

Queensland

Child Protection Act 1999

Current as at 29 October 2026

Amendments not yet in force
There are amendments for this title that have been enacted but have not yet commenced. The following amendments that have not commenced are not incorporated in this reprint but are annotated on the website for information—2024 Act No. 50.

These annotations were incorporated on 1 April 2026. See the List of legislation in the Legislative history for uncommenced amendments enacted after this date.

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Child Protection Act 1999

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Child Protection Act 1999

An Act about the protection of children, and for other purposes

Chapter 1 Preliminary

Part 1 Introduction

1 Short title

This Act may be cited as the *Child Protection Act 1999*.

2 Commencement

(1) Section 260 commences on the date of assent.

(2) The remaining provisions commence on a day to be fixed by proclamation.

3 Definitions

(1) The dictionary in schedule 3 defines particular words used in this Act.

(2) Key terms used in this Act are defined in part 3, division 1.

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Part 2 Purposes, principles and administration of Act

Division 1 Purposes of Act and principles for its administration

4 Purposes of Act

The purposes of this Act are—

(a) to provide for the protection of children; and

(b) to promote the safety of children; and

(c) to the extent that it is appropriate, to support families caring for children.

5 Application of principles

(1) This Act is to be administered under the principles stated in this division.

(2) All other principles stated in this Act are subject to the principle stated in section 5A.

5A Paramount principle

The main principle for administering this Act is that the safety, wellbeing and best interests of a child, both through childhood and for the rest of the child's life, are paramount.

Example—

If the chief executive is making a decision under this Act about a child where there is a conflict between the child's safety, wellbeing and best interests (whether immediate or long-term in nature), and the interests of an adult caring for the child, the conflict must be resolved in favour of the child's safety, wellbeing and best interests.

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5B Other general principles

The following general principles are relevant to making decisions relating to the safety, wellbeing and best interests of a child—

(a) a child has a right to be protected from harm or risk of harm;

(b) a child's family has the primary responsibility for the child's upbringing, protection and development;

(c) the preferred way of ensuring a child's safety and wellbeing is through supporting the child's family;

(d) if a child does not have a parent who is able and willing to protect the child, the State is responsible for protecting the child;

(e) in protecting a child, the State should only take action that is warranted in the circumstances;

(f) if a child is removed from the child's family, support should be given to the child and the child's family for the purpose of allowing the child to return to the child's family if the return is in the child's best interests;

(g) if a child does not have a parent able and willing to give the child ongoing protection in the foreseeable future, the child should have long-term alternative care;

(h) if a child is removed from the child's family, consideration should be given to placing the child, as a first option, in the care of kin;

(i) if a child is removed from the child's family, the child should be placed with the child's siblings, to the extent that is possible;

(j) a child should only be placed in the care of a parent or other person who has the capacity and is willing to care for the child (including a parent or other person with capacity to care for the child with assistance or support);

(k) a child should be able to maintain relationships with the child's parents and kin, if it is appropriate for the child;

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(l) a child should be able to know, explore and maintain the child's identity and values, including their cultural, ethnic and religious identity and values;

(m) a delay in making a decision in relation to a child should be avoided, unless appropriate for the child;

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

5BA Principles for achieving permanency for a child

(1) The principles stated in this section are relevant to making decisions about actions to be taken, or orders to be made, under this Act.

(2) For ensuring the wellbeing and best interests of a child, the action or order that should be preferred, having regard to the principles mentioned in sections 5B and 5C, is the action or order that best ensures the child experiences or has—

(a) ongoing positive, trusting and nurturing relationships with persons of significance to the child, including the child's parents, siblings, extended family members and carers; and

(b) stable living arrangements, with connections to the child's community, that meet the child's developmental, educational, emotional, health, intellectual and physical needs; and

Example—

living arrangements that provide for a stable and continuous schooling environment

(c) legal arrangements for the child's care that provide the child with a sense of permanence and long-term stability, including, for example, a long-term guardianship order, a permanent care order or an adoption order for the child.

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Note—

See sections 62 and 64 about the restrictions on the duration or extension of child protection orders granting custody or short-term guardianship.

(3) For this Act, ***permanency***, for a child, means the experience by the child of having the things mentioned in subsection (2)(a) to (c).

(4) For deciding whether an action or order best achieves permanency for a child, the following principles also apply, in order of priority—

(a) the first preference is for the child to be cared for by the child's family;

(b) the second preference is for the child to be cared for under the guardianship of a person who is a member of the child's family, other than a parent of the child, or another suitable person;

(c) if the child is not an Aboriginal or Torres Strait Islander child—the next preference is for the child to be adopted under the *Adoption Act 2009*;

(d) the next preference is for the child to be cared for under the guardianship of the chief executive;

(e) if the child is an Aboriginal or Torres Strait Islander child—the last preference is for the child to be adopted under the *Adoption Act 2009*.

Notes—

1 See also section 5C for the additional principles that apply for administering this Act in relation to Aboriginal and Torres Strait Islander children, including the Aboriginal and Torres Strait Islander child placement principle.

2 For the principles that apply for administering the *Adoption Act 2009*, including the additional principles applying in relation to Aboriginal and Torres Strait Islander children, see sections 6 and 7 of that Act.

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5C Additional principles for Aboriginal or Torres Strait Islander children

(1) The following additional principles apply for administering this Act in relation to Aboriginal or Torres Strait Islander children—

(a) Aboriginal and Torres Strait Islander people have the right to self-determination;

(b) the long-term effect of a decision on the child's identity and connection with the child's family and community must be taken into account.

(2) The following principles (together the ***Aboriginal and Torres Strait Islander child placement principle***) also apply in relation to Aboriginal or Torres Strait Islander children—

(a) the principle (the ***prevention principle***) that a child has the right to be brought up within the child's own family and community;

(b) the principle (the ***partnership principle***) that Aboriginal or Torres Strait Islander persons have the right to 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;

(c) the principle (the ***placement principle***) that, if a child is to be placed in care, the child has a right to be placed with a member of the child's family group;

Note—

See section 83 for provisions for placing Aboriginal and Torres Strait Islander children in care.

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(d) the principle (the ***participation principle***) that a child and the child's parents and family members have a right to participate, and be enabled to participate, in an administrative or judicial process for making a significant decision about the child;

(e) the principle (the ***connection principle***) that a child has a right to be supported to develop and maintain a connection with the child's family, community, culture, traditions and language, particularly when the child is in the care of a person who is not an Aboriginal or Torres Strait Islander person.

5D Principles about exercising powers and making decisions

(1) The following principles are relevant to exercising a power or making a decision under this Act—

(a) a power under this Act should be exercised in a way that is open, fair and respectful of the rights of each person affected by the exercise of the power;

(b) to the extent that it is appropriate, the views of relevant persons should be sought and taken into account before a decision is made under this Act;

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.

(c) if a relevant person for a decision under this Act needs help to participate in or understand the decision-making process, or to understand a statutory right relevant to the decision, the relevant person should be given help;

(d) a relevant person for a decision under this Act may obtain their own legal advice, or be represented by a lawyer or supported by another person, in relation to the decision-making process;

(e) information about a child affected by a decision under this Act should be shared—

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(i) only to the extent necessary for the purposes of this Act; and

(ii) in a way that protects the child's privacy.

(2) This section does not apply to a court or the tribunal.

(3) In this section—

relevant person, for a decision, means each of the following persons—

(a) the child to whom the decision relates;

(b) a person who is a parent or sibling of the child and is affected by the decision;

(c) any long-term guardian of the child.

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—

(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;

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(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

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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.

5F Principles about Aboriginal and Torres Strait Islander children—chief executive, litigation director and authorised officers

(1) This section applies to the following persons (each a ***relevant authority***)—

(a) the chief executive;

(b) the litigation director;

(c) an authorised officer.

(2) When making a significant decision about an Aboriginal or Torres Strait Islander child, a relevant authority must—

(a) make active efforts to apply the Aboriginal and Torres Strait Islander child placement principle in relation to the child; and

(b) in consultation with the child and the child's family, arrange for an independent Aboriginal or Torres Strait Islander entity for the child to facilitate the participation of the child and the child's family in the decision-making process.

(3) However, subsection (2)(b) does not apply if—

(a) complying with the subsection—

(i) is not practicable because an independent Aboriginal or Torres Strait Islander entity for the child is not available or urgent action is required to protect the child; or

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(ii) is likely to have a significant adverse effect on the safety or psychological or emotional wellbeing of the child or any other person; or

(iii) is otherwise not in the child's best interests; or

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

(4) Also, subsection (2)(b) does not apply if—

(a) the relevant authority is the litigation director; and

(b) the litigation director is satisfied the chief executive or an authorised officer has already complied with the requirement in relation to the significant decision.

(5) As far as reasonably practicable, a relevant authority must, in performing a function under this Act involving an Aboriginal or Torres Strait Islander person (whether a child or not), perform the function—

(a) in a way that allows the full participation of the person and the person's family group; and

(b) in a place that is appropriate to Aboriginal tradition or Island custom.

(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.

5G Principles about Aboriginal and Torres Strait Islander children—Childrens Court

(1) This section applies to the Childrens Court.

(2) When exercising a power under this Act in relation to an Aboriginal or Torres Strait Islander child, the court must have regard to—

(a) Aboriginal tradition and Island custom relating to the child; and

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Note—

The *Acts Interpretation Act 1954*, schedule 1, contains definitions of *Aboriginal tradition* and *Island custom*.

(b) the Aboriginal and Torres Strait Islander child placement principle in relation to the child.

(3) To inform itself about the matters mentioned in subsection (2)(a), the court may have regard to the views about those matters of—

(a) an independent Aboriginal or Torres Strait Islander entity for the child; or

(b) the child; or

(c) a member of the child's family.

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—

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(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;

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

Division 2 Administration

6 Provision about the Child Protection (International Measures) Act 2003

The *Child Protection (International Measures) Act 2003* includes provisions about the exercise of jurisdiction under this Act.

