later day.
- (3) If subsection (1)(b) applies, the suspension or cancellation of the licence takes effect on the later of—
 - (a) the day on which notice of the decision to suspend or cancel the licence is given under section 140(5); or
 - (b) if a later day is stated in the notice mentioned in paragraph (a)—the later day.

49 Amendment of s 141 (Amendment, suspension and cancellation of authorities)

- (1) Section 141, heading, before ‘authorities’—

insert—

other

- (2) Section 141(1)—

omit, insert—

- (1) This section applies if the chief executive—

-
- (a) grants an application, or otherwise decides, to amend an authority other than a licence; or
 - (b) decides to suspend or cancel an authority other than a licence.

50 Amendment of s 141D (Personal history change—other persons associated with a licence)

Section 141D(1)(c)—

omit, insert—

- (c) a person who is performing a risk-assessed role for the service.

51 Amendment of s 141H (Nominee for licence)

Section 141H(4), definition *relevant person*—

omit, insert—

relevant person, for a licence, means—

- (a) a person responsible for directly managing a licensed care service operated under the licence; or
- (b) a person who is performing a risk-assessed role for a licensed care service operated under the licence.

52 Replacement of ch 4, pt 2, div 7, hdg (Obtaining criminal histories and other information to decide persons' suitability)

Chapter 4, part 2, division 7, heading—

omit, insert—

Division 7 Information sharing

[s 53]

53 Amendment of s 142A (Persons whose suitability may be investigated)

(1) Section 142A(a)(i), ‘the service’—

omit, insert—

a licensed care service operated

(2) Section 142A(a)(iv)—

omit, insert—

(iv) the persons who will be, or are, performing risk-assessed roles for a licensed care service operated under the licence.

54 Amendment of s 142C (Obtaining police information)

Section 142C, heading, after ‘information’—

insert—

from police commissioner

55 Insertion of new ss 142E and 142F

After section 142D—

insert—

142E Obtaining interstate criminal history information about particular persons

(1) The chief executive may ask an interstate commissioner for a written statement briefly describing the circumstances of—

(a) each interstate conviction of a relevant person; or

(b) each interstate charge made against a relevant person.

(2) The chief executive and the interstate commissioner may enter into a written arrangement by which information mentioned in

subsection (1) is transferred.

- (3) Without limiting subsection (2), the arrangement—
- (a) may provide for the electronic transfer of information, including, for example, on a daily basis; and
 - (b) if the arrangement provides for the electronic transfer of information—must provide for the following—
 - (i) limitations under this Act on who may access the information;
 - (ii) limitations under this Act on the purposes for which the information may be used.

Note—

See also section 142F(2).

- (4) In this section—

interstate charge, made against a person, means a charge against the person for an offence alleged to have been committed by the person against a law of another State or the Commonwealth.

interstate commissioner means the commissioner of a police force or service of another State or the Commonwealth.

interstate conviction, of a person, means a conviction for an offence committed by the person against a law of another State or the Commonwealth, including an interstate spent conviction of the person.

interstate rehabilitation law means a law applying, or that applied, in another State or the Commonwealth, that provides or provided for the same matter as the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

[s 55]

interstate spent conviction, of a person, means an interstate conviction of the person that the person is not required to disclose under an interstate rehabilitation law because—

- (a) a rehabilitation period prescribed for the conviction under the interstate rehabilitation law has expired; and
- (b) the conviction has not been revived under the interstate rehabilitation law.

relevant person means any of the following persons—

- (a) an applicant for a certificate of approval who has, or to whom the chief executive proposes to issue, a provisional certificate;
- (b) an adult member of the household of a person mentioned in paragraph (a).

142F Use of expanded interstate criminal history

- (1) This section applies if, under section 142E, the chief executive obtains the expanded interstate criminal history of a relevant person.
- (2) Despite any other provision of this Act, the chief executive—
 - (a) may use the expanded interstate criminal history only to the extent necessary to assess whether the relevant person poses a risk to a child's safety; and
 - (b) must not use the expanded interstate criminal history when considering whether the relevant person is able and willing to protect a child from harm.
- (3) In this section—

expanded interstate criminal history, of a person, means information about the circumstances of—

-
- (a) every interstate spent conviction of the person within the meaning of section 142E; or
 - (b) every interstate charge made against the person within the meaning of section 142E.
- relevant person* see section 142E(4).

56 Amendment of s 148BB (Chief executive may delegate functions or powers)

Section 148BB(3)(a)(iii)—

omit, insert—

- (iii) holds a working with children authority; and

57 Amendment of s 148BE (Automatic ending of delegation)

(1) Section 148BE(1)(b)—

omit, insert—

- (b) stops holding a working with children authority.

(2) Section 148BE(2)(b)—

omit, insert—

- (b) stopped holding a working with children authority.

58 Insertion of new ch 4, pts 4 and 5

Chapter 4—

insert—

Part 4

**Support and training
for approved carers**

[s 58]

148E Chief executive's responsibility to provide support and training

- (1) This section applies in relation to an approved carer who is caring for a child under this Act.
- (2) The chief executive must provide the approved carer with, or ensure the approved carer has access to, the following—
 - (a) support to help the carer care for the child, including, for example—
 - (i) information about financial assistance for approved carers; and
 - (ii) information and advice about providing care for children; and
 - (iii) respite care; and
 - (iv) access to support persons;
 - (b) training programs that maintain or develop the carer's ability to care for children.
- (3) The chief executive need only comply with subsection (2) to the extent the chief executive considers that—
 - (a) it is practicable to do so; and
 - (b) the support or training is appropriate in the circumstances.

Part 5 Register of applicants, authority holders and former authority holders

148F Register of applicants, authority holders and former authority holders

- (1) The chief executive must keep a register of the

following persons—

- (a) applicants for authorities;
 - (b) holders of authorities;
 - (c) former holders of authorities.
- (2) The register must contain, for each person mentioned in subsection (1), the particulars prescribed by regulation that are available to the chief executive.

Note—

See chapter 6, part 6, division 2, subdivision 2 about the confidentiality of information recorded in the register.

- (3) The register may be kept in the way the chief executive considers appropriate, including, for example, in an electronic form.

59 Amendment of s 159R (Interaction with other laws)

Section 159R(3)—

omit, insert—

- (3) Nothing in this chapter requires a person or entity to disclose information that is subject to privilege.

Example—

A person may decide to withhold information, that would otherwise have to be disclosed under this chapter, because the information is subject to legal professional privilege.

- (4) If information is subject to privilege, the privilege is not waived, or otherwise affected, merely because the information may be, or is, disclosed under this chapter.

- (5) In this section—

privilege means any privilege a person may claim under an Act or law, including, for example, legal professional privilege.

[s 60]

60 Amendment of s 166 (Offence to refuse contact with child in custody or guardianship)

(1) Section 166(1)—

relocate and *renumber* as section 166(4).

(2) Section 166(2), from ‘premises for’—

omit, insert—

a place for the purpose of having contact with a child at the place to ensure the child’s protection.

(3) Section 166(3), ‘for subsection (3)’—

omit.

(4) Section 166(2) to (4), as amended by this Act—

renumber as section 166(1) to (3).

61 Replacement of s 186 (Confidentiality of notifiers of harm or risk of harm)

Section 186—

omit, insert—

Subdivision 1 Confidentiality of notifiers

186 Application of subdivision

This subdivision applies if a person (the *notifier*) notifies the chief executive, an authorised officer, a police officer, a doctor or a nurse that the notifier suspects—

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

186A Identity of notifier not to be disclosed

- (1) The person who receives the notification, or a person who becomes aware of the identity of the notifier, must not disclose the identity of the notifier, or information from which the identity of the notifier could be deduced, to another person.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply if the disclosure is made—
- (a) in the course of performing functions under this Act to another person performing functions under—
 - (i) this Act; or
 - (ii) a child welfare law, or interstate law, of another State; or
 - (b) in the course of performing functions under a child welfare law, or interstate law, of another State to another person performing functions under—
 - (i) this Act; or
 - (ii) a child welfare law, or interstate law, of another State; or
 - (c) under the *Child Protection (International Measures) Act 2003*, part 6; or
 - (d) to the ombudsman conducting an investigation under the *Ombudsman Act 2001*; or
 - (e) for the performance by the chief executive (adoptions) of the chief executive's functions under the *Adoption Act 2009*; or
 - (f) to the litigation director for the purposes of the director performing a function under the *Director of Child Protection Litigation Act 2016*; or

[s 61]

- (g) if the person is an authorised person—under section 186B; or
- (h) by way of evidence given in a legal proceeding under section 186C.

