



Queensland

Child Protection Act 1999

Child Protection Regulation 2011

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Child Protection Regulation 2011

Contents

		Page
Part 1	Preliminary	
1	Short title	3
Part 2	Placing child in care	
2	Agreement to provide care for child	3
3	Matters to consider before telling or notifying parents	4
Part 3	Regulation of care	
Division 1	Licensing of care services	
4	Independent evaluation for grant or renewal of licence	5
5	Suitability of selection, training and management methods	6
6	Procedure about reporting matter of concern	6
7	Licensee to keep particular records	7
8	Licensee to allow inspection of particular records	8
9	Licensee may be required to give return	9
Division 2	General	
10	Information to be included in report to chief executive	9
Part 3A	Prescribed entities for information sharing	
10A	Prescribed entity—Act, s 159M	10
Part 4	Confidentiality in relation to administration of Act	
11	Approval to publish particular information	10
Part 5	Corresponding laws of other States	
12	Child welfare laws—Act, s 203	11
13	Interstate laws and related matters—Act, s 204	11
Part 6	Keeping records and preparing report	
14	Chief executive to keep records	12
15	Report about information recorded under s 14	12
Part 7	Suitable person	
16	Purpose of pt 7	13

Contents

17	Custody or guardianship of child	13
18	Managing licensed care service	13
19	Director of applicant for licence or licensee	14
20	Nominee for licence	14
21	Person engaged in relation to provision of care services	14
22	Approved foster carer	15
23	Approved kinship carer	15
24	Provisionally approved carer	15
25	Associating on daily basis with child	16
26	Other matters that may be considered	16
Part 8	Repeal and transitional provisions	
Division 1	Repeal	
27	Repeal	16
Division 2	Transitional provisions	
28	Licensee to have procedure about reporting matters of concern	16
29	Records kept by licensee	17
30	Notice to licensee to give return	17
31	Reference to repealed regulation	17
Schedule 1	Child welfare laws	18
Schedule 2	Interstate laws and related matters	19

Child Protection Regulation 2011

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Child Protection Regulation 2011*.

Part 2 Placing child in care

2 Agreement to provide care for child

- (1) For section 84(2) of the Act, the following terms are prescribed for an agreement entered into between the chief executive and an approved carer for the care of a child in the custody or guardianship of the chief executive—
- (a) the time for which the agreement is to have effect;
 - (b) the time for which it is intended that the approved carer will care for the child;
 - (c) information, from any case plan the chief executive prepares for the child, about matters involving or affecting the approved carer;
 - (d) if a notice provision applies in relation to the child—
 - (i) whether the chief executive has complied, or intends to comply, with the notice provision; and
 - (ii) if the chief executive has complied, or intends to comply, with the notice provision—the information given, or intended to be given, to the child's parents under the notice provision;
 - (e) arrangements for contact between the child and the child's parents or other members of the child's family,

including, for example, the child's transport arrangements;

- (f) the responsibilities of the chief executive and of the approved carer in the provision of dental, medical, therapeutic, schooling and other services to the child;
 - (g) information about any special needs of the child, including information about—
 - (i) any special health needs; and
 - (ii) any special behavioural management needs; and
 - (iii) the resources needed to meet the special needs;
 - (h) the amounts to be paid to the approved carer for the child's care and maintenance.
- (2) In this section—

notice provision means section 85(2) or 86(2) of the Act.

Editor's note—

section 85 (Chief executive to tell parents of placing child in care—assessment order) or 86 (Chief executive to notify parents of placing child in care—child protection order) of the Act

3 Matters to consider before telling or notifying parents

- (1) For the Act, section 85(3) or 86(3), this section prescribes the matters the chief executive must consider in relation to a child to whom the Act, section 85 or 86 applies.
- (2) The matters are whether a relevant person for the child—
 - (a) has a history of violence relevant to the safety of the child or anyone else with whom the child is living; and
 - (b) has recently made a threat to harm the child or anyone else with whom the child is living; and
 - (c) is likely to behave in a way that is likely to intimidate or frighten the child or another child with whom the child is living; and

- (d) is likely to attempt to intimidate or otherwise adversely influence the child in relation to future court proceedings; and
 - (e) is likely to attempt to remove the child from the chief executive's custody or guardianship; and
 - (f) has previously engaged in violent behaviour, harassment or other harmful behaviour in response to an action taken to protect the child.
- (3) In this section—
- relevant person***, for a child to whom the Act, section 85 or 86 applies, means—
- (a) a parent of the child; or
 - (b) a partner of a parent of the child; or
 - (c) another person closely associated with a parent of the child.