7 Chief executive's functions

(1) For the proper and efficient administration of this Act, the chief executive's functions are—

(a) providing, or helping provide, information for parents and other members of the community about the development of children and their safety needs; and

(b) providing, or helping provide, preventative and support services to strengthen and support families and to reduce the incidence of harm to children; and

(c) providing, or helping provide, services to families to protect their children if a risk of harm has been identified; and

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(d) providing, or helping provide, services for the protection of children and responding to allegations of harm to children; and

(e) providing, or helping provide, services that encourage children in their development into responsible adulthood; and

(f) helping Aboriginal and Torres Strait Islander communities to establish programs for preventing or reducing incidences of harm to children in the communities; and

(g) 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

(h) providing support and training to approved carers to help them care for children under this Act; and

(i) negotiating and reviewing a statement of commitment between the State and organisations with an interest in the care of children under this Act that includes the provision of support and resources by the department to approved carers; and

(j) promoting a partnership between the State, local government, non-government agencies and families in taking responsibility for, and dealing with the problem of, harm to children; and

(k) promoting a partnership between the State and foster carers that recognises the integral part played by foster carers in caring for children under this Act; and

(l) promoting and helping in developing coordinated responses to allegations of harm to children and responses to domestic violence; and

(m) cooperating with government entities that have a function relating to the protection of children or provide services to children in need of protection or their families; and

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(n) ensuring access by children in care to advocacy services and cooperating with the services to help ensure that the children's concerns are dealt with; and

(o) consulting with clients of the department and of organisations involved in providing services relating to the purposes of this Act and with client representative groups; and

(p) arranging for independent Aboriginal or Torres Strait Islander entities for Aboriginal or Torres Strait Islander children to facilitate the participation of the children and the children's families when making decisions in relation to the children; and

(q) reviewing, under chapter 7A, the department's involvement with certain children who have since died or who have suffered serious physical injury—

(i) to facilitate ongoing learning and improvement in the provision of services by the department; and

(ii) to promote the accountability of the department; and

(iii) to support collaboration and joint learning between the department and other relevant agencies; and

(r) providing, or helping provide, public education about child abuse and neglect and to encourage people whose occupation involves responsibility for children and members of the public to report suspected child abuse and neglect to the chief executive; and

(s) collecting and publishing, or helping to collect and publish, information and statistics about—

(i) harm to children; and

(ii) the life outcomes of children in care; and

(iii) the relationship between the criminal justice system and the child protection system; and

(t) promoting and conducting research into—

(i) the causes and effects of harm to children; and

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(ii) the life outcomes of children in care; and

(iii) the relationship between the criminal justice system and the child protection system; and

(u) encouraging tertiary institutions to provide instruction about harm to children and its prevention and treatment.

(2) In this section—

children in care means children in the chief executive's custody or guardianship.

relevant agency see section 245B.

7A Explanation about entities involved in court applications

(1) The scheme under this Act includes the making of court orders to—

(a) authorise actions as part of an investigation to assess whether a child is a child in need of protection; or

(b) ensure a child's protection.

(2) Authorised officers appointed by the chief executive are empowered to apply for temporary assessment orders, court assessment orders and temporary custody orders.

(3) Police officers are empowered to apply for temporary assessment orders and court assessment orders.

(4) Under the *Director of Child Protection Litigation Act 2016*, the litigation director is empowered to apply for child protection orders.

(5) The chief executive is responsible for working collaboratively with the litigation director in relation to applications for child protection orders, including by collecting and preparing evidence.

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Part 3 Basic concepts

Division 1 Key terms

8 Who is a *child*

A ***child*** is an individual under 18 years.

9 What is *harm*

(1) ***Harm***, to a child, is any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing.

(2) It is immaterial how the harm is caused.

(3) Harm can be caused by—

(a) physical, psychological or emotional abuse or neglect; or

(b) sexual abuse or exploitation.

(4) Harm can be caused by—

(a) a single act, omission or circumstance; or

(b) a series or combination of acts, omissions or circumstances.

10 Who is a *child in need of protection*

A ***child in need of protection*** is a child who—

(a) has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm; and

(b) does not have a parent able and willing to protect the child from the harm.

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11 Who is a *parent*

(1) A ***parent*** of a child is the child's mother, father or someone else (other than the chief executive) having or exercising parental responsibility for the child.

(2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.

(3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.

(4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.

(5) A reference in this Act to the parents of a child or to 1 of the parents of a child is, if the child has only 1 parent, a reference to the parent.

Note—

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

11A Who is an *independent Aboriginal or Torres Strait Islander entity*

(1) An entity is an ***independent Aboriginal or Torres Strait Islander entity***, for an Aboriginal or Torres Strait Islander child, if—

(a) the entity is—

(i) an individual who is an Aboriginal or Torres Strait Islander person; or

(ii) another entity whose members include individuals who are Aboriginal or Torres Strait Islander persons; and

(b) the chief executive is satisfied the entity—

(i) provides services to Aboriginal or Torres Strait Islander persons; or

(ii) is a representative of the child's community or language group; or

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(iii) satisfies the requirements mentioned in subsection (2); and

(c) is a suitable person to be an independent Aboriginal or Torres Strait Islander entity for the child.

Examples of persons who may be independent Aboriginal or Torres Strait Islander entities for Aboriginal or Torres Strait Islander children—

- an Aboriginal or Torres Strait Islander elder
- an entity funded by a State or the Commonwealth to provide cultural services, including cultural advice and support, to Aboriginal or Torres Strait Islander persons

(2) For subsection (1)(b)(iii), the requirements are that the entity is an individual who—

(a) is a person of significance to the child or child's family; and

(b) is a suitable person for associating on a daily basis with the child; and

(c) is a person with appropriate authority to speak about Aboriginal or Torres Strait Islander culture in relation to the child or the child's family; and

(d) is not an officer or employee of the department.

Division 2 Custody and guardianship

12 What is effect of custody

(1) This section applies if—

(a) an authorised officer or police officer takes a child into the chief executive's custody; or

Note—

Under section 18, a child at immediate risk of harm may be taken into custody.

(b) the chief executive has custody of a child under a care agreement; or

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(c) the chief executive or someone else is granted custody of a child under an assessment order, temporary custody order or child protection order.

(2) The chief executive, or other person granted custody of the child, has—

(a) the right to have the child's daily care; and

(b) the right and responsibility to make decisions about the child's daily care.

13 What is effect of guardianship

If the chief executive or someone else is granted guardianship of a child under a child protection order, the chief executive or other person has—

(a) the right to have the child's daily care; and

(b) the right and responsibility to make decisions about the child's daily care; and

(c) all the powers, rights and responsibilities in relation to the child that would otherwise have been vested in the person having parental responsibility for making decisions about the long-term care, wellbeing and development of the child.

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Chapter 2 Protection of children

Part 1AA Informing the chief executive about harm or risk of harm to children

Division 1 General

13A Action by persons generally

(1) Any person may inform the chief executive if the person reasonably suspects—

(a) a child may be in need of protection; or

(b) an unborn child may be in need of protection after he or she is born.

(2) The information given may include anything the person considers relevant to the person's suspicion.

13B Action by relevant persons under other provisions

(1) Under division 2, if a relevant person has a reportable suspicion about a child, the person is required to report the matter to the chief executive.

(2) If a relevant person does not have a reportable suspicion about a child but considers the child is likely to become a child in need of protection if no preventative support is given, the person may take other appropriate action under this Act.

(3) For example, if the relevant person is a prescribed entity to which section 159MD(1) applies, the person may give information under that section to a service provider so the service provider can offer help and support to the child or child's family to stop the child becoming a child in need of protection.

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13C Considerations when forming a reasonable suspicion about harm to a child

(1) This section applies to a person in forming a reasonable suspicion, for section 13A(1) or division 2, about whether a child has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm.

(2) The matters that the person may consider include—

(a) whether there are detrimental effects on the child's body or the child's psychological or emotional state—

(i) that are evident to the person; or

(ii) that the person considers are likely to become evident in the future; and

(b) in relation to any detrimental effects mentioned in paragraph (a)—

(i) their nature and severity; and

(ii) the likelihood that they will continue; and

(c) the child's age.

(3) The person's consideration may be informed by an observation of the child, other knowledge about the child or any other relevant knowledge, training or experience that the person may have.

13D Protection from liability

Section 197A provides for protection from liability for information given under this part.

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Division 2 Mandatory reporting by particular persons

13E Mandatory reporting by persons engaged in particular work

(1) This section applies to a person (a ***relevant person***) who is any of the following —

(a) a doctor;

(b) a registered nurse;

(c) a teacher;

(d) a police officer who, under a direction given by the commissioner of the police service under the *Police Service Administration Act 1990*, is responsible for reporting under this section;

(e) a person engaged to perform a child advocate function under the *Public Guardian Act 2014*;

(f) an early childhood education and care professional.

(2) For this section, a ***reportable suspicion*** about a child is a reasonable suspicion that the child—

(a) has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and

(b) may not have a parent able and willing to protect the child from the harm.

(3) If a relevant person forms a reportable suspicion about a child in the course of the person's engagement as a relevant person, the person must give a written report to the chief executive under section 13G.

(4) In this section—

early childhood education and care professional means an individual, other than a volunteer or an individual under the age of 18, who is—

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(a) any of the following under the *Education and Care Services Act 2013*—

(i) an approved provider;

(ii) a supervisor for a QEC approved service;

(iii) an educator for a QEC approved service; or

(b) any of the following under the Education and Care Services National Law (Queensland)—

(i) an approved provider;

(ii) a nominated supervisor for an approved education and care service;

(iii) an educator for an approved education and care service;

(iv) a family day care co-ordinator for an approved family day care service;

(v) a family day care educator for an approved family day care service.

13F Mandatory reporting relating to children in care

(1) This section applies to a person (a ***relevant person***) who is any of the following—

(a) an authorised officer;

(b) a public service employee employed in the department;

(c) a person employed in a departmental care service or licensed care service;

(d) an approved carer;

(e) a person employed in an entity mentioned in section 82(1)(f).