186B Disclosure by authorised person

- (1) An authorised person may disclose the identity of the notifier, or information from which the identity of the notifier could be deduced, to a senior police officer if—
 - (a) the officer gives the authorised person a written request for the identity or information that states the identity or information is required for the prevention, detection, investigation, prosecution or punishment of a criminal offence against a child (an *enforcement action*); and
 - (b) the authorised person is reasonably satisfied the disclosure is necessary to ensure the safety, wellbeing or best interests of the child mentioned in paragraph (a) or another child; and
 - (c) the authorised person complies with subsection (2).
- (2) The authorised person must—
 - (a) when disclosing information under subsection (1), identify the information as information being disclosed in response to the request mentioned in subsection (1)(a); and
 - (b) as soon as practicable after disclosing information under subsection (1), inform the notifier of the disclosure, unless—
 - (i) it is not possible or practicable to do so; or

Example—

The authorised person does not have, and is not able to obtain, the notifier's contact details.

- (ii) the authorised person considers that to do so will, or may, prejudice an enforcement action.

- (3) In this section—

authorised person means—

- (a) the chief executive; or
- (b) an officer or employee of the department authorised, by the chief executive, to disclose information under this section.

senior police officer means a police officer of at least the rank of sergeant.

186C Disclosure in proceeding

- (1) Subject to subsection (2)—

- (a) evidence of the identity of the notifier or from which the identity of the notifier could be deduced must not be given in a proceeding before a court or tribunal without leave of the court or tribunal; and
- (b) unless leave is granted, a party or witness in the proceeding—
 - (i) must not be asked, and, if asked, can not be required to answer, any question that can not be answered without disclosing the identity of, or leading to the identification of, the notifier; and
 - (ii) must not be asked to produce, and, if asked, can not be required to produce, any document that identifies, or may lead to the identification of, the notifier.

[s 62]

- (2) The court or tribunal must not grant leave unless—
 - (a) it is satisfied—
 - (i) the evidence is of critical importance in the proceeding; and
 - (ii) there is compelling reason in the public interest for disclosure; or
 - (b) the notifier agrees to the evidence being given in the proceeding.
- (3) In deciding whether to grant leave, the court or tribunal must take into account—
 - (a) the possible effects of disclosure on the safety or wellbeing of the notifier and the notifier’s family; and
 - (b) the public interest in maintaining confidentiality of notifiers.
- (4) As far as practicable, an application for leave must be heard in a way that protects the identity of the notifier pending a decision on the application.

Subdivision 2 Other confidentiality provisions

62 Amendment of s 187 (Confidentiality of information obtained by persons involved in administration of Act)

Section 187(3)—

insert—

- (e) if the person to whom the information relates—
 - (i) is, or becomes, an adult; and
 - (ii) consents in writing to the use, disclosure or giving of access.

63 Amendment of s 188D (Chief executive may give information about deceased child)

- (1) Section 188D, heading and subsections (1) and (2)—

omit, insert—

188D Chief executive may give information about particular deceased persons

- (1) This section applies if—
- (a) in the course of performing functions under, or in relation to the administration of, this Act, the chief executive acquires information about a person; and
 - (b) at the time the chief executive acquires the information, the person is a child; and
 - (c) after the chief executive acquires the information, the person dies, whether or not the person is a child when the person dies.
- (2) Subject to subdivision 1, the chief executive may disclose the information to a parent of the deceased person.

- (2) Section 188D(4), after ‘the person’—

insert—

to whom the information is disclosed

64 Omission of ch 7, pt 1, div 4 (Meaning of *parent*)

Chapter 7, part 1, division 4—

omit.

65 Insertion of new ch 9, pt 13

Chapter 9—

insert—

Part 13

Transitional provisions for Child Protection Reform and Other Legislation Amendment Act 2022

281 Definitions for part

In this part—

former, for a provision of this Act, means the provision as in force from time to time before the commencement.

new, for a provision of this Act, means the provision as in force from the commencement.

282 Existing applications for extension of particular orders

- (1) This section applies in relation to an application mentioned in former section 99(1)(b) if, immediately before the commencement, the application had not been decided.
- (2) Former section 99 continues to apply in relation to the application as if the *Child Protection Reform and Other Legislation Amendment Act 2022* had not commenced.

283 Existing notices of appeal

- (1) This section applies in relation to an appeal started under section 118 if, immediately before the commencement, the appeal had not been decided or otherwise finally dealt with.
- (2) Former chapter 3, part 4 continues to apply in relation to the appeal as if the *Child Protection Reform and Other Legislation Amendment Act*

2022 had not commenced.

284 Existing applications under ch 4, pt 2

- (1) This section applies if—
 - (a) an application was made under former chapter 4, part 2; and
 - (b) immediately before the commencement, the application had not been decided.
- (2) From the commencement—
 - (a) the following provisions apply in relation to the application—
 - (i) for a foster carer certificate or kinship carer certificate—new section 134(8);
 - (ii) new chapter 4, part 2, division 7; and
 - (b) the former provisions of this Act, other than former section 134(8) and former chapter 4, part 2, division 7, continue to apply in relation to the application as if the *Child Protection Reform and Other Legislation Amendment Act 2022* had not commenced.

285 Existing kinship carer certificates

- (1) This section applies in relation to a kinship carer certificate in force immediately before the commencement.
- (2) From the commencement, former schedule 3, definition *kin* continues to apply in relation to the certificate as if the *Child Protection Reform and Other Legislation Amendment Act 2022* had not commenced.
- (3) Subsections (4) to (6) apply if the holder of the kinship carer certificate makes an application, under section 133, for a foster carer certificate.

[s 65]

- (4) The kinship carer certificate is taken to continue in force—
 - (a) from the day that it would, apart from this section, have ended; and
 - (b) until the application is decided or withdrawn.
- (5) However, if the application is refused, the kinship carer certificate continues in force until notice for the decision is given to the holder under section 136.
- (6) Subsection (4) does not apply if the kinship carer certificate is earlier suspended or cancelled.

286 Application of ss 141B and 141D to persons performing risk-assessed roles

- (1) This section applies in relation to a person if—
 - (a) on the commencement, the person—
 - (i) is performing a risk-assessed role for a licensed care service; and
 - (ii) has a domestic violence history or a traffic history; and
 - (b) the person had not disclosed the domestic violence history, or the traffic history, under section 141D(2) before the commencement.
- (2) For sections 141B(2) and 141D(2), the person is taken to have acquired the domestic violence history, or the traffic history, on the commencement.

287 Reviews of decisions under s 86

- (1) This section applies in relation to a decision made by the chief executive, under section 86(4), before the commencement.

-
- (2) For a review of the decision under section 247, former schedule 2 continues to apply in relation to the decision as if the *Child Protection Reform and Other Legislation Amendment Act 2022* had not commenced.

66 Amendment of sch 1 (Charter of rights for a child in care)

- (1) Schedule 1, authorising section—

omit, insert—

schedule 3, definition *charter of rights*

- (2) Schedule 1—

insert—

- (aa) to be treated fairly and with respect;
- (ca) to develop, maintain and enjoy a connection to the child's culture of origin;
- (cb) for an Aboriginal child—to develop, maintain and enjoy a connection to Aboriginal tradition;
- (cc) for a Torres Strait Islander child—to develop, maintain and enjoy a connection to Island custom;
- (cd) to develop, maintain and enjoy the child's identity, including, for example, the child's sexual orientation or gender identity;
- (ce) to choose and practise 1 or more languages;
- (cf) to choose and practise 1 or more religions;
- (ea) to keep, and have a safe space to store, personal belongings;
- (eb) to engage in play, and other recreational activities, appropriate for the child;
- (ga) to make a complaint to the chief executive if the child considers that the charter of rights

[s 67]

is not being complied with in relation to the child;

- (3) Schedule 1, paragraphs (aa) to (k)—
renumber as schedule 1, paragraphs (b) to (u).