Part 3 Regulation of care

Division 1 Licensing of care services

4 Independent evaluation for grant or renewal of licence

- (1) The purpose of this section is to require the chief executive to obtain particular information about a care service to help the chief executive decide if the standard of care provided by the care service complies, and will continue to comply, with the statement of standards.
- (2) Before granting an application for a licence, or renewal of a licence, the chief executive must—
 - (a) obtain, from an independent person, a written evaluation of the care service provided by the applicant; and
 - (b) give a copy of the evaluation to the applicant; and

[s 5]

(c) give the applicant a written invitation to give the chief executive, within a reasonable stated time of at least 14 days after the invitation, a submission about anything contained in the evaluation.

(3) In this section—

independent person means a person who is independent of the applicant and the department.

5 Suitability of selection, training and management methods

For section 126(f) of the Act, in deciding whether the suitability of methods for the selection, training and management of people engaged in providing care services is satisfactory, the chief executive must have regard to the standards for the management of a licensed care service published by the department.

Editor's note—

The standards are available for inspection, without charge, at the offices of the department during normal business hours and are published on the department's website on the internet.

6 Procedure about reporting matter of concern

(1) A licensee must—

- (a) prepare a procedure under this section; and
- (b) keep the procedure up to date; and
- (c) ensure staff members of the licensee are aware of the procedure.

(2) The procedure may, for example, include the following—

- (a) a statement that the licensee supports the staff members in the reporting of matters of concern;
- (b) for a licence relating to a licensed residential facility, provision for ensuring the staff members are aware of their obligations under section 13F of the Act;

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- (c) addresses, phone numbers or other contact details, including for an office of the department, for reporting matters of concern.

- (3) In this section—

matter of concern, for a staff member of a licensee, means—

- (a) harm that the staff member becomes aware, or reasonably suspects, has been caused to a child in the care of the licensed care service operated under the licence; or
- (b) a concern that the staff member has about the standards of the care services provided under the licence.

procedure means a procedure that facilitates reporting by a staff member of a licensee of any matter of concern for the staff member.

staff member, of a licensee, means a person employed in the licensed care service operated under the licence.

Note—

Under section 139(1)(f) of the Act, the chief executive may suspend or cancel an authority on the ground that the holder has contravened a provision of the Act.

7 Licensee to keep particular records

- (1) A licensee must keep records under this section for each child receiving care services from the licensee under the licence.
- (2) The records must include the following information about a child mentioned in subsection (1)—
 - (a) the name, date of birth and sex of the child;
 - (b) the first and last days of each period during which the child received the services;
 - (c) the name and address of—
 - (i) the licensed residential facility in which the child is residing; or

- (ii) the carer in whose care the chief executive has placed the child;
 - (d) details of—
 - (i) any written complaint the licensee receives relating to the provision of the services to the child; and
 - (ii) any action the licensee takes in relation to the complaint;
 - (e) details of—
 - (i) any written allegation of breach of the statement of standards the licensee receives relating to the child's care by a licensed care service operated under the licence; and
 - (ii) any action the licensee takes in relation to the allegation;
 - (f) if the child is residing in a licensed residential facility, details of any significant event relating to the child that happened during the residency.
- (3) In this section—

significant event, relating to a child, means an event that is significant in the child's life, having regard to the child's age and circumstances.

Examples of a significant event relating to the child—

- non-routine medical treatment received by the child
- punishment received by the child at the facility
- contact between the child and the child's family
- receipt by the child of a schooling or sporting award

8 Licensee to allow inspection of particular records

The licensee must allow the chief executive to inspect, during normal office hours of the department, the records a licensee is required to keep under section 7.

9 Licensee may be required to give return

- (1) The chief executive may, by notice given to a licensee, require the licensee to give a return about the details stated in the records the licensee is required to keep under section 7.
- (2) The notice must—
 - (a) be in writing; and
 - (b) state the time for giving the return.
- (3) The time stated for giving the return must not be less than 30 days after the chief executive gives the notice to the licensee.
- (4) If a licensee is given a notice under subsection (1), the licensee must give a return.
- (5) The return must—
 - (a) be in the approved form; and
 - (b) be given to the chief executive within the time stated in the notice.

Division 2 General

10 Information to be included in report to chief executive

For section 13G(2)(b) of the Act, the following information is prescribed for inclusion in the relevant person's report—

- (a) the child's name and sex;
- (b) the child's age;
- (c) details of how to contact the child;

Examples—

- the address at which the child usually lives
 - the name and address of the school the child attends
- (d) details of the harm to which the reportable suspicion relates;

[s 10A]

- (e) particulars of the identity of the person suspected of causing the child to have suffered, suffer, or be at risk of suffering, the harm to which the reportable suspicion relates;
- (f) particulars of the identity of any other person who may be able to give information about the harm to which the reportable suspicion relates.