(2) For this section, a ***reportable suspicion*** about a child in care is a reasonable suspicion that the child has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse.

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(3) If a relevant person forms a reportable suspicion about a child in care, the person must give a report to the chief executive under section 13G.

(4) In this section—

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

13G Report to the chief executive

(1) This section applies to a report that a relevant person is required to give under section 13E or 13F.

(2) The report must—

(a) state the basis on which the person has formed the reportable suspicion; and

(b) include the information prescribed by regulation, to the extent of the person's knowledge.

(3) The person is not required to give a report about a matter if—

(a) giving the report might tend to incriminate the person; or

(b) the person knows, or reasonably supposes, that the chief executive is aware of the matter.

(4) A regulation may prescribe the way the report must be given.

(5) To remove any doubt, it is declared that a person does not commit an offence against this or another Act only because the person omits to do an act required under section 13E(3) or 13F(3) or this section.

13H Conferrals with colleague and related information sharing

(1) A relevant person may give information to a colleague, and a colleague may give information to a relevant person, for any of the following purposes—

(a) for the relevant person to form a suspicion about whether a child has suffered, is suffering, or is at

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unacceptable risk of suffering, significant harm caused by physical or sexual abuse;

(b) in the case of a relevant person under section 13E—for the relevant person to form a suspicion about whether a child has a parent able and willing to protect the child from harm mentioned in paragraph (a);

(c) for the relevant person to give a report under section 13G or keep a record about giving a report;

(d) for the relevant person or colleague to take appropriate action to deal with suspected harm or risk of harm to a child.

Examples for paragraph (d)—

1 A teacher with a reportable suspicion about a child under section 13E may give information to the principal at the school to enable the principal to take appropriate action to protect the child or other children from risk of harm.

2 An educator under the Education and Care Services National Law (Queensland) with a reportable suspicion about a child under section 13E may give information to the nominated supervisor for the approved education and care service, within the meaning of that Law, to enable the supervisor to take appropriate action to protect the child or other children from risk of harm.

(2) In this section—

colleague, of a relevant person, means a person working in or for the same entity as the relevant person.

13I Reporting obligation arises when reportable suspicion is formed

To remove any doubt, it is declared that—

(a) a relevant person is not required to give a report under section 13G until the person has formed a reportable suspicion about a child; and

Example—

After observing injuries on a child's body, a doctor or teacher considers it possible that a parent of the child has physically

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abused the child or failed to protect the child from physical abuse. After obtaining further information about the family's circumstances, the doctor or teacher forms a reportable suspicion about the child under section 13E.

(b) once a relevant person has formed a reportable suspicion about a child, the person must comply with section 13G even though the person is taking, or has taken, other action in relation to the child.

13J Particular reports to be given to public guardian

As soon as practicable after receiving a report required by section 13F, the chief executive must give a copy to the public guardian to help the public guardian perform the public guardian's child advocate functions under the *Public Guardian Act 2014*.

Part 1 Children at risk of harm

14 Substantiation of alleged harm

(1) If the chief executive becomes aware (whether because of notification given to the chief executive or otherwise) of alleged harm or alleged risk of harm to a child and reasonably suspects the child is in need of protection, the chief executive must immediately—

(a) have an authorised officer investigate the allegation, assess whether the alleged harm or risk of harm can be substantiated and, if it can, assess the child's protective needs; or

(b) take other action the chief executive considers appropriate.

(2) If the chief executive reasonably believes alleged harm to a child may involve the commission of a criminal offence relating to the child, the chief executive must immediately give details of the alleged harm to the police commissioner.

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(3) Subsection (2) applies whether or not the chief executive suspects the child is in need of protection.

15 Child's parents and long-term guardians to be told about allegation of harm and outcome of investigation

(1) This section applies if an authorised officer or police officer—

(a) investigates an allegation of harm or risk of harm to a child; or

(b) assesses a child's need of protection because of an allegation of harm or risk of harm to the child.

(2) If the child does not have long-term guardians, the officer must—

(a) give details of the alleged harm or risk of harm to at least 1 of the child's parents; and

(b) as soon as practicable after completing the investigation—

(i) tell at least 1 of the child's parents about the outcome of the investigation; and

(ii) if asked by the parent, give the information about the outcome of the investigation to the parent in writing.

(3) If the child has long-term guardians, the officer must—

(a) take, or make a reasonable attempt to take, the actions stated in subsection (2)(a) and (b), but only if the officer is satisfied it would be in the child's best interests to do so, having regard to—

(i) the nature and extent of the child's connection with the child's parents; and

(ii) the evidence in support of the allegation of harm or risk of harm; and

(iii) any other relevant matter; and

(b) take the actions stated in subsection (2)(a) and (b) in relation to the long-term guardians.

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(4) However, if the officer reasonably believes—

(a) someone may be charged with a criminal offence for the harm to the child and the officer's compliance with subsection (2) or (3) may jeopardise an investigation into the offence; or

(b) compliance with subsection (2) or (3) may expose the child to harm;

the officer need only comply with the subsection to the extent the officer considers is reasonable and appropriate in the particular circumstances.

(5) If, under subsection (3)(a), the officer does not take the actions stated in subsection (2)(a) and (b) but makes a reasonable attempt to take the actions, the officer must document full details about the actions taken by the officer in making the attempt.

16 Contact with child at immediate risk of harm

(1) This section applies if—

(a) an authorised officer or police officer is investigating an allegation of harm, or risk of harm, to a child; and

(b) the officer has been denied contact with the child or can not reasonably gain entry to the place where the officer reasonably believes the child is; and

(c) the officer reasonably suspects the child—

(i) is at immediate risk of harm; or

(ii) is likely to leave or be taken from a place and suffer harm if the officer does not take immediate action.

(2) The officer may exercise the following powers—

(a) enter the place;

(b) search the place to find the child;

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(c) remain in the place, and have contact with the child for as long as the officer reasonably considers necessary for investigating the allegation.

(3) The officer may exercise a power under subsection (2) with the help, and using the force, that is reasonable in the circumstances.

(4) At the first reasonable opportunity, the officer must record, in a register kept for the purpose by the department or the Queensland Police Service, full details about the exercise of the powers and other actions taken by the officer.

17 Contact with children in school, education and care service premises, family day care etc.

(1) This section applies if—

(a) an authorised officer or police officer is investigating an allegation of harm, or risk of harm, to a child; and

(b) the officer reasonably believes—

(i) it is in the child's best interests that the officer has contact with the child before the child's parents or long-term guardians are told about the investigation; and

(ii) the child's parents or long-term guardians knowing in advance about the proposed contact with the child is likely to adversely affect or otherwise prevent the proper and effective conduct of the investigation; and

(c) the child is at a school, or place where education and care or regulated education and care is provided, when the officer is to have contact with the child; and

(d) the officer has lawfully entered, and is lawfully remaining at, the school or place.

(2) The officer may have contact with the child for as long as the officer reasonably considers necessary for investigating the allegation.

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(3) Before exercising a power under subsection (2), the officer must notify the principal or other person in charge of the school or place of the intention to exercise the power.

(4) As soon as practicable after the officer has had contact with the child, the officer must—

(a) if the child has long-term guardians—tell at least 1 of the long-term guardians that the officer has had contact with the child and the reasons for the contact; or

(b) otherwise—tell at least 1 of the child's parents that the officer has had contact with the child and the reasons for the contact.

(5) The officer's obligation under subsection (4) to give reasons for the contact with the child is limited to the extent the officer considers is reasonable and appropriate in particular circumstances if the officer reasonably believes—

(a) someone may be charged with a criminal offence for harm to the child and the officer's compliance with the subsection may jeopardise an investigation into the offence; or

(b) compliance with the subsection may expose the child to harm.

(6) Also, at the first reasonable opportunity, the officer must record, in a register kept for the purpose by the department or the Queensland Police Service, full details about the exercise of the powers and other actions taken by the officer.

(7) In this section—

education and care means education and care provided under the Education and Care Service National Law (Queensland).

regulated education and care means regulated education and care within the meaning of the *Education and Care Services Act 2013*.

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18 Child at immediate risk may be taken into custody

(1) This section applies if an authorised officer or police officer reasonably believes a child is at risk of harm and the child is likely to suffer harm if the officer does not immediately take the child into custody.

(2) The officer may take the child into the chief executive's custody.

(3) For subsection (2), the officer may—

(a) enter the place where the officer reasonably believes the child is; and

(b) search the place to find the child; and

(c) remain in the place for as long as the officer reasonably considers is necessary to find the child.

(4) The officer may exercise a power under subsection (2) or (3) with the help, and using the force, that is reasonable in the circumstances.

(5) The officer must, as soon as practicable, apply for a temporary assessment order for the child.

(6) However, subsection (5) does not apply if an authorised officer applies for a temporary custody order for the child.

(7) Also, the officer may arrange a medical examination of, or for medical treatment for, the child that is reasonable in the circumstances.

Note—

Section 97 applies to the medical examination or treatment.

(8) The chief executive's custody of the child ends on the earlier of the following to happen—

(a) the application for the temporary assessment order or temporary custody order for the child is decided;

(b) 8 hours elapses after the child is taken into custody.

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19 Effect of taking child into custody on existing order

(1) This section applies if—

(a) an authorised officer or police officer takes a child into the chief executive's custody; and

(b) a child protection order granting custody or guardianship of the child to someone other than the chief executive is in force.

(2) The order, so far as it relates to the child's custody or guardianship, ceases to have effect while the chief executive's custody of the child continues.

20 Officer's obligations on taking child into custody

(1) This section applies if an authorised officer or police officer takes a child into the chief executive's custody.

(2) If the child does not have long-term guardians, the officer must, as soon as practicable—

(a) take reasonable steps to tell at least 1 of the child's parents—

(i) that the child has been taken into custody and the reasons for the action; and

(ii) when the chief executive's custody ends under section 18(8); and

(b) tell the child about their being taken into the chief executive's custody; and

Note—

Section 195 deals with compliance with provisions about giving information.