67 Amendment of sch 2 (Reviewable decisions and aggrieved persons)

Schedule 2, columns 1 and 2—
omit, insert—

	Column 1	Column 2
	Reviewable decision	Aggrieved person
1	refusing a request to review a case plan (section 51V(6), 51VA(6)(a) or 51VB(3)(a))	the person making the request
2	directing a parent in relation to a supervision matter stated in a child protection order (section 78)	the parent given the direction
3	refusing to deal with a complaint about a permanent guardian (section 80D(1))	the person making the complaint
4	deciding in whose care to place a child under a child protection order granting the chief executive custody or guardianship (section 86(2))	the child's parents or the child
5	not informing a child's parents of the person in whose care the child is (section 86(4))	a parent given the notice or the child
6	not informing a child's parents of where the child is living (section 86(4))	a parent given the notice or the child

Column 1	Column 2
Reviewable decision	Aggrieved person
7 refusing to allow, restricting, or imposing conditions on, contact between a child and the child's parents or a member of the child's family (section 87(2))	a person affected by the decision
8 removing a child from the care of the child's carer (section 89)	a carer entitled to apply to have the decision reviewed under section 91 or a child to whom a notice must be given stating the matters mentioned in section 90(4)(b) to (d)
9 refusing an application for, or to renew, a licence (section 129) other than because a person mentioned in section 126(b)(i) or (ii) does not hold a working with children authority	the applicant or licensee
10 refusing an application for, or to renew, a certificate of approval as an approved foster carer or an approved kinship carer (section 136) other than because a person mentioned in section 135(1)(a)(iii) or (b)(iv) does not hold a working with children authority	the applicant or certificate holder
11 refusing an application to amend an authority other than a provisional certificate (section 137)	the authority holder
12 amending an authority other than a provisional certificate (section 138)	the authority holder

[s 68]

	Column 1	Column 2
	Reviewable decision	Aggrieved person
13	suspending or cancelling an authority other than a provisional certificate (section 140)	the authority holder
14	cancelling an authority (section 140AG(3) or (4) or 140AH)	the authority holder

68 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *child placement principles*, *kin*, *licensed premises* and *parent*—
omit.
- (2) Schedule 3—
insert—

Aboriginal and Torres Strait Islander child placement principle, in relation to an Aboriginal or Torres Strait Islander child, see section 5C(2).

appropriate, for a child, means appropriate for the age, maturity, capacity, culture and circumstances of the child.

kin, in relation to a child, means the following persons—

- (a) a member of the child's family group who is a person of significance to the child;
- (b) if the child is an Aboriginal child—a person who, under Aboriginal tradition, is regarded as kin of the child;
- (c) if the child is a Torres Strait Islander child—a person who, under Island custom, is regarded as kin of the child;
- (d) another person—

- (i) who is recognised by the child, or the child's family group, as a person of significance to the child; and
- (ii) if the child is an Aboriginal or Torres Strait Islander child—with whom the child has a cultural connection.

licensed premises means premises noted on a licence.

notifier, for chapter 6, part 6, division 2, subdivision 1, see section 186.

parent, of a child—

- (a) for chapter 2, parts 2, 3, 3AA, 3A and 4, sections 67 and 117 and chapter 7—means each of the following persons—
 - (i) the child's mother or father;
 - (ii) a person in whose favour a parenting order operates;
 - (iii) a person, other than the chief executive, having custody or guardianship of the child under another Act or a law of another State;
 - (iv) a long-term guardian of the child;
 - (v) a permanent guardian of the child; or
- (b) otherwise—see section 11.

parenting order means an order mentioned in the *Family Law Act 1975* (Cwlth), section 64B(1) that deals with a matter mentioned in section 64B(2)(a) or (b) of that Act.

participate, in relation to the making of a decision or the exercise of a power, includes expressing views relating to the making of the decision or the exercise of the power.

risk-assessed role see section 123A.

[s 69]

- (3) Schedule 3, definition *suitable person*, paragraph (f)—
omit, insert—
- (f) for a person who will be, or is, performing a risk-assessed role for a licensed care service—a person who is a suitable person under a regulation; or

Part 4 Amendment of Child Protection Regulation 2011

69 Regulation amended

This part amends the *Child Protection Regulation 2011*.

70 Replacement of pt 3A (Prescribed entities for information sharing)

Part 3A—

omit, insert—

Part 3A Register of applicants, authority holders and former authority holders

10A Definitions for part

In this part—

identification information, for a person, means the following information—

- (a) the person's full name, date of birth and residential address;
- (b) whether the person is an Aboriginal person or a Torres Strait Islander.

relevant person, for a licensee, or in relation to an application for the grant or renewal of a licence, means—

- (a) a director of the licensee or applicant; or
- (b) the nominee for the licence; or
- (c) a person who is, or will be, responsible for directly managing a care service provided by a licensed care service operated under the licence; or
- (d) a person who is, or will be, performing a risk-assessed role for a licensed care service operated under the licence.

working with children information, for a person, means the following information—

- (a) whether the person holds a working with children authority or negative notice;
- (b) if the person holds a working with children authority—the expiry date for the authority;
- (c) if the person does not hold a working with children authority—
 - (i) whether or not the person has made a working with children check application; and
 - (ii) if the person has made a working with children check application—
 - (A) the date of the application; and
 - (B) whether the application has been decided or withdrawn.

10B Prescribed particulars of applicants for authorities—Act, s 148F

- (1) This section applies in relation to an applicant for an authority if the application for the authority is

[s 70]

refused, withdrawn or otherwise undecided.

- (2) For section 148F(2) of the Act, the following particulars are prescribed—
- (a) the identification information for the applicant;
 - (b) the type of authority the applicant applied for;
 - (c) the working with children information for the applicant;
 - (d) the date the applicant applied for the authority;
 - (e) if the application was refused—
 - (i) the date of the decision to refuse the application; and
 - (ii) the reasons for the decision;
 - (f) if the application was withdrawn—
 - (i) the date the application was withdrawn; and
 - (ii) the reason for the withdrawal;
 - (g) for an applicant for a licence—
 - (i) if the chief executive has assessed whether the applicant is a suitable entity to provide a care service—the outcome of the assessment; and

Note—

See section 126(a) of the Act in relation to assessing whether an applicant for a licence is a suitable entity to provide care services.

- (ii) the identification information and working with children information for each relevant person for the application; and

- (iii) if the chief executive has assessed whether a relevant person for the application is a suitable person—the outcome of the assessment; and
 - (iv) the personal history for the nominee for the licence; and
 - (v) the details of each licensed care service that will be operated under the licence if the licence is granted;
- (h) for an applicant for a certificate of approval—
- (i) the applicant’s personal history; and
 - (ii) if the chief executive has assessed whether the applicant is a suitable person to be an approved carer—the outcome of the assessment; and
 - (iii) for each adult member of the applicant’s household—
 - (A) the identification information for the member; and
 - (B) the member’s domestic violence history and traffic history; and
 - (C) the member’s working with children information; and
 - (D) if the chief executive has assessed whether the member is a suitable person for associating on a daily basis with children or a particular child—the outcome of the assessment; and
 - (E) if the member becomes, or ceases to be, a member of the applicant’s household—the date of the event; and

[s 70]

- (iv) if the applicant participates in the operation of, or is affiliated with, a licensed care service—details of the service.
- (3) In this section—
- personal history*, for an applicant for a certificate of approval, means—
- (a) the applicant’s domestic violence history and traffic history; or
 - (b) if the applicant is a provisionally approved carer—the applicant’s criminal history.