Part 3A Prescribed entities for information sharing

10A Prescribed entity—Act, s 159M

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

Part 4 Confidentiality in relation to administration of Act

11 Approval to publish particular information

In deciding whether to give an approval to publish information under section 189 of the Act, the chief executive may have regard to the following in relation to a child mentioned in the section—

- (a) if the child is able to form and express views about the publication, the views of the child, taking into account the child's age or ability to understand;
- (b) the emotional support available to the child;
- (c) the likely effect of the publication on the child, at present or in the future;

- (d) whether the publication would adversely affect the child's relationship with members of the child's family;
- (e) the way it is proposed to publish the information;
- (f) the estimated number of persons who will hear or see the information, as a result of its publication;
- (g) the views of the child's parents;
- (h) the identity of the person asking for the approval;
- (i) the reason for the proposed publication;
- (j) the views of the person seeking the approval as to why the publication is in the best interests of the child.

Part 5 **Corresponding laws of other States**

12 **Child welfare laws—Act, s 203**

It is declared that a law mentioned in schedule 1 is a child welfare law of the State mentioned opposite.

13 **Interstate laws and related matters—Act, s 204**

It is declared that—

- (a) each State mentioned in schedule 2 is a participating State; and
- (b) for each participating State—
 - (i) the law mentioned opposite is an interstate law of that State; and
 - (ii) the holder, from time to time, of the office mentioned opposite is the interstate officer for that State.

Part 6 **Keeping records and preparing report**

14 **Chief executive to keep records**

- (1) The chief executive must keep records under this section.
- (2) The records must include—
 - (a) details of any report given to the chief executive about—
 - (i) harm caused, or suspected to have been caused, to a child who, under the Act, is in the care of an entity mentioned in section 82(1) of the Act; or
 - (ii) a breach, or claimed breach, of the statement of standards; and
 - (b) the results of any investigation of a matter mentioned in paragraph (a).
- (3) The information recorded about a matter concerning a child must include the type of care being provided to the child.
- (4) The records must be kept in a way that enables the chief executive to—
 - (a) access or collect information about a particular carer or care service; or
 - (b) analyse trends across all the information recorded under this section.

15 **Report about information recorded under s 14**

The chief executive must prepare a written report about the information recorded under section 14 to be given to the public guardian on a regular basis.

Part 7 Suitable person

16 Purpose of pt 7

The purpose of this part is to provide for the following—

- (a) who is a suitable person for the Act, schedule 3, definition *suitable person*;
- (b) matters the chief executive or a court may consider in deciding if a person is a suitable person under this part.

17 Custody or guardianship of child

A person is a suitable person for having the custody or guardianship of a child if the person—

- (a) does not pose a risk to the child's safety; and
- (b) is able and willing to care for the child in a way that meets the standards of care in the statement of standards; and
- (c) is able and willing to protect the child from harm; and
- (d) understands, and is committed to, the principles for administering the Act.

Note—

Under section 61 (Types of child protection orders) of the Act, the Childrens Court may make an order granting custody or guardianship of a child.

18 Managing licensed care service

A person is a suitable person for managing a licensed care service if the person—

- (a) does not pose a risk to the safety of children to whom, under the Act, the licensee is providing care services; and
- (b) is able and willing to manage the licensed care service in a way that—

[s 19]

- (i) assists the licensee to ensure the provision of care complies with the statement of standards; and
- (ii) implements the methods mentioned in section 126(f) of the Act; and
- (c) understands, and is committed to, the principles for administering the Act.

19 Director of applicant for licence or licensee

A person is a suitable person to be a director of an applicant for a licence, or a licensee, for a licensed care service if the person—

- (a) does not pose a risk to the safety of children to whom, under the Act, the licensee is providing care services; and
- (b) is able and willing to manage the licensed care service, or ensure the licensed care service is managed, in a way that ensures the provision of care complies with the statement of standards; and
- (c) understands, and is committed to, the principles for administering the Act.

20 Nominee for licence

A person is a suitable person to be a nominee for a licence if the person—

- (a) does not pose a risk to the safety of children to whom, under the Act, the licensee is providing care services; and
- (b) is able and willing to fulfil the responsibilities of a nominee for a licence under section 130(1) of the Act.

21 Person engaged in relation to provision of care services

A person is a suitable person to be engaged in relation to the provision of care services by a licensed care service if the

person does not pose a risk to the safety of children in the custody or guardianship of the chief executive.