(c) tell the chief executive the child has been taken into the chief executive's custody, the reasons for the action and where the child has been taken.

(3) If the child has long-term guardians, the officer must, as soon as practicable—

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(a) comply with subsection (2)(a) to (c) as if the reference in subsection (2)(a) to parents were a reference to long-term guardians; and

(b) comply, or make a reasonable attempt to comply, with subsection (2)(a).

(4) Subsections (2) and (3) do not require the officer to tell the child's parents or long-term guardians in whose care the child has been placed.

(5) The officer's obligation under subsection (2)(a)(i) or (3) to give reasons for taking the child into custody is limited to the extent the officer considers is reasonable and appropriate in particular circumstances if the officer reasonably believes—

(a) someone may be charged with a criminal offence for harm to the child and the officer's compliance with the provision may jeopardise an investigation into the offence; or

(b) compliance with the provision may expose the child to harm.

(6) If, under subsection (3)(b), the officer does not comply with subsection (2)(a) but makes a reasonable attempt to comply, the officer must document full details about the actions taken by the officer in making the attempt.

21 Moving child to safe place

(1) This section applies if—

(a) an authorised officer or police officer reasonably believes a child who is under 12 years is at risk of harm but does not consider it necessary to take the child into the chief executive's custody to ensure the child's protection; and

(b) a parent or other member of the child's family is not present at the place where the child is, and, after reasonable inquiries, the officer can not contact a parent or other member of the child's family.

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(2) The officer may, with the help that is reasonable in the circumstances, move the child to a safe place and make arrangements for the child's care at the place.

(3) As soon as practicable after moving the child, the officer must—

(a) take reasonable steps to tell at least 1 of the child's parents or a family member of the child's whereabouts; and

(b) if the officer is a police officer—tell the chief executive the child has been moved to a safe place and where the child has been moved.

(4) The child may be cared for at the place under the arrangements until the child's parents or family members resume or assume the child's care.

(5) The moving of the child does not—

(a) prevent the child's parents or family members resuming or assuming care of the child; or

(b) affect existing parental rights for the child.

22 Unborn children

(1) This section applies if, before the birth of a child, the chief executive reasonably suspects the child may be in need of protection after he or she is born.

(2) The chief executive must take the action the chief executive considers appropriate including, for example—

(a) having an authorised officer investigate the circumstances and assess the likelihood that the child will need protection after he or she is born; or

(b) offering help and support to the pregnant woman.

(3) If the child is an Aboriginal or Torres Strait Islander child, the chief executive or an authorised officer must arrange for an independent Aboriginal or Torres Strait Islander entity for the child to facilitate the participation of the pregnant woman and

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the child's family in relation to a matter mentioned in subsection (2).

(4) However, subsection (3) applies only if the pregnant woman agrees to the involvement of an independent Aboriginal or Torres Strait Islander entity for the child.

(5) The purpose of this section is to reduce the likelihood that the child will need protection after he or she is born (as opposed to interfering with the pregnant woman's rights or liberties).

Part 2 Temporary assessment orders

Division 1 Preliminary

24 Purpose of part

(1) This part provides for the making of temporary assessment orders.

(2) A temporary assessment order is made to authorise actions necessary as part of an investigation to assess whether a child is a child in need of protection, if the consent of a parent of the child to the actions has not been able to be obtained or it is not practicable to take steps to obtain the parent's consent.

Division 2 Applications for, and making and effect of, temporary assessment orders

25 Making of application for order

(1) An authorised officer or police officer may apply to a magistrate for a temporary assessment order for a child.

(2) The officer must prepare a written application that states the following—

(a) the grounds on which it is made;

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(b) the nature of the order sought;

(c) if taking the child into, or keeping the child in, the chief executive's custody is sought—the proposed arrangements for the child's care.

(3) The written application must be sworn.

(4) The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application be given by statutory declaration.

26 Deciding application

A magistrate may decide an application for a temporary assessment order without notifying the child's parents of the application or hearing them on the application.

27 Making of temporary assessment order

(1) The magistrate may make a temporary assessment order for the child only if the magistrate is satisfied—

(a) an investigation is necessary to assess whether the child is a child in need of protection; and

(b) the investigation can not be properly carried out unless the order is made.

(2) However, in deciding the application, the magistrate must also be satisfied reasonable steps have been taken to obtain appropriate parental consent to the doing of the things sought to be authorised under the order or it is not practicable to take steps to obtain the consent.

(3) In this section—

appropriate parental consent means—

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(a) if the child does not have long-term guardians—the consent of at least 1 of the child's parents; or

(b) if the child has long-term guardians—the consent of at least 1 of the long-term guardians.

28 Provisions of temporary assessment order

(1) The magistrate may make a temporary assessment order for the child that provides for any 1 or more of the following the magistrate considers to be appropriate in the circumstances—

(a) authorising an authorised officer or police officer—

(i) to have contact with the child; and

(ii) if the magistrate is satisfied it is necessary to provide interim protection for the child while the investigation is carried out—to take the child into, or keep the child in, the chief executive's custody while the order is in force;

(b) authorising the child's medical examination or treatment;

Note—

Section 97 applies to the medical examination or treatment.

(c) directing a parent not to have contact (direct or indirect)—

(i) with the child; or

(ii) with the child other than when a stated person or a person of a stated category is present.

(2) In addition, the order may also authorise an authorised officer or police officer to enter and search any place the officer reasonably believes the child is, to find the child, if the magistrate is satisfied—

(a) entry to a place has been, or is likely to be, refused, or it is otherwise justified in particular circumstances, including, for example, because the child's whereabouts are not known; and

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(b) the entry is necessary for the effective enforcement of the order.

(3) On entering a place, an authorised officer or police officer may remain in the place for as long as the officer reasonably considers necessary for exercising the officer's powers under this section.

(4) An authorised officer or police officer may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances.

29 Duration of temporary assessment orders

(1) A temporary assessment order must state the time when it ends.

(2) The stated time must not be more than 3 business days after the day the order is made.

(3) The order ends at the stated time unless it is extended.

(4) Regardless of subsections (1) to (3), the order ends when the child turns 18 years.

30 Application by particular forms of communication and duplicate order

(1) An application under section 25 may be made by phone, fax, radio or another form of communication if the authorised officer or police officer reasonably considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances (including, for example, the officer's remote location).

(2) The application—

(a) may not be made before the officer prepares the written application under section 25(2); but

(b) may be made before the written application is sworn.

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(3) The magistrate may make the order (the ***original order***) only if the magistrate is satisfied—

(a) it was necessary to make the application under subsection (1); and

(b) the way the application was made under subsection (1) was appropriate.

(4) After the magistrate makes the original order—

(a) if there is a reasonably practicable way of immediately giving a copy of the order to the officer (for example, by sending a copy by fax), the magistrate must immediately give a copy of the order to the officer; or

(b) otherwise—

(i) the magistrate must tell the officer the date and time the order was made and the other terms of the order; and

(ii) the officer must complete a form of the order, including by writing on it—

(A) the magistrate's name; and

(B) the date and time the magistrate made the order; and

(C) the other terms of the order.

(5) The copy of the order mentioned in subsection (4)(a), or the form of the order completed under subsection (4)(b), (in either case the ***duplicate order***) is a duplicate of, and as effectual as, the original order.

(6) The officer must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 25(2) and (3); and

(b) if the officer completed a form of the order under subsection (4)(b)—the completed form of the order.

(7) The magistrate must keep the original order and, on receiving the documents under subsection (6)—

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(a) attach the documents to the original order; and

(b) give the original order and documents to the clerk of the court of the relevant magistrates court.

(8) Despite subsection (7), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by an order made under this section; and

(b) the original order is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove an order authorised the exercise of the power.

31 Order—procedure before entry

(1) This section applies if an authorised officer or police officer is intending to enter a place under an authority under a temporary assessment order.

(2) Before entering the place, the officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place;

(b) give the person—

(i) a copy of the order so far as it relates to the entry and searching of the place; or

(ii) if the entry and searching is authorised by a duplicate order under section 30(5), a copy of the duplicate order so far as it relates to the entry and searching of the place;

(c) tell the person the officer is permitted by the order to enter and search the place to find the child;

(d) give the person an opportunity to allow the officer immediate entry to the place without using force.

(3) For subsection (2)(a), an authorised officer must produce the officer's identity card to the person for inspection.

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Note—

For a police officer, see the *Police Powers and Responsibilities Act 2000*, section 637.

(4) However, the officer need not comply with subsection (2) if the officer reasonably believes that immediate entry to the place is required to ensure the effective exercise of powers under the order is not frustrated.

Division 3 Other provisions about temporary assessment orders

32 Explanation of temporary assessment orders

(1) If the child does not have long-term guardians, then, immediately after a temporary assessment order is made for a child, the applicant for the order must—

(a) give a copy of the order, or duplicate order under section 30(5), to at least 1 of the child's parents; and

(b) explain the terms and effect of the order; and

(c) inform the parent—

(i) about the right of appeal; and

(ii) that, because of the duration of the order, if the parent wishes to appeal against the order, an appeal should be started immediately; and

Note—

Under section 29, the duration of a temporary assessment order must be not more than 3 business days.

(iii) how to appeal; and

(d) tell the child about the order.

Note—

Section 195 deals with compliance with provisions about giving information.

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(2) If the child has long-term guardians, then, immediately after a temporary assessment order is made for a child, the applicant for the order must—

(a) comply with subsection (1)(a) to (d) as if a reference to parents were a reference to long-term guardians; and

(b) comply, or make a reasonable attempt to comply, with subsection (1)(a) to (c).

(3) If, under subsection (2)(b), the applicant does not comply with subsection (1)(a) to (c) but makes a reasonable attempt to comply, the applicant must document full details about the actions taken by the applicant in making the attempt.

33 Police officers to notify chief executive of certain orders

If a temporary assessment order is made on the application of a police officer, the officer must immediately give copies of the application and order to the chief executive.