10C Prescribed particulars for authority holders—Act, s 148F

- (1) This section applies in relation to a holder of an authority.
- (2) For section 148F(2) of the Act, the following particulars are prescribed—
 - (a) the identification information for the holder;
 - (b) the type of authority the holder holds;
 - (c) the working with children information for the holder;
 - (d) the date the holder applied for the authority;
 - (e) for the holder of a licence—
 - (i) if the chief executive has assessed whether the holder is a suitable entity to provide a care service—the outcome of the assessment; and

Note—

See section 126(a) of the Act in relation to assessing whether an applicant for a licence is a suitable entity to provide care services.

- (ii) the identification information and working with children information for each relevant person for the holder; and
- (iii) if the chief executive has assessed whether a relevant person for the holder is a suitable person—the outcome of the assessment; and
- (iv) the personal history for the nominee for the licence; and
- (v) the details of each licensed care service operated under the licence;
- (f) for the holder of a certificate of approval—
 - (i) the holder’s domestic violence history and traffic history; and
 - (ii) if the chief executive has assessed whether the holder is a suitable person to be an approved carer—the outcome of the assessment; and
 - (iii) for each adult member of the holder’s household—
 - (A) the identification information for the member; and
 - (B) the member’s domestic violence history and traffic history; and
 - (C) the member’s working with children information; and
 - (D) if the chief executive has assessed whether the member is a suitable person for associating on a daily basis with children or a particular child—the outcome of the assessment; and
 - (E) if the member becomes, or ceases to be, a member of the holder’s

[s 70]

household—the date of the event;
and

- (iv) if the holder participates in the operation of, or is affiliated with, a licensed care service—details of the service;
- (g) if the authority was amended or suspended—details of the amendment or suspension, including, for example, the reason for the amendment or suspension.

10D Prescribed particulars for former authority holders—Act, s 148F

- (1) This section applies in relation to a former holder of an authority.
- (2) For section 148F(2) of the Act, the following particulars, current immediately before the authority stopped having effect, are prescribed—
 - (a) the identification information for the former holder;
 - (b) the type of authority the former holder held;
 - (c) the working with children information for the former holder;
 - (d) the date the former holder applied for the authority;
 - (e) for the former holder of a licence—
 - (i) if the chief executive assessed whether the former holder was a suitable entity to provide a care service—the outcome of the assessment; and

Note—

See section 126(a) of the Act in relation to assessing whether an applicant for a licence is a suitable entity to provide care services.

- (ii) if the chief executive assessed whether a relevant person for the former holder was a suitable person—
 - (A) the identification information and working with children information for the relevant person; and
 - (B) the outcome of the assessment; and
- (iii) the personal history for the person who was the nominee for the licence; and
- (iv) the details of each licensed care service that was operated under the licence;
- (f) for the former holder of a certificate of approval—
 - (i) the former holder’s domestic violence history and traffic history; and
 - (ii) if the chief executive assessed whether the former holder was a suitable person to be an approved carer—the outcome of the assessment; and
 - (iii) if the chief executive assessed whether an adult member of the former holder’s household was a suitable person for associating on a daily basis with children or a particular child—
 - (A) the identification information for the member; and
 - (B) the member’s domestic violence history and traffic history; and
 - (C) the member’s working with children information; and
 - (D) the outcome of the assessment; and

[s 71]

- (iv) if the former holder participated in the operation of, or was affiliated with, a licensed care service—details of the service;
- (g) if the authority was amended, suspended, cancelled or surrendered—details of the amendment, suspension, cancellation or surrender, including, for example, the reason for any amendment, suspension or cancellation.

Part 3B Prescribed entities for information sharing

10E Prescribed entity—Act, s 159M

For section 159M of the Act, definition *prescribed entity*, paragraph (g), the department in which the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* are administered is prescribed.

71 Replacement of s 21 (Person engaged in relation to provision of care services)

Section 21—

omit, insert—

21 Person performing risk-assessed role for licensed care service

A person is a suitable person to perform a risk-assessed role for a licensed care service if the person does not pose a risk to the safety of children.

[s 75]

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

Division 1 **Preliminary**

75 **Act amended**

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

Note—

See also the amendments in schedule 1.

Division 2 **Amendments commencing on assent**

76 **Amendment of s 8 (Chief executive's main functions)**

(1) Section 8(a), 'chapter 8 for screening'—

omit, insert—

chapters 7 and 8 that regulates

(2) Section 8(b), 'that chapter'—

omit, insert—

chapters 7 and 8

77 **Amendment of s 199 (Deemed withdrawal—applicant charged with serious offence or disqualifying offence etc.)**

Section 199(2), 'A'—

omit, insert—

If the applicant is charged with a disqualifying offence, a

78 Replacement of s 221 (Deciding application—no conviction or conviction etc. for non-serious offence)

Section 221—

omit, insert—

221 Deciding application—no relevant information or conviction etc. for non-serious offence

- (1) The chief executive must issue a working with children clearance to the person if the chief executive—
 - (a) is not aware of any relevant information about the person; or
 - (b) is not required to issue a negative notice to the person under subsection (2).
- (2) The chief executive must issue a negative notice to the person if the chief executive—
 - (a) is aware of relevant information about the person; and
 - (b) is satisfied it is an exceptional case in which it would not be in the best interests of children for the chief executive to issue a working with children clearance to the person.
- (3) For subsections (1) and (2), the following information about the person is ***relevant information***—
 - (a) information that the person has—
 - (i) a charge for an offence other than a disqualifying offence; or
 - (ii) a charge for a disqualifying offence that has been dealt with other than by a conviction; or

Note—

For charges for disqualifying offences that have not been dealt with, see chapter 7, part

[s 79]

4, division 4 and sections 199, 295(1) and 296.

- (iii) a conviction for an offence other than a serious offence;
- (b) investigative information;
- (c) domestic violence information;
- (d) disciplinary information;
- (f) other information about the person that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person.

79 Amendment of s 223 (Deciding application—negative notice cancelled or holder of eligibility declaration)

Section 223(5), definition *new assessable information*, paragraph (a)—

omit, insert—

- (a) is—
 - (i) police information, domestic violence information or disciplinary information; or
 - (ii) other information that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person; and

80 Amendment of s 228 (Deciding exceptional case if disciplinary information or other relevant information exists)

- (1) Section 228, heading, ‘disciplinary information or’—
omit.
- (2) Section 228(1)(b), before subparagraph (i)—
insert—
 - (iaa) domestic violence information about the person; or
- (3) Section 228(1)(b)(iaa) to (ii)—
renumber as section 228(1)(b)(i) to (iii).
- (4) Section 228(2) and (3)—
omit, insert—
 - (2) The chief executive must have regard to the following matters in relation to the information—
 - (a) if the chief executive is aware of domestic violence information about the person—the circumstances of a domestic violence order or police protection notice mentioned in the information, including the conditions imposed on the person by the order or notice;
 - (b) if the chief executive is aware of disciplinary information about the person—
 - (i) the decision or order of the decision-maker relating to the disciplinary information and the reasons for the decision or order; and
 - (ii) any decision or order of an entity hearing and deciding a review of, or appeal against, a decision or order mentioned in subparagraph (i), and the reasons for the decision or order;

[s 81]

- (d) if the chief executive is aware of other information about the person mentioned in subsection (1)—the nature of the information, including the circumstances and gravity of the behaviour or conduct the subject of the information;
- (e) the length of time that has passed since the event or conduct the subject of the information occurred;
- (f) the relevance of the information to employment, or carrying on a business, that involves or may involve children;
- (g) anything else relating to the information that the chief executive reasonably believes is relevant to the assessment of the person.

81 Amendment of s 229 (Chief executive to invite submissions from person about particular information)

(1) Section 229(2)(a)(i) and (ii)—

omit, insert—

- (i) the police information, domestic violence information or disciplinary information about the person that the chief executive is aware of;

(2) Section 229(2)(a)(iii)—

renumber as section 229(2)(a)(ii).