22 Approved foster carer

A person is a suitable person to be an approved foster carer of any child if the person—

- (a) does not pose a risk to a child's safety; and
- (b) is able and willing to protect a child from harm; and
- (c) understands, and is committed to, the principles for administering the Act; and
- (d) has completed any training reasonably required by the chief executive to ensure the person is able to care properly for a child.

23 Approved kinship carer

A person is a suitable person to be an approved kinship carer of a child if the person—

- (a) does not pose a risk to the child's safety; and
- (b) is able and willing to protect the child from harm; and
- (c) understands, and is committed to, the principles for administering the Act; and
- (d) has completed any training reasonably required by the chief executive to ensure the person is able to care properly for a child.

24 Provisionally approved carer

A person is a suitable person to be a provisionally approved carer of a child if the person—

- (a) does not pose a risk to the child's safety; and
- (b) is able and willing to protect the child from harm.

25 Associating on daily basis with child

A person is a suitable person for associating on a daily basis with children or a particular child if the person does not pose a risk to the children's or child's safety.

26 Other matters that may be considered

In deciding if a person is a suitable person under this part, the chief executive or a court may consider the following—

- (a) the person's employment history;
- (b) the person's physical or mental health;
- (c) any other matter relevant to deciding whether the person is a suitable person under this part.

Part 8 Repeal and transitional provisions

Division 1 Repeal

27 Repeal

The Child Protection Regulation 2000, SL No. 346 is repealed.

Division 2 Transitional provisions

28 Licensee to have procedure about reporting matters of concern

- (1) A policy under repealed section 3 is taken to be a procedure under section 6.
- (2) In this section—

repealed section 3 means the *Child Protection Regulation 2000*, section 3 as in force from time to time before the commencement.

29 Records kept by licensee

- (1) A record kept by a licensee under repealed section 4 is taken to be a record kept by a licensee under section 7.
- (2) In this section—

repealed section 4 means the *Child Protection Regulation 2000*, section 4 as in force immediately before the commencement.

30 Notice to licensee to give return

- (1) A notice given to the licensee under repealed section 5 is taken to be a notice given to the licensee under section 9.
- (2) In this section—

repealed section 5 means the *Child Protection Regulation 2000*, section 5 as in force immediately before the commencement.

31 Reference to repealed regulation

- (1) In a document a reference to the repealed regulation may, if the context permits, be taken to be a reference to this regulation.
- (2) Subsection (1) does not limit the application of the *Acts Interpretation Act 1954*, section 14H.
- (3) In this section—

repealed regulation means the *Child Protection Regulation 2000* as it was in force from time to time before the commencement.

Schedule 1 Child welfare laws

section 12

State	Child welfare law
Australian Capital Territory	<i>Children and Young People Act 2008</i> (ACT) other than chapters 4, 5, 6, 7, 8, 9, 20 and 21
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW)
New Zealand	<i>Children, Young Persons, and Their Families Act 1989</i> (NZ) other than parts 4, 5 and 9
Northern Territory	<i>Care and Protection of Children Act</i> (NT)
South Australia	<i>Children's Protection Act 1993</i> (SA)
Tasmania	<i>Children, Young Persons and Their Families Act 1997</i> (Tas) other than parts 9 and 10
Victoria	<i>Children, Youth and Families Act 2005</i> (Vic), chapters 1, 2, 3 and 4
Western Australia	<i>Children and Community Services Act 2004</i> (WA)

Schedule 2 Interstate laws and related matters

section 13

Participating State	Interstate law	Interstate officer
Australian Capital Territory	<i>Children and Young People Act 2008 (ACT)</i> , chapter 17	Director-General of the Community Services Directorate
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> , chapter 14A	Director-General of the Department of Family and Community Services
New Zealand	<i>Children, Young Persons, and Their Families Act 1989 (NZ)</i> , part 3A	Chief Executive of the Ministry of Social Development
Northern Territory	<i>Care and Protection of Children Act (NT)</i> , chapter 2, part 2.4	Chief Executive of the Department of Children and Families
South Australia	<i>Children's Protection Act 1993 (SA)</i> , part 8	Chief Executive of the Department of Families and Communities
Tasmania	<i>Children, Young Persons and Their Families Act 1997 (Tas)</i> , part 8	Secretary of the Department of Health and Human Services
Victoria	<i>Children, Youth and Families Act 2005 (Vic)</i> , chapter 4, part 4.12	Secretary to the Department of Human Services
Western Australia	<i>Children and Community Services Act 2004 (WA)</i> , part 6	Director-General of the Department for Child Protection