34 Extension of temporary assessment orders

(1) An authorised officer or police officer may apply to a magistrate for an order to extend the term of a temporary assessment order for a child.

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

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

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

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

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

35 Variation of temporary assessment orders

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

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

36 Effect of temporary assessment order on existing child protection orders

If a temporary assessment order is made for a child for whom a child protection order is already in force, the temporary assessment order prevails to the extent of any inconsistency between the orders.

Part 3 Court assessment orders

Division 1 Preliminary

37 Purpose of part

(1) This part provides for the making of court assessment orders.

(2) A court assessment order is made to authorise actions necessary as part of an investigation to assess whether a child is a child in need of protection if—

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(a) the consent of a parent of the child to the actions has not been able to be obtained or it is not practicable to take steps to obtain the parent's consent; and

(b) more than 3 business days is necessary to complete the investigation and assessment.

Note—

Under part 2, a temporary assessment order may be obtained for not more than 3 business days.

Division 2 Application for, and making and effect of, court assessment orders

38 Application for court assessment order

(1) An authorised officer or police officer may apply to the Childrens Court for a court assessment order for a child.

(2) The application must—

(a) be sworn; and

(b) state the grounds on which it is made; and

(c) state the nature of the order sought; and

(d) comply with applicable rules of court; and

(e) be filed in the court.

39 Registrar to fix time and place for hearing

When the application is filed, the registrar of the Childrens Court must immediately fix a time and place for hearing the application having regard to the principle that it is in the best interests of the child for the application to be heard as soon as possible.

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40 Public guardian to be notified, under an arrangement, of applications etc. for orders

(1) The public guardian and the registrar of the Childrens Court at a place may enter into an arrangement under which the registrar advises the public guardian of—

(a) all applications for a court assessment order filed at the place; and

(b) all hearings of applications at the place identified under the arrangement.

(2) The registrar of the Childrens Court must give notice of the applications and hearings to the public guardian in a way, and within the time, agreed with the public guardian under the arrangement.

41 Notice of application

(1) As soon as practicable after the application is filed, the applicant must do the following—

(a) if the child does not have long-term guardians—personally serve a copy of the application on each of the child's parents;

(b) if the child has long-term guardians—

(i) personally serve a copy of the application on each of the long-term guardians; and

(ii) personally serve, or make a reasonable attempt to personally serve, a copy of the application on each of the child's parents other than the long-term guardians;

(c) tell the child about the application.

Note—

Section 195 deals with compliance with provisions about giving information.

(2) If the applicant makes a reasonable attempt to personally serve, but does not personally serve, a copy of the application

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under subsection (1)(b)(ii), the applicant must document full details about the actions taken in making the attempt.

Example of how an applicant may make a reasonable attempt—

leaving a copy of the application at, or posting a copy of the application to, the parent's last known residential address

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

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

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

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

42 Respondents to application

The child's parents are respondents to the application.

43 Hearing of application in absence of parents

(1) The Childrens Court may hear and decide the application in the absence of the child's parents only if—

(a) the parents have been given reasonable notice of the hearing and fail to attend or continue to attend the hearing; or

(b) it is satisfied it was not practicable to give the parents notice of the hearing.

(2) Subsection (1) does not limit the jurisdiction of the court to exclude a person from a proceeding.

44 Making of court assessment order

The Childrens Court may make a court assessment order only if the court is satisfied an investigation is necessary to assess whether the child is a child in need of protection and the

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investigation can not be properly carried out unless the order is made.

45 Provisions of court assessment order

(1) The order may provide for any 1 or more of the following the court considers to be appropriate in the circumstances—

(a) authorising an authorised officer or police officer to have contact with the child;

(b) authorising the medical examination or treatment of the child;

(c) if the court is satisfied it is necessary to provide interim protection for the child while the investigation is carried out—

(i) granting temporary custody of the child to the chief executive; and

(ii) authorising an authorised officer or police officer to take the child into, or keep the child in, the chief executive's custody while the order is in force;

(d) making provision about the child's contact with the child's family during the chief executive's custody of the child;

(e) directing a parent not to have contact (direct or indirect)—

(i) with the child; or

(ii) with the child other than when a stated person or a person of a stated category is present.

(2) Before making an order under subsection (1)(d), the court must consider the views of the chief executive about the child's contact with the child's family, including—

(a) whether any contact with the child should be supervised; and

(b) the duration and frequency of any contact with the child.

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(3) In addition, the order may also authorise an authorised officer or police officer to enter and search any place the officer reasonably believes the child is, to find the child, if the court is satisfied—

(a) entry to a place has been, or is likely to be, refused, or it is otherwise justified in particular circumstances, including, for example, because the child's whereabouts are not known; and

(b) the entry is necessary for the effective enforcement of the order.

(4) On entering a place, an authorised officer or police officer may remain in the place for as long as the officer considers necessary for exercising the officer's powers under this section.

(5) An authorised officer or police officer may exercise the officer's powers under the order with the help, and using the force, that is reasonable in the circumstances.

46 Order—procedure before entry

(1) This section applies if an authorised officer or police officer is intending to enter a place under an authority under a court assessment order.

(2) Before entering the place, the officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place;

(b) give the person a copy of the order so far as it relates to the entry and searching of the place;

(c) tell the person the officer is permitted by the order to enter and search the place to find the child;

(d) give the person an opportunity to allow the officer immediate entry to the place without using force.

(3) For subsection (2)(a), an authorised officer must produce the officer's identity card to the person for inspection.

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Note—

For a police officer, see the *Police Powers and Responsibilities Act 2000*, section 637.

(4) However, the officer need not comply with subsection (2) if the officer reasonably believes that immediate entry to the place is required to ensure the effective exercise of powers under the order is not frustrated.

47 Duration of court assessment orders

(1) A court assessment order for a child must state the time when it ends.

(2) The stated time must not be more than 4 weeks after the day the hearing of the application for the order is first brought before the court.

Note—

Under section 39, the registrar fixes the time and place for hearing the application.

(3) The order ends at the stated time unless it is extended or earlier revoked.

(4) Regardless of subsections (1) to (3), the order ends when the child turns 18 years.

Division 3 Other provisions about court assessment orders

48 Chief executive's obligations after making of court assessment order

As soon as practicable after a court assessment order for a child is made, the chief executive must give to the parties to the application for the order—

(a) a copy of the order; and

(b) a written notice—

(i) explaining the terms and effect of the order; and

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(ii) stating that a party may appeal against the decision to make the order within 28 days after the order is made; and

(iii) stating how to appeal.

49 Extension of court assessment orders

(1) An authorised officer may apply to the Childrens Court for an order to extend the term of a court assessment order for not more than 4 weeks.

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

(3) The court may extend the term of the order only if the court is satisfied—

(a) the order has not ended; and

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

(4) A court assessment order may not be extended more than once.

50 Variation and revocation of court assessment orders

(1) An authorised officer may apply to the Childrens Court for an order to vary or revoke a court assessment order.

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

(3) Without limiting the things to which the court may have regard in deciding the application, the court may have regard to a contravention of the court assessment order or this Act.

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51 Effect of court assessment order on existing child protection orders

If a court assessment order is made for a child for whom a child protection order is already in force, the court assessment order prevails to the extent of any inconsistency between the orders.

Part 3AA Temporary custody orders

Division 1 Preliminary

51AB Purpose of part

(1) This part provides for the making of temporary custody orders.

(2) The purpose of a temporary custody order is to authorise the action necessary to ensure the immediate safety of a child—

(a) if the chief executive has referred a child protection matter relating to the child to the litigation director under the *Director of Child Protection Litigation Act 2016*, section 15—while the chief executive works with the litigation director under section 53A; or

(b) otherwise—while the chief executive decides the most appropriate action to meet the child's ongoing protection and care needs (for example, applying for a child protection order).

Division 2 Applications for, and making and effect of, temporary custody orders

51AC Making of application for order

(1) An authorised officer may apply to a magistrate for a temporary custody order for a child.

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(2) The officer must prepare a written application that states the following—

(a) the grounds on which it is made;

(b) the nature of the order sought;

(c) the proposed arrangements for the child's care.

(3) The written application must be sworn.

(4) The magistrate may refuse to consider the application until the officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application be given by statutory declaration.

51AD Deciding application

A magistrate may decide an application for a temporary custody order without notifying the child's parents of the application or hearing them on the application.

51AE Making of temporary custody order

The magistrate may make a temporary custody order for the child only if the magistrate is satisfied—

(a) the child will be at unacceptable risk of suffering harm if the order is not made; and

(b) the following person will be able, within the term of the temporary custody order, to decide the most appropriate action to meet the child's ongoing protection and care needs and start taking that action—

(i) if the chief executive has not referred a child protection matter relating to the child to the litigation director under the *Director of Child Protection Litigation Act 2016*, section 15—the chief executive;

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(ii) otherwise—the litigation director.

51AF Provisions of temporary custody order

(1) The magistrate may make a temporary custody order for the child that provides for any 1 or more of the following the magistrate considers to be appropriate in the circumstances—

(a) authorising an authorised officer or police officer—

(i) to have contact with the child; and

(ii) to take the child into, or keep the child in, the chief executive's custody while the order is in force;

(b) authorising the child's medical examination or treatment;

Note—

Section 97 applies to the medical examination or treatment.

(c) directing a parent not to have contact (direct or indirect)—

(i) with the child; or

(ii) with the child other than when a stated person or a person of a stated category is present.

(2) In addition, the order may authorise an authorised officer or police officer to enter and search any place the officer reasonably believes the child is, to find the child, if the magistrate is satisfied—

(a) entry to a place has been, or is likely to be, refused, or it is otherwise justified in particular circumstances, including, for example, because the child's whereabouts are not known; and

(b) the entry is necessary for the effective enforcement of the order.

(3) On entering a place, an authorised officer or police officer may remain in the place for as long as the officer reasonably considers necessary for exercising the officer's powers under this section.

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(4) An authorised officer or police officer may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances.

51AG Duration of temporary custody orders

(1) A temporary custody order must state the time when it ends.