82 Amendment of s 283 (Deciding application—police officer if further screening not required)

Section 283(a)(i), after ‘police information’—

insert—

or domestic violence information

83 Amendment of s 284 (Deciding application—registered teacher if further screening not required)

Section 284(a)(i), after ‘police information’—

insert—

, domestic violence information

84 Amendment of s 289 (Term of exemption)

Section 289(4)(a) to (c)—

omit, insert—

(a) the term of the exemption ends under section 350A because the holder of the exemption stops being a police officer or registered teacher;

(b) the exemption is cancelled under part 5A.

85 Amendment of s 295 (Application of division)

Section 295(2), ‘authority’—

omit, insert—

clearance

86 Amendment of s 299 (When suspension of authority ends)

Section 299—

insert—

(d) for a working with children exemption—the term of the person’s exemption ends under section 350A because the person stops being a police officer or registered teacher.

87 Insertion of new s 315A

After section 315—

[s 87]

insert—

315A Chief executive's request for domestic violence information about person

- (1) This section applies if the chief executive reasonably believes a domestic violence order may have been made, or a police protection notice may have been issued, against the person.
- (2) The chief executive may ask the police commissioner for domestic violence information about the person.
- (3) The police commissioner must comply with a request under subsection (2) by—
 - (a) giving the chief executive the domestic violence information that exists about the person; or
 - (b) telling the chief executive there is no domestic violence information about the person.
- (4) If there is domestic violence information about the person, the chief executive may ask the police commissioner for a brief description of the circumstances of a domestic violence order or police protection notice mentioned in the domestic violence information.
- (5) The police commissioner must comply with a request under subsection (4).
- (6) The duty imposed on the police commissioner under subsection (2) or (4) applies only to information in the police commissioner's possession or to which the police commissioner has access.
- (7) If the chief executive no longer needs the information requested—

- (a) the chief executive must tell the police commissioner the information is no longer needed; and
- (b) the police commissioner's obligation to comply with the chief executive's request ends.

88 Amendment of s 344 (Giving information to chief executive (disability services))

(1) Section 344(3)(c) and (d)—

omit, insert—

- (c) police information, domestic violence information and disciplinary information about a person; and

(2) Section 344(3)(e)—

renumber as section 344(3)(d).

89 Amendment of s 347 (Replacement of lost or stolen card)

Section 347(2)(b), 'the application'—

omit, insert—

a replacement card

90 Amendment of s 348 (Replacement card for change of name or contact details)

Section 348(3), after 'to do so'—

insert—

and the person pays the prescribed fee for a replacement card

[s 91]

91 Amendment of s 350A (Holder and notifiable persons notified about expiry of working with children exemption)

(1) Section 350A(1), from ‘This’ to ‘exemption—’—

omit, insert—

The term of a working with children exemption ends if the person who holds the exemption—

(2) Section 350A(2)(a), ‘under section 289(1)’—

omit, insert—

because the person is no longer a police officer or registered teacher

92 Amendment of s 384 (Confidentiality of protected information)

(1) Section 384(1)(b)(i) and (ii)—

omit, insert—

(i) police information and information related to the police information;

(ii) domestic violence information and information related to the domestic violence information;

(ia) disciplinary information;

(2) Section 384(1)(b)(iv), ‘information about the person’—

omit, insert—

information

(3) Section 384(1)(b)(ia) to (iv)—

renumber as section 384(b)(iii) to (v).

93 Insertion of new ch 11, pt 21

Chapter 11—

insert—

Part 21 Transitional provisions for Child Protection Reform and Other Legislation Amendment Act 2022

594 Definition for part

In this part—

relevant amendment means—

- (a) the amendment of chapter 8 by the *Child Protection Reform and Other Legislation Amendment Act 2022*, part 6, division 2; or
- (b) the amendment of chapter 8 by the *Child Protection Reform and Other Legislation Amendment Act 2022*, part 6, division 3.

595 Existing application

- (1) This section applies if, on the commencement of a relevant amendment, an eligibility application, working with children check application or an application under chapter 8, part 5A has been made but not decided or withdrawn.
- (2) This Act, as in force from the commencement of the relevant amendment, applies for deciding the application.
- (3) Subsection (4) applies if the chief executive gave the applicant a notice under section 229 in relation to the application before the commencement of the relevant amendment.
- (4) The chief executive is required to give the applicant another notice under section 229 after the commencement of the relevant amendment only if the chief executive receives further

[s 93]

information mentioned in section 229(2)(a) in relation to the application after the commencement of the relevant amendment.

596 Proposed decision under ch 8, pt 5A

- (1) This section applies if the chief executive—
 - (a) before the commencement of a relevant amendment—
 - (i) was proposing to make a decision mentioned in section 294(1) in relation to a person; and
 - (ii) gave the applicant a notice under section 229, as applied by section 294(2), in relation to making the decision; and
 - (b) immediately before the commencement of the relevant amendment, had not made the decision.
- (2) This Act, as in force from the commencement of the relevant amendment, applies for making the decision.
- (3) The chief executive is required to give the person another notice under section 229, as applied by section 294(2), after the commencement of the relevant amendment only if the chief executive receives further information mentioned in section 229(2)(a) in relation to making the decision after the commencement of the relevant amendment.

597 Reviews and appeals

- (1) This section applies—
 - (a) in relation to—
 - (i) a review of a chapter 8 reviewable decision; or

-
- (ii) an appeal against a decision of QCAT relating to a chapter 8 reviewable decision; and
 - (b) if the review or appeal—
 - (i) was started but not decided or otherwise ended before the commencement of a relevant amendment; or
 - (ii) is started under this Act after the commencement of a relevant amendment.
 - (2) The entity hearing the review or appeal must apply this Act, as in force from the commencement of the relevant amendment, in relation to the subject matter of the review or appeal.

94 Amendment of sch 7 (Dictionary)

Schedule 7—

insert—

domestic violence information, about a person, means information about the history of domestic violence orders made, or police protection notices issued, against the person under the *Domestic and Family Violence Protection Act 2012*.

domestic violence order see the *Domestic and Family Violence Protection Act 2012*, section 23(2).

police protection notice see the *Domestic and Family Violence Protection Act 2012*, sections 101(1) and 101A(1).

[s 95]

Division 3 Amendments commencing by proclamation

95 Insertion of new ss 19 and 20

After section 18—

insert—

19 Meaning of *interstate working with children check application, interstate working with children authority and related terms*

- (1) An *interstate working with children check application* is an application, however called, made under a corresponding WWC law that corresponds to a working with children check application under this Act.
- (2) An *interstate working with children authority* is an authority, however called, issued under a corresponding WWC law that corresponds to a working with children authority under this Act.
- (3) An *interstate negative notice* is a notice, however called, issued under a corresponding WWC law, that—
 - (a) corresponds to a negative notice; or
 - (b) imposes a condition that prohibits a person from carrying out child-related work.
- (4) A *conditional interstate WWC authority* is an authority, however called, issued under a corresponding WWC law that has the effect of permitting a person to carry out child-related work subject to stated conditions, including, for example, a condition that the person carries out child-related work only under supervision.
- (5) An *interstate interim bar* is a restriction, however described, imposed under a corresponding WWC law in relation to a person who made an interstate

working with children check application that has the effect of prohibiting the person from carrying out child-related work while the application is decided.

20 Meaning of *adverse interstate WWC decision* and related terms

- (1) Each of the following decisions about a person made under a corresponding WWC law is an *adverse interstate WWC decision*—
 - (a) a decision to refuse an interstate working with children check application made by the person;
 - (b) a decision to issue an interstate negative notice to the person;
 - (c) a decision to suspend or cancel an interstate working with children authority held by the person;
 - (d) a decision to impose an interstate interim bar on the person.
- (2) An adverse interstate WWC decision is *in effect* if—
 - (a) the decision has not been overturned on review or appeal; and
 - (b) the decision has not otherwise stopped having effect because—
 - (i) for a decision to refuse an interstate working with children check application made by the person—a later interstate working with children check application made by the person has been decided by the interstate screening unit that refused the application; or

[s 96]

- (ii) for a decision to issue an interstate negative notice to a person—the notice has expired or been revoked; or
 - (iii) for a decision to suspend an interstate working with children authority held by a person—the suspension has ended or the authority has been cancelled; or
 - (iv) for a decision to impose an interstate interim bar on a person—the interim bar has ended.
- (3) ***Adverse interstate WWC information*** about a person is—
- (a) each adverse interstate WWC decision made about the person; and
 - (b) each decision to issue a conditional interstate WWC authority to the person; and
 - (c) information related to a decision mentioned in paragraph (a) or (b) about the person, including the reasons for the decision.

96 Amendment of s 175 (Clearance required to employ person in regulated employment)

Section 175(2)—

insert—

- (e) an adverse interstate WWC decision made about the employee is in effect and the employer knows, or ought reasonably to know, the decision is in effect.

97 Amendment of s 176A (Person prohibited from regulated employment without clearance)

Section 176A(2)—

insert—

- (f) is the subject of an adverse interstate WWC decision that is in effect.

98 Amendment of s 176C (Exemption required to employ police officer or registered teacher in regulated employment)

Section 176C(2)—

insert—

- (e) an adverse interstate WWC decision made about the employee is in effect and the employer knows, or ought reasonably to know, the decision is in effect.

99 Amendment of s 176E (Police officer or registered teacher prohibited from regulated employment without exemption)

Section 176E(2)—

insert—

- (f) is the subject of an adverse interstate WWC decision that is in effect.

100 Amendment of s 176H (Definitions for division)

Section 176H, definition *restricted person*—

insert—

- (e) is the subject of an adverse interstate WWC decision that is in effect.

101 Amendment of s 195 (Notice of withdrawal)

Section 195(3), after ‘notifiable person’—

insert—

and potential employer

[s 102]

102 Amendment of s 199 (Deemed withdrawal—applicant charged with serious offence or disqualifying offence etc.)

Section 199(2)(a), after ‘notifiable person’—

insert—

or potential employer

103 Insertion of new s 201

After section 200—

insert—

201 Deemed withdrawal—adverse interstate WWC decision in effect

- (1) The chief executive must withdraw an application if the chief executive becomes aware—
 - (a) an adverse interstate WWC decision has been made about the applicant; and
 - (b) the decision is in effect.
- (2) A withdrawal notice given under section 195 because this section applies must state that—
 - (a) for a notice given to the applicant—it is an offence for the applicant to start or continue in restricted employment; or
 - (b) for a notice given to a notifiable person or potential employer for the applicant—it is an offence to employ, or continue to employ, the applicant in restricted employment.

104 Amendment of s 221 (Deciding application—no relevant information or conviction etc. for non-serious offence)

Section 221(3)—

insert—

(e) adverse interstate WWC information;

105 Amendment of s 223 (Deciding application—negative notice cancelled or holder of eligibility declaration)

Section 223(5), definition *new assessable information*, paragraph (a)(i), ‘or disciplinary’—

omit, insert—

, disciplinary information or adverse interstate
WWC

106 Amendment of s 228 (Deciding exceptional case if other relevant information exists)

(1) Section 228(1)(b)—

insert—

(ia) adverse interstate WWC information about
the person; or

(2) Section 228(1)(b)(ia) and (iii)—

renumber as section 228(1)(b)(iii) and (iv).

(3) Section 228(2)—

insert—

(c) if the chief executive is aware of adverse interstate WWC information about the person—each adverse interstate WWC decision or decision to issue the conditional interstate WWC authority mentioned in the information, and the reasons for the decision;

107 Amendment of s 229 (Chief executive to invite submissions from person about particular information)

Section 229(2)(a)(i), ‘or disciplinary’—

omit, insert—

, disciplinary information or adverse interstate
WWC

[s 108]

108 Amendment of s 283 (Deciding application—police officer if further screening not required)

Section 283(a)(i), ‘or domestic violence’—

omit, insert—

, domestic violence information or adverse interstate WWC

109 Amendment of s 284 (Deciding application—registered teacher if further screening not required)

Section 284(a)(i), ‘or disciplinary’—

omit, insert—

, disciplinary information or adverse interstate WWC

110 Replacement of s 295 (Application of division)

Section 295—

omit, insert—

295 Application of division

This division applies if—

- (a) a person who holds a working with children authority is charged with a serious offence or disqualifying offence; or
- (b) a registered teacher holds a working with children clearance and the teacher’s teacher registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 49; or
- (c) a person who holds a working with children authority also holds an interstate working with children authority and the person’s interstate working with children authority is suspended under a corresponding WWC law; or

-
- (d) a person holds a working with children authority and an interstate interim bar is imposed on the person.

111 Amendment of s 300 (Chief executive's decision about suspended authority)

- (1) Section 300(2)—

insert—

- (d) if the person holds an interstate working with children authority—while the person's authority is suspended under a corresponding WWC law; or
- (e) if the person is an applicant for an interstate working with children check application—while the person is subject to an interstate interim bar in relation to the application.

- (2) Section 300—

insert—

- (3) The chief executive must not make a decision under subsection (1) if the chief executive is required to cancel the person's working with children authority under section 303 or 303A.

112 Amendment of ch 8, pt 5A, div 3, hdg (Cancelling working with children authority without suspension)

Chapter 8, part 5A, division 3, heading, 'without suspension'—

omit, insert—

by chief executive

113 Insertion of new s 303A

After section 303—

[s 114]

insert—

303A Cancelling authority if adverse interstate WWC decision

- (1) The chief executive must cancel a person's working with children authority if—
 - (a) an interstate working with children check application made by the person is refused under a corresponding WWC law; or
 - (b) the person is issued an interstate negative notice; or
 - (c) an interstate working with children authority held by the person is cancelled under a corresponding WWC law.
- (2) This section applies whether or not the person's working with children authority is suspended under section 296.

114 Amendment of s 304A (Cancelling authority because of subsequent information)

Section 304A(1)(a), after 'disciplinary information'—

insert—

or adverse interstate WWC information,

115 Amendment of s 304B (Action after decision)

- (1) Section 304B(1)(b), before 'issue'—

insert—

if the authority is cancelled under section 303, 304 or 304A—

- (2) Section 304B(1)(c)—

omit.

- (3) Section 304B—

insert—

- (1A) If the person's working with children authority is cancelled under section 303, 304 or 304A, the chief executive must give the person a written notice that states—
- (a) the decision to cancel the authority and issue the negative notice; and
 - (b) the reasons for the decision; and
 - (c) the person must return the person's working with children card to the chief executive immediately, unless the person has a reasonable excuse; and

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.

- (d) the relevant review and appeal information; and
 - (e) unless the person is a relevant disqualified person, the circumstances in which the person may apply under section 304G for the negative notice to be cancelled.
- (1B) If the person's working with children authority is cancelled under section 303A, the chief executive must give the person a notice that states—
- (a) the person's working with children authority is cancelled because of the adverse interstate WWC decision mentioned in section 303A made about the person; and
 - (b) the person must return the person's working with children card to the chief executive immediately, unless the person has a reasonable excuse; and

[s 116]

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.

- (c) there is no review or appeal of the decision to cancel the person's authority.
- (4) Section 304B(1A) to (2)—
renumber section 304B(2) to (4).

116 Amendment of s 304C (Notifiable persons and potential employers notified about cancellation)

- (1) Section 304C(1)(b), before 'the person'—
insert—
if the person's authority is cancelled under section 303, 304 or 304A—
- (2) Section 304C—
insert—
(2A) If the person's working with children authority was cancelled under section 303A, a notice given to each notifiable person or potential employer must state that the person's authority was cancelled under that section.

117 Amendment of s 304G (Application to cancel negative notice)

Section 304G(1)—
insert—

- (c) is not the subject of an adverse interstate WWC decision that is in effect.

118 Amendment of ch 8, pt 6, div 4, hdg (Obtaining information from interstate police commissioner)

Chapter 8, part 6, division 4, heading, after ‘commissioner’—
insert—

, working with children check national reference system or interstate screening unit

119 Insertion of new ss 320A and 320B

After section 320—

insert—

320A Obtaining information from working with children check national reference system

The chief executive may access the working with children check national reference system to obtain information about a person mentioned in section 310 if—

- (a) the chief executive accesses the system and obtains the information under an arrangement between the chief executive and the ACC; and
- (b) the information is relevant to the performance of the chief executive’s screening functions in relation to the person.