(2) The stated time must not be more than 3 business days after the day the order is made.

(3) The order ends at the stated time unless it is extended.

(4) Regardless of subsections (1) to (3), the order ends when the child turns 18 years.

51AH Extension of temporary custody orders

(1) An authorised officer may apply to a magistrate for an order to extend the term of a temporary custody order for a child.

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

(3) The magistrate may extend the temporary custody order only if the magistrate is satisfied the order has not ended.

(4) The temporary custody order may be extended until the end of the next business day after it would otherwise have ended if the magistrate is satisfied the litigation director intends to apply for a child protection order for the child within the extended term.

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

(6) A temporary custody order may not be extended more than once under subsection (4).

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51AI Application by particular forms of communication and duplicate order

(1) An application under section 51AC may be made by phone, fax, radio or another form of communication if the authorised officer reasonably considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances (including, for example, the officer's remote location).

(2) The application—

(a) may not be made before the officer prepares the written application under section 51AC(2); but

(b) may be made before the written application is sworn.

(3) The magistrate may make the order (the ***original order***) only if the magistrate is satisfied—

(a) it was necessary to make the application under subsection (1); and

(b) the way the application was made under subsection (1) was appropriate.

(4) After the magistrate makes the original order—

(a) if there is a reasonably practicable way of immediately giving a copy of the order to the officer (for example, by sending a copy by fax), the magistrate must immediately give a copy of the order to the officer; or

(b) otherwise—

(i) the magistrate must tell the officer the date and time the order was made and the other terms of the order; and

(ii) the officer must complete a form of the order, including by writing on it—

(A) the magistrate's name; and

(B) the date and time the magistrate made the order; and

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(C) the other terms of the order.

(5) The copy of the order mentioned in subsection (4)(a), or the form of the order completed under subsection (4)(b), (in either case the ***duplicate order***) is a duplicate of, and as effectual as, the original order.

(6) The officer must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 51AC(2) and (3); and

(b) if the officer completed a form of the order under subsection (4)(b)—the completed form of the order.

(7) The magistrate must keep the original order and, on receiving the documents under subsection (6)—

(a) attach the documents to the original order; and

(b) give the original order and documents to the clerk of the court of the relevant magistrates court.

(8) Despite subsection (7), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by an order made under this section; and

(b) the original order is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove an order authorised the exercise of the power.

51AJ Order—procedure before entry

(1) This section applies if an authorised officer or police officer is intending to enter a place under an authority under a temporary custody order.

(2) Before entering the place, the officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place;

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(b) give the person—

(i) a copy of the order so far as it relates to the entry and searching of the place; or

(ii) if the entry and searching is authorised by a duplicate order under section 51AI(5), a copy of the duplicate order so far as it relates to the entry and searching of the place;

(c) tell the person the officer is permitted by the order to enter and search the place to find the child;

(d) give the person an opportunity to allow the officer immediate entry to the place without using force.

(3) For subsection (2)(a), an authorised officer must produce the officer's identity card to the person for inspection.

Note—

For a police officer, see the *Police Powers and Responsibilities Act 2000*, section 637.

(4) However, the officer need not comply with subsection (2) if the officer reasonably believes that immediate entry to the place is required to ensure the effective exercise of powers under the order is not frustrated.

Division 3 Other provisions about temporary custody orders

51AK Explanation of temporary custody orders

(1) This section applies if a temporary custody order is made for a child.

(2) If the child does not have long-term guardians, the applicant for the order must immediately—

(a) provide at least 1 of the child's parents with—

(i) a copy of the order or the duplicate order under section 51AI(5); and

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(ii) an explanation of the terms and effect of the order; and

(iii) information—

(A) about the right of appeal; and

(B) that, because of the duration of the order, if the parent wishes to appeal against the order, an appeal should be started immediately; and

(C) about how to appeal; and

(b) tell the child about the order.

Note—

Section 195 deals with compliance with provisions about giving information.

(3) If the child has long-term guardians, the applicant for the order must immediately—

(a) comply with subsection (2)(a) as if a reference to parents were a reference to long-term guardians; and

(b) comply, or make a reasonable attempt to comply, with subsection (2)(a) in relation to the child's parents other than the long-term guardians; and

(c) comply with subsection (2)(b).

(4) If, under subsection (3)(b), the applicant does not comply with subsection (2)(a) in relation to the child's parents other than the long-term guardians, but makes a reasonable attempt to comply, the applicant must document full details about the actions taken by the applicant in making the attempt.

51AL Variation of temporary custody orders

(1) An authorised officer may apply to a magistrate for an order to vary a temporary custody order for a child.

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

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51AM Effect of temporary custody order on existing child protection orders

(1) This section applies if a temporary custody order is made for a child for whom a child protection order is already in force.

(2) The child protection order, so far as it relates to the child's custody or guardianship, ceases to have effect while the chief executive's custody of the child continues under the temporary custody order.

Part 3A Case planning

Division 1 Preliminary

51A What is *case planning*

Case planning is the process of developing a case plan for a child and then regularly reviewing it.

51B What is a *case plan*

(1) A ***case plan*** for a child is a written plan for meeting the child's protection and care needs.

(2) A case plan must include the following matters—

(a) the goal for best achieving permanency for the child and the actions to be taken to achieve the goal;

(b) if returning the child to the care of a parent of the child is the goal for best achieving permanency for the child—an alternative goal in the event that the timely return of the child to the care of the parent is not possible;

(c) for an Aboriginal or Torres Strait Islander child—details about how the case plan is consistent with the connection principle stated in section 5C(2)(e).

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Note—

See section 5F(5) for requirements about how the chief executive or an authorised officer must perform functions under this Act involving an Aboriginal or Torres Strait Islander person.

(3) Also, a case plan must include actions for helping the child transition to independence if—

(a) the child is 15 years or more; and

(b) the child does not have a long-term guardian.

(4) A case plan may also include any of the following matters—

(a) any other goals to be achieved by implementing the plan;

(b) arrangements about where or with whom the child will live, including interim arrangements;

(c) services to be provided to meet the child's protection and care needs and promote the child's future wellbeing;

(d) matters for which the chief executive will be responsible, including particular support or services;

(e) the child's contact with the child's family group or other persons with whom the child is connected;

(f) arrangements for maintaining the child's ethnic and cultural identity;

(g) matters for which a parent or carer will be responsible;

(h) a proposed review day for the plan.

51C Children for whom case plans are required

The chief executive must ensure a case plan is developed for each child who the chief executive is satisfied—

(a) is a child in need of protection; and

(b) needs ongoing help under this Act.

Notes—

1 Ongoing help under this Act may be, for example—

- giving support services to the child and his or her family

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- arranging for the child to be placed in care under a care agreement
- seeking a child protection order for the child.

2 A case plan may not be required for a particular child because another entity is working to address the child's protection and care needs and, as part of the work, is undertaking case planning with the child and the child's family.

51D How case planning must be carried out

(1) The chief executive must ensure case planning for a child is carried out in a way—

(a) that enables timely decision-making; and

(b) that is consistent with the principles for administering this Act; and

(c) that encourages and facilitates the participation of—

(i) the child; and

(ii) the child's parents; and

(iii) other appropriate members of the child's family group; and

(iv) for an Aboriginal or Torres Strait Islander child—Aboriginal or Torres Strait Islander agencies and persons; and

Note—

See section 5F(5) for requirements about how the chief executive, the litigation director or an authorised officer must perform functions under this Act involving an Aboriginal or Torres Strait Islander person.

(v) other appropriate persons; and

(d) that facilitates input from other appropriate entities; and

Example of input from another entity—

information given by a local health agency about services available to a family

(e) that enables the persons involved to understand it.

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Examples for paragraph (e)—

1 The chief executive should explain the case planning process to a child using language appropriate to the child's age, language skills and circumstances.

2 The chief executive should tell a child's parents about child protection concerns, and explain steps in the case planning process to them, in a way that helps them to understand, ask questions and participate in any discussion. For a parent from a non-English speaking background, this may involve the use of an interpreter.

(2) The chief executive must give participants in case planning the information they reasonably need to participate effectively.

(3) The information must be given to the participants in a timely way to facilitate their effective participation.

Division 2 Family group meetings

51G Purposes

The purposes of family group meetings are—

(a) to provide family-based responses to children's protection and care needs; and

(b) to ensure an inclusive process for planning and making decisions relating to children's wellbeing and protection and care needs.

51H Convening a meeting

(1) The chief executive must convene a family group meeting, or have a private convenor convene a family group meeting, to develop a case plan for a child.

(2) A family group meeting convened to develop a case plan is a ***case planning meeting***.

(3) The chief executive may also convene a family group meeting or have a private convenor convene a family group meeting—

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(a) to review a case plan under division 5 and prepare a revised case plan; or

(b) to consider, make recommendations about, or otherwise deal with, another matter relating to the child's wellbeing and protection and care needs.

(4) Also, under section 68, the Childrens Court may order that a family group meeting be convened.

51I Private convenors

(1) A ***private convenor*** is a person, other than the chief executive or a delegate or other representative of the chief executive, who convenes a family group meeting under this part by arrangement with the chief executive.

(2) The chief executive may have a person convene a family group meeting as a private convenor only if the chief executive is satisfied the person is appropriately qualified.

(3) If the chief executive has a private convenor convene a family group meeting, the chief executive must ensure the private convenor complies with this part in relation to the meeting.

(4) For section 197(3), definition *official*, a private convenor is a person acting under the direction of the chief executive.

51J Function

(1) The function of a family group meeting is to deal with the matters, relating to a child's protection and care needs or wellbeing, for which the meeting was convened.

(2) For a case planning meeting, this includes—

(a) considering the child's protection and care needs; and

(b) agreeing on a plan to meet those needs and promote the child's wellbeing.

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Division 3 Case planning at a family group meeting

51K Application of div 3

This division applies to a case planning meeting.