320B Requesting information from other interstate screening units

- (1) This section applies if the chief executive reasonably believes an interstate screening unit has information about a person mentioned in section 310 that is relevant to the performance of the chief executive’s screening functions in relation to the person.
- (2) The chief executive may ask the interstate screening unit for the information.

[s 120]

(3) The chief executive's request may include the following information—

- (a) the person's name and any other name the chief executive believes the person may use or have used;
- (b) the person's gender and date and place of birth.

120 Replacement of ch 8, pt 6, div 8, hdg (Dealing with information)

Chapter 8, part 6, division 8, heading—

omit, insert—

**Division 8 Giving information to
police commissioner and
other State entities**

121 Amendment, relocation and renumbering of s 339 (Chief executive to give notice to particular entities about a change in police information)

(1) Section 339, heading, 'particular entities'—

omit, insert—

notifiable persons etc.

(2) Section 339, as amended—

relocate to after section 344 and *renumber* as section 344AA.

122 Amendment of s 344 (Giving information to chief executive (disability services))

Section 344(3)(c), 'and disciplinary'—

omit, insert—

, disciplinary information and adverse interstate
WWC

123 Insertion of new ch 8, pt 6, div 9, hdg

Before section 344AA, as relocated and renumbered by this Act—

insert—

**Division 9 Giving information to
notifiable persons,
authorised entities and
self-managed NDIS
participants etc.**

124 Insertion of new ch 8, pt 6, div 10

Chapter 8, part 6—

insert—

**Division 10 Giving information to ACC
and interstate screening
units**

345A Application of division

This division applies to information about a person—

- (a) the chief executive was given, or given access to, under this part; or
- (b) in the chief executive's possession in relation to the performance of the chief executive's screening functions.

345B Giving information to ACC

- (1) The chief executive may give information about a person to the ACC—

[s 124]

- (a) under an arrangement between the chief executive and the ACC for the purpose of the information being included in the working with children check national reference system; or
 - (b) if the chief executive reasonably believes the information is otherwise relevant to the functions of the ACC that relate to the working with children check national reference system.
- (2) Without limiting subsection (1)(a), information is given to the ACC if the information is entered into, or uploaded to, the working with children check national reference system.

345C Giving information to interstate screening units

- (1) This section applies if—
- (a) the chief executive is aware a person holds an interstate working with children authority issued by an interstate screening unit under a corresponding WWC law; or
 - (b) an interstate screening unit has asked the chief executive for information about a person in relation to deciding an application made by the person under a corresponding WWC law.
- (2) The chief executive may give information about the person to the interstate screening unit if the chief executive reasonably believes the information is relevant to the functions of the interstate screening unit under the corresponding WWC law.
- (3) The chief executive must not give to an interstate screening unit a section 93A transcript, or information contained in a section 93A transcript.

125 Insertion of new ch 8, pt 6, div 11, hdg

Before section 346—

insert—

Division 11 Guidelines for dealing with information

126 Amendment of s 353 (Definitions for div 3)

(1) Section 353, definition *chapter 8 reviewable decision*—

insert—

- (ca) a decision of the chief executive that the person's interstate working with children authority has been suspended under a corresponding WWC law if—
 - (i) because of the decision, the person's working with children authority was suspended under section 296; and
 - (ii) the person claims he or she is not the person whose interstate working with children authority has been suspended under a corresponding WWC law; and
 - (iii) the person has applied under section 300(1)(b) for the chief executive to decide whether to cancel the person's suspended working with children authority and that application has been refused; or
- (cb) a decision of the chief executive that the person is subject to an interstate interim bar if—
 - (i) because of the decision, the person's working with children authority was suspended under section 296; and

renumber as section 384(b)(iv) to (vi).

128 Insertion of new ss 598 to 601

Chapter 11, part 21, as inserted by this Act—

insert—

598 New regulated employment

- (1) This section applies if, immediately before the commencement—
 - (a) a person was employed in employment, or was continuing in employment, mentioned in schedule 1, section 14; and
 - (b) the employment was not regulated employment mentioned in schedule 1, section 14 as in force immediately before the commencement; and
 - (c) the employee does not have a current working with children authority.
- (2) Sections 175, 176A, 176C and 176E do not apply in relation to the employment until—
 - (a) 3 months after the commencement; or
 - (b) if the person makes a working with children check application within the period mentioned in paragraph (a)—the application is decided or withdrawn.

599 New regulated businesses

- (1) This section applies if, immediately before the commencement—
 - (a) a person was carrying on a business mentioned in schedule 1, section 24; and
 - (b) the business was not a regulated business mentioned in schedule 1, section 24 as in

[s 128]

force immediately before the commencement; and

- (c) the person does not hold a working with children authority.
- (2) Sections 176B and 176G do not apply in relation to the person carrying on the business until—
 - (a) 3 months after the commencement; or
 - (b) if the person makes a working with children check application within the period mentioned in paragraph (a)—the application is decided or withdrawn.

600 Effect of adverse interstate WWC decision made before commencement on existing authority

- (1) This section applies in relation to a person who holds a working with children authority on the commencement.
- (2) For suspending or cancelling the person's working with children authority, an adverse interstate WWC decision that is in effect on the commencement is taken to have been made on the commencement.
- (3) For subsection (2), it is immaterial whether the person's working with children authority was suspended on the commencement.

601 Information that may be given under ss 345B and 345C

- (1) For sections 345B and 345C, the chief executive may give information about a person to the ACC or an interstate screening unit regardless of whether the information relates to a matter that happened before or after the commencement.
- (2) Without limiting subsection (1), the information

that may be given includes—

- (a) information about a working with children check application made before the commencement; and
- (b) information about a working with children authority or negative notice issued before the commencement; and
- (c) information about a person obtained by the chief executive under chapter 8, part 6 before the commencement.

129 Amendment of sch 1, s 14 (Care of children under Child Protection Act 1999)

Schedule 1, section 14(3) and (4)—

omit, insert—

- (3) Employment is regulated employment if the usual functions of the employment—
 - (a) are carried out, or likely to be carried out, inside a licensed residential facility; or
 - (b) include responsibility for directly managing a licensed care service; or
 - (c) include performing a risk-assessed role for a licensed care service.

130 Replacement of sch 1, s 24 (Businesses relating to licensed care service under Child Protection Act 1999)

Schedule 1, section 24—

omit, insert—

24 Businesses relating to licensed care service under Child Protection Act 1999

A business is a regulated business if the usual activities of the business include, or are likely to include—

[s 131]

- (a) carrying out activities or providing services inside a licensed residential facility; or
- (b) a licensed care service; or
- (c) performing a risk-assessed role for a licensed care service.

131 Amendment of sch 7 (Dictionary)

(1) Schedule 7—

insert—

ACC means the Australian Crime Commission established under the *Australian Crime Commission Act 2002* (Cwlth).

adverse interstate WWC decision see section 20(1).

adverse interstate WWC information see section 20(3).

chief executive's screening functions means the chief executive's functions under chapter 8.

conditional interstate WWC authority see section 19(4).

corresponding WWC law means a law of another State that substantially corresponds to chapter 8 of this Act.

in effect, in relation to an adverse interstate WWC decision, see section 20(2).

interstate interim bar see section 19(5).

interstate negative notice see section 19(3).

interstate screening unit means an entity responsible, under a corresponding WWC law, for deciding interstate working with children check applications.

interstate working with children authority see

section 19(2).

interstate working with children check application see section 19(1).

national policing information see the *Australian Crime Commission Act 2002* (Cwlth), section 4(1).

national policing information functions see the *Australian Crime Commission Act 2002* (Cwlth), section 4(1).

risk-assessed role see the *Child Protection Act 1999*, section 123A.

working with children check national reference system means the system administered by the ACC, under its national policing information functions, that holds national policing information about—

- (a) decisions made by the chief executive under chapter 8 in relation to working with children check applications and working with children authorities; and
- (b) decisions made under corresponding WWC laws about interstate working with children check applications and interstate working with children authorities.

(2) Schedule 7, definition *notifiable person*, paragraph (a)—
insert—

- (ix) if the chief executive is aware that the person performs a risk-assessed role for a licensed care service—the licensee of the licensed care service under the *Child Protection Act 1999*; and

[s 132]

Part 7 **Minor and consequential amendments**

132 **Legislation amended**

Schedule 1 amends the legislation it mentions.

Schedule 1 Minor and consequential amendments

section 132

Adoption Act 2009

- 1 Schedule 3, definition *independent Aboriginal or Torres Strait Islander entity*, paragraph (a), ‘section 6(1)’—**

omit, insert—

section 11A(1)

Child Protection Act 1999

- 1 Chapter 1, part 2, heading, ‘Purpose’—**

omit, insert—

Purposes

- 2 Chapter 1, part 2, division 1, heading, ‘Purpose’—**

omit, insert—

Purposes

- 3 Section 5BA(4), notes, paragraph 1, ‘child placement principles’—**

omit, insert—

Aboriginal and Torres Strait Islander child placement principle

4 Section 6—

relocate to chapter 1, part 3, division 1 and *renumber* as section 11A.

5 Section 6A—

renumber as section 6.

6 Section 24, heading, ‘pt 2’—

omit, insert—

part

7 Section 38, heading, ‘pt 3’—

omit, insert—

part

8 Section 38—

renumber as section 37.

9 Sections 39 to 40A—

renumber as sections 38 to 40.

10 Section 47(2), note, ‘section 40’—

omit, insert—

section 39

11 Section 51AB, heading, after ‘Purpose’—

insert—

of part

- 12 Section 51B(2)(c), note, ‘section 6AA(5)’—**
omit, insert—
section 5F(5)
- 13 Section 51D(1)(c)(iv), note, ‘section 6AA(5)’—**
omit, insert—
section 5F(5)
- 14 Section 53, heading, ‘pt 4’—**
omit, insert—
part
- 15 Section 125(1)(d)(ii) and (iii), ‘has’—**
omit, insert—
holds
- 16 Section 125(1)(d)(iv), ‘have’—**
omit, insert—
hold
- 17 Section 126(c), ‘has’—**
omit, insert—
holds
- 18 Section 129(2)(c), ‘does not have’—**
omit, insert—
does not hold

19 Section 133(3)(d), from ‘has—’—

omit, insert—

either—

- (i) holds a working with children authority or negative notice; or
- (ii) has made a working with children check application;

20 Section 133(3)(e), ‘has’—

omit, insert—

holds

21 Section 134(3)(d), from ‘has—’—

omit, insert—

either—

- (i) holds a working with children authority or negative notice; or
- (ii) has made a working with children check application;

22 Section 134(3)(e), ‘has’—

omit, insert—

holds

23 Section 135(1)(a)(iii) and (b)(iv), ‘have’—

omit, insert—

hold

24 Section 136(2)(c), ‘does not have’—

omit, insert—

does not hold

25 Section 137(5)(b), from ‘has—’—

omit, insert—

either—

- (i) holds a working with children authority; or
- (ii) has made a current working with children check application.

26 Section 139(5), ‘have’—

omit, insert—

hold

27 Section 141B, heading—

omit, insert—

141B Meaning of *personal history*

28 Section 141B(1)(b), ‘has’—

omit, insert—

holds

29 Section 141B(1)(c), ‘have’—

omit, insert—

hold

30 Section 141H(3)(b), ‘has’—

omit, insert—

holds

31 Section 142, heading—

omit, insert—

142 Definition for division

32 Section 142, definition *police information*, paragraphs (f) and (g), ‘have’—

omit, insert—

hold

33 Section 145(1)(a), ‘holder of a certificate of approval’—

omit, insert—

approved carer

34 Section 148A(3)(b), ‘has’—

omit, insert—

holds

35 Section 148B(1)(a)(i) and (ii), (b) and (c), ‘has’—

omit, insert—

holds

36 Section 159MC(1)(d) and (2)(d), ‘section 21A’—

omit, insert—

section 22

37 Section 159N(3), ‘Subsection (1)’—

omit, insert—

Subsection (2)

-
- 38 Section 159R(2), ‘part’—**
omit, insert—
chapter
- 39 Sections 187(3), 188(3), 188A(6), 188B(3) and 188C(2), ‘section 186’—**
omit, insert—
subdivision 1
- 40 Sections 188C(3)(b)(ii) and 188D(3)(b)(ii), ‘purpose’—**
omit, insert—
purposes
- 41 Section 188E(6), definition *notifier details*, ‘section 186(1)’—**
omit, insert—
section 186
- 42 Section 188E(6), definition *notifier details*, ‘section 186(1)(a) or (b)’—**
omit, insert—
section 186(a) or (b)
- 43 Section 189A(2), ‘section 186(1)’—**
omit, insert—
section 186
- 44 Section 189A(2), ‘section 186(1)(a) or (b)’—**
omit, insert—
section 186(a) or (b)

- 45 Section 189AA(2), ‘section 186(1)’—**
omit, insert—
section 186
- 46 Section 189AA(2), ‘section 186(1)(a) or (b)’—**
omit, insert—
section 186(a) or (b)
- 47 Section 189AB(2), ‘section 186(1)’—**
omit, insert—
section 186
- 48 Section 189AB(2), ‘section 186(1)(a) or (b)’—**
omit, insert—
section 186(a) or (b)
- 49 Section 191(2)(d), ‘purpose’—**
omit, insert—
purposes
- 50 Schedule 3, definition *independent Aboriginal or Torres Strait Islander entity*, ‘section 6(1)’—**
omit, insert—
section 11A(1)

Commonwealth Powers (Family Law—Children) Act 1990

1 Schedule, entry for *Child Protection Act 1999*, ‘section 99 (Custody or guardianship of child continues pending decision on application for order)’—

omit, insert—

section 99 (Particular orders continue pending decision on application for extension, variation, revocation or substitution)

Coroners Act 2003

1 Section 17(1), examples, ‘section 186 (Confidentiality of notifiers of harm or risk of harm)’—

omit, insert—

section 186C (Disclosure in proceeding)

Director of Child Protection Litigation Act 2016

1 Section 6(3), ‘express their views’—

omit, insert—

participate in the exercise of a power or the making of a decision

Disability Services Act 2006

1 Section 138R(4), ‘section 186’—

omit, insert—

chapter 6, part 6, division 2, subdivision 1

Domestic and Family Violence Protection Act 2012

1 Section 169J(b), ‘section 186’—

omit, insert—

chapter 6, part 6, division 2, subdivision 1

2 Section 169O(4)(a), ‘section 186’—

omit, insert—

chapter 6, part 6, division 2, subdivision 1

Family Responsibilities Commission Act 2008

1 Section 93(3)(a)(v), from ‘who’—

omit, insert—

as a notifier under the *Child Protection Act 1999*,
section 186; or

Justice and Other Information Disclosure Act 2008

1 Section 12(d), from ‘mentioned’—

omit, insert—

as a notifier under the *Child Protection Act 1999*,
section 186;

2 Section 12(d), editor’s note—

omit.

National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Regulation 2019

1 Schedule 1, ‘section 186’—

omit, insert—

chapter 6, part 6, division 2, subdivision 1

Working with Children (Risk Management and Screening) Act 2000

**1 Section 171(2), definition *employees in regulated
employment*, paragraph (d), ‘section 339’—**

omit, insert—

section 344AA

2 Section 343(3), ‘section 339(2)’—

omit, insert—

section 344AA(2)

3 Section 344C(2)(c) and (3), ‘section 339(3)’—

omit, insert—

section 344AA(3)

Youth Justice Act 1992

1 Section 297H(2)(a), ‘section 186’—

omit, insert—

chapter 6, part 6, division 2, subdivision 1

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