51L Who should be involved

(1) The convenor must give the following persons a reasonable opportunity to attend and participate in the meeting—

(a) the child, unless it would be inappropriate because of the child's age or ability to understand;

(b) the child's parents;

(c) other members of the child's family group who the convenor considers likely to make a useful contribution to the plan's development at the meeting;

(d) other persons with whom the child has a significant relationship;

Example—

An approved carer may be someone with whom the child has a significant relationship.

(e) any legal representative of the child;

(f) if the child is an Aboriginal or Torres Strait Islander child—an independent Aboriginal or Torres Strait Islander entity for the child;

(g) the public guardian;

(h) anyone else who the convenor considers likely to make a useful contribution to the plan's development at the meeting;

(i) if the convenor is a private convenor—the chief executive;

(j) on the request of the chief executive—the litigation director.

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(2) The convenor must also allow the child or a parent of the child to have someone attend and participate in the meeting to give help or support to the child or parent.

Examples—

- a youth worker
- an Aboriginal or Torres Strait Islander elder
- a representative within the child's cultural community
- a legal representative

(3) To remove any doubt, it is declared that a requirement to allow a person to attend or participate in the meeting under subsection (1)(a) to (e), (1)(g) to (j) or (2) applies whether or not the child's parents agree to the person's attendance or participation.

(4) The convenor is not required to allow a particular person to attend or participate in the meeting under subsection (1)(b) to (d), (1)(f) or (2) if the convenor is satisfied that person's attendance or participation would be contrary to the purposes of the meeting or not in the child's best interests.

(5) Also, the convenor is not required to allow an independent Aboriginal or Torres Strait Islander entity for the child to attend or participate in the meeting, under subsection (1)(f), if—

(a) the entity's attendance or participation is likely to have a significant adverse effect on the child's or another person's safety or psychological or emotional wellbeing; or

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

51M Preparing for the meeting

(1) Before holding the meeting, the convenor must inform the invitees—

(a) that the chief executive considers the child is a child in need of protection; and

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(b) the assessed risks to the child and the child's assessed needs; and

(c) details of the proposed meeting, including—

(i) the proposed day, time and venue for the meeting; and

(ii) the purpose and functions of the meeting; and

(iii) particular issues to be addressed at the meeting; and

(iv) the opportunities for attendees to identify issues or deal with particular issues.

(2) In this section—

invitee means a person mentioned in section 51L(1) other than a person mentioned in section 51L(4).

51N Obtaining the views of persons not attending

The convenor must take reasonable steps to ascertain before the meeting, and make known at the meeting, the views relevant to the meeting of the following persons and entities—

(a) the child, if the child's views may reasonably be ascertained and the convenor does not expect the child to be attending;

(b) another person mentioned in section 51L(1) who notifies the convenor that he or she will not be attending;

(c) a member of the child's family group who, under section 51L(4), has not been invited to the meeting but whose views, in the convenor's opinion, should be obtained;

(d) a relevant prescribed entity or service provider.

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51O Recording the case plan developed at the meeting

If a case plan is developed at the meeting, the convenor must record the plan in the approved form and, if the convenor is a private convenor, give it to the chief executive.

51P Development of plan at more than 1 meeting

A case plan may be developed at more than 1 meeting under this division.

Division 4 Other steps in the case planning process

51Q Dealing with a case plan developed at a meeting

Within 10 business days after a case plan is developed at a case planning meeting, the chief executive must endorse the plan unless section 51R applies.

51R Dealing with an inappropriate plan

(1) This section applies if the chief executive is satisfied a case plan developed at a case planning meeting, or something in the plan, is clearly impracticable or not in the child's best interests.

(2) The chief executive may—

(a) reconvene, or have a private convenor reconvene, the case planning meeting under division 3 to develop an amended case plan; or

(b) convene, or have a private convenor convene, another case planning meeting under division 3 to develop an amended case plan; or

(c) amend the case plan and endorse the amended plan.

(3) The chief executive may amend the case plan under subsection (2)(c)—

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(a) only to the extent necessary to ensure the plan is practicable and in the child's best interests; and

(b) only within 7 days after the case planning meeting at which it was developed; and

(c) if the meeting was convened by a private convenor, only after consulting with the private convenor.

(4) If the chief executive amends the case plan under subsection (2)(c), the chief executive must give written notice of the amendment, and the reasons for the amendment, to each person who was at the meeting at which the plan was developed.

51S Preparing the plan if not developed at a meeting

(1) This section applies if a case plan is not developed at the case planning meeting or meetings held under division 3.

(2) This section also applies if it has not been possible for the chief executive to convene a family group meeting, or have a private convenor convene a family group meeting, under section 51H(1).

(3) The chief executive must—

(a) take reasonable steps to obtain the views of any of the following persons and entities whose views have not yet been obtained—

(i) the child, if the child's views may reasonably be ascertained;

(ii) another person mentioned in section 51L(1);

(iii) another member of the child's family group whose views, in the chief executive's opinion, should be obtained;

(iv) a relevant prescribed entity or service provider; and

(b) having regard to the views (if any), prepare a case plan, in the approved form, that the chief executive is satisfied

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best meets the child's protection and care needs and endorse the plan.

(4) If the meeting mentioned in subsection (1) was convened under a court order under section 68(1)(d)(i), the chief executive must file the plan prepared under this section in the court.

51T Distributing and implementing the plan

After a case plan has been recorded in the approved form and endorsed, the chief executive must—

(a) give a copy of the plan to the child, unless that would be inappropriate having regard to the child's age and ability to understand; and

(b) explain the plan to the child in a way, and to an extent, that is reasonable, having regard to the child's age and ability to understand; and

(c) give a copy of the plan to—

(i) the child's parents; and

(ii) anyone else affected by the plan or who the chief executive considers should receive a copy; and

Examples of persons who may be given a copy—

- an approved carer
- an elder or other respected person of the child's community

(d) support the implementation of the plan.

Example of supporting the implementation of the plan—

The chief executive may provide, or arrange for another entity to provide, a service to the child's family.

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Division 5 Periodically reviewing the case plan

51U Application of div 5

This division applies to a child for whom a case plan has been developed, while—

(a) a child protection order is in force for the child; or

(b) the child otherwise remains a child mentioned in section 51C.

51V Review of plan—no long-term guardian

(1) This section applies if the child does not have a long-term guardian.

(2) The chief executive must regularly review the case plan.

(3) In deciding when, or how often, to review the plan, the chief executive must have regard to—

(a) the child's age and circumstances; and

(b) the nature of the arrangements in place under the plan; and

(c) any problems or potential problems with the plan, or ways the plan might be improved, of which the chief executive is aware; and

(d) if a child protection order for the child is in force—the duration of the order.

(4) In any case, the review must happen at least every 6 months.

(5) Without limiting subsections (2) to (4), the child may, at any time, ask the chief executive to review the child's case plan.

(6) 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

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(b) for another reason, it would not be appropriate in all the circumstances.

(7) 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.

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

(9) Subsection (10) applies to the review of a case plan for a child in care if—

(a) the case plan does not include actions for helping the child transition from care to independence; and

(b) the child has turned 15 since the making, or last review, of the case plan.

(10) The review must include developing appropriate actions for helping the child transition to independence.

(11) After reviewing the plan, the chief executive must prepare—

(a) a report about the review under section 51X; and

(b) a revised case plan.

51VAA Particular review requirements for children under long-term guardianship of chief executive

(1) This section applies if a long-term guardianship order, granting long-term guardianship of the child to the chief executive, is in force for the child.

(2) If the long-term guardianship order was made before the commencement, at least 1 review of the case plan that is carried out under section 51V within the period of 2.5 years after the commencement must comply with subsection (4).

(3) If subsection (2) does not apply—

(a) the chief executive must review the case plan under section 51V within the period of 6 months starting on the day that is 2 years after the day the long-term guardianship order was made; and

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(b) the review must comply with subsection (4).

(4) For subsections (2) and (3)(b), the review must consider whether permanency for the child would be best achieved by an alternative arrangement mentioned in section 5BA(4)(a), (b) or (c).

Note—

See also chapter 1, part 2, division 1 for the principles that apply in administering this Act, including—

- section 5BA(4) for the principles that apply in deciding whether an action or order best achieves permanency for a child; and
- section 5C for the additional principles that apply in relation to Aboriginal and Torres Strait Islander children.

(5) This section does not limit section 51V.

51VA Review of plan—long-term guardian

(1) This section applies if the child has a long-term guardian.

(2) The chief executive must contact the child at least once every 12 months to give the child an opportunity to make comments or queries about, or ask for a review of, the child's case plan.

(3) The long-term guardian must allow the chief executive to have contact with the child at least once every 12 months.

(4) At any time, the child or the long-term guardian may ask the chief executive to review the case plan.

(5) Also, at any time, a parent of the child may ask the chief executive to review the case plan if the plan has not been reviewed in the previous 12 months.

(6) On a request under subsection (4) or (5)—

(a) the chief executive may decide not to review the plan if satisfied—

(i) 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

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(ii) for another reason, it would not be appropriate in all the circumstances; or

(b) otherwise, the chief executive must review the plan and prepare—

(i) a report about the review under section 51X; and

(ii) a revised case plan.

(7) If, on a request under subsection (4) or (5), the chief executive decides not to review the case plan, the chief executive must give written notice of the decision to—

(a) the person who made the request; and

(b) if it was the child who made the request—the long-term guardian.

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

51VB Review of plan—permanent guardian

(1) This section applies if the child has a permanent guardian.

(2) The permanent guardian or the child may, at any time, ask the chief executive to review the child's case plan.

(3) On a request under subsection (2)—

(a) the chief executive may decide not to review the plan if satisfied—

(i) 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

(ii) for another reason, it would not be appropriate in all the circumstances; or

(b) otherwise, the chief executive must review the plan and prepare—

(i) a report about the review under section 51X; and

(ii) a revised case plan.

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(4) If, on a request under subsection (2), the chief executive decides not to review the case plan, the chief executive must give written notice of the decision to—

(a) the person who made the request; and

(b) if it was the child who made the request—the permanent guardian.

(5) The notice mentioned in subsection (4) must comply with section 157(2) of the QCAT Act.

51W Who may participate

(1) The chief executive must give the following persons a reasonable opportunity to participate in the review and preparation of the revised case plan—

(a) the child, unless it would be inappropriate because of the child's age or ability to understand;

(b) the child's parents;

(c) other members of the child's family group who the chief executive considers are likely to make a useful contribution;

(d) other persons with whom the child has a significant relationship;

Example—

An approved carer may be someone with whom the child has a significant relationship.

(e) any legal representative of the child;

(f) if the child is an Aboriginal or Torres Strait Islander child—an independent Aboriginal or Torres Strait Islander entity, or member of an independent Aboriginal or Torres Strait Islander entity, for the child;

(g) the public guardian;

(h) a relevant prescribed entity or service provider;

(i) anyone else who the chief executive considers is likely to make a useful contribution to the review.

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(2) To enable the participation, the chief executive may convene a family group meeting or have a private convenor convene a family group meeting.

(3) If a family group meeting or other meeting is convened for the purpose of the review and the child or a parent of the child attends, the convenor must allow the child or parent to have someone attend and participate in the meeting to give help or support to the child or parent.

(4) To remove any doubt, it is declared that a requirement to allow a person to attend or participate in a meeting under this section, or otherwise participate in the review, applies whether or not the child's parents agree to the person's attendance or participation.

(5) The convenor of a meeting under this section is not required to allow a particular person to attend or participate in the meeting, under subsection (1)(b) to (d), (1)(f) or (3), if the convenor is satisfied that person's attendance or participation would be contrary to the purposes of the meeting or not in the child's best interests.

(6) Also, the convenor of a meeting under this section is not required to allow an independent Aboriginal or Torres Strait Islander entity for the child, or a member of the entity, to attend or participate in the meeting, under subsection (1)(f), if—

(a) the entity's or member's attendance or participation is likely to have a significant adverse effect on the child's or another person's safety or psychological or emotional wellbeing; or

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

51X Report about the review

(1) The report about the review must include the following matters—

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(a) the goals, including the goal for best achieving permanency for the child, in the previous case plan that have been achieved or are yet to be achieved;

(b) any changes to the goals in the revised case plan;

(c) any services provided to the child under the previous case plan or the revised case plan;

(d) the extent to which the living arrangements and contact arrangements under the previous case plan have been meeting the child's needs;

(e) if the case plan includes actions for helping the child transition to independence—the extent to which the actions continue to meet the child's needs;

(f) who participated in the review and how they participated, including whether a family group meeting was held and who attended;

(g) if section 51VAA applies in relation to the review and the review considered the matter mentioned in section 51VAA(4)—the review's findings in relation to the matter.

(2) The report must also address how the revised case plan gives priority to permanency for the child.

(3) For subsection (2), if the child is placed in the care of someone other than a parent of the child under a child protection order granting custody or short-term guardianship of the child, the report must state—

(a) the risks and benefits of returning the child to the care of a parent; and

(b) whether there is a real risk that permanency for the child will not be best achieved by returning the child to the care of a parent within a timeframe appropriate to the child's age and circumstances; and

(c) if there is a real risk mentioned in paragraph (b), the progress made in planning for alternative long-term arrangements for the child, for example—

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(i) arrangements for the child to live with a member of the child's family under a child protection order granting long-term guardianship of the child; or

(ii) arrangements for the child to live with a member of the child's family or another suitable person under a permanent care order; or

(iii) for a young child—arrangements for the child's adoption under the *Adoption Act 2009*; or

(iv) for an older child—arrangements for the child's transition to independent living.

(4) For subsection (2), if the child is placed in the care of the chief executive under a child protection order granting long-term guardianship of the child, the report must state the progress made in planning for alternative long-term arrangements for the child, including, for example—

(a) arrangements for the child to live with a member of the child's family or another suitable person under a child protection order granting long-term guardianship of the child; or

(b) arrangements for the child to live with a member of the child's family or another suitable person under a permanent care order; or

(c) arrangements for the child's adoption under the *Adoption Act 2009*.

51Y Distributing and implementing the revised case plan

(1) This section applies after the chief executive has prepared the revised case plan.

(2) The chief executive must—

(a) give a copy of the plan to the child, unless that would be inappropriate having regard to the child's age and ability to understand; and

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(b) explain any changes in the plan to the child in a way, and to an extent, that is reasonable, having regard to the child's age and ability to understand; and

(c) give a copy to the child's parents and anyone else affected by the plan or who the chief executive considers should receive a copy; and

(d) support the implementation of the plan.

Division 6 Admissibility or use of particular evidence

51YA Evidence relating to family group meetings

(1) Evidence of anything said or done at a family group meeting is inadmissible in a criminal proceeding before a court other than—

(a) with the consent of all persons participating in the family group meeting; or

(b) in a proceeding for an offence committed during the family group meeting.

(2) In a child protection proceeding, a person must not be taken to have admitted anything alleged about the person only because the person attended or participated in a family group meeting.

(3) However, if a person attends or participates in a family group meeting, subsection (2) does not affect the admissibility, in a child protection proceeding, of evidence of anything the person says or does at the meeting.

51YB Evidence relating to case plans

(1) Evidence of anything recorded in a case plan is inadmissible in a criminal proceeding before a court other than with the consent of all persons mentioned in the case plan.

(2) In a child protection proceeding, a person must not be taken to have admitted anything alleged about the person only because

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the person participated in the development of, or agreed to, a case plan.

Part 3B Intervention with parents' agreement

Division 1 Preliminary

51Z Application of pt 3B

This part applies to a child if—

(a) there is no assessment order in force granting custody of the child to the chief executive and the chief executive—

(i) reasonably suspects the child is a child in need of protection and considers an investigation is necessary to assess the child's need of protection; and

(ii) is satisfied it is necessary to provide interim protection for the child while the investigation is carried out; or

(b) there is no child protection order in force granting custody or guardianship of the child to anyone and the chief executive is satisfied the child—

(i) is a child in need of protection; and

(ii) needs ongoing help under this Act.

51ZA What is *intervention*

The ***intervention*** for the child is the action taken by the chief executive to give the help, including ongoing help, that the child needs.

Examples—

- giving support services to the child and his or her family

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- arranging for the child to be placed in care under a care agreement

Division 2 Preference for intervention with parents' agreement

51ZB Considering intervention with agreement

(1) The chief executive must give proper consideration to intervening with the parents' agreement if—

(a) the child's views and wishes, if able to be ascertained, have been considered; and

(b) for a child to whom section 51Z(a) applies, the chief executive is satisfied the child's parents are able and willing to work with the chief executive to meet the child's interim protection needs while the investigation is carried out; and

(c) for a child to whom section 51Z(b) applies, the chief executive is satisfied—

(i) the child's parents are able and willing to work with the chief executive to meet the child's protection and care needs; and

(ii) it is likely that, by the end of the proposed intervention, the child's parents will be able to meet the child's protection and care needs.

(2) However, subsection (1) does not apply if the chief executive reasonably believes it is likely that, if the child's parents withdraw their agreement to the intervention for the child, the child will be at immediate risk of harm.

51ZC Working with the child and parents

(1) If the chief executive decides to intervene with the parents' agreement, the chief executive must—

(a) encourage and facilitate the participation of the child and child's parents in—

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(i) decisions about the most appropriate intervention for the child; and

(ii) the carrying out of the intervention; and

(b) encourage and facilitate the parents' continuing involvement, during the intervention, with the child's life and care.

(2) The case plan for the child must include details about what is expected of the child's parents and the chief executive to achieve the goals under the case plan.

Division 3 Care agreements

51ZD What is a *care agreement*

(1) A ***care agreement*** is an agreement between the chief executive and the child's parents for the short-term placement of the child in the care of someone other than the parents.

Note—

Section 82 deals with the persons in whose care the child may be placed under a care agreement.

(2) A care agreement entered into for a child to whom section 51Z(a) applies is an ***assessment care agreement***.

(3) A care agreement entered into for a child to whom section 51Z(b) applies is a ***child protection care agreement***.

51ZE Entering an agreement

(1) The chief executive may enter into a care agreement for the child if satisfied—

(a) it would be in the child's best interests to be temporarily placed in the care of someone other than the child's parents; and

(b) it is not likely that, if the parents end the agreement, the child will be at immediate risk of harm.

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(2) The chief executive must obtain and have regard to the child's views before entering into the care agreement, unless the child is unable to form and express views, taking into account the child's age and ability to understand.

(3) The child may also be a party to the care agreement.

(4) Despite section 51ZD(1), the chief executive may enter into an assessment care agreement with only 1 of the child's parents if—

(a) it is impractical to obtain the consent of the other parent to the agreement before entering into the agreement; or

(b) the chief executive has made a reasonable attempt to obtain the consent of the other parent before entering into the agreement.

(5) If the chief executive has not obtained the consent of the other parent before entering into an assessment care agreement under subsection (4), the chief executive must make a reasonable attempt to give a copy of the agreement to the other parent, and obtain the other parent's consent, after the agreement has been entered into.

Note—

See section 51ZI(2) for how the other parent may end the agreement.

(6) The chief executive may not enter into an assessment care agreement with only 1 of the child's parents if another parent refuses to enter into the agreement.

51ZF Requirements of an agreement

(1) A care agreement must be in the approved form, signed by the parties.

(2) A care agreement must state the following—

(a) the name of the person in whose care the child is to be placed;

(b) the period of the agreement;

(c) where the child will be living;

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(d) arrangements for contact between the child and his or her parents;

(e) the type of decisions relating to the child for which the parents must be consulted.

51ZG Effect of particular agreement

While a child protection care agreement is in force for the child, the chief executive has custody of the child.

51ZH Period of an agreement

(1) Subject to this division, a care agreement has effect for the period stated in it.

(2) The period of an assessment care agreement must not be more than 30 days.

(3) An assessment care agreement may not be extended.

(4) When a child protection care agreement is entered into, the initial period of operation stated in it must not be more than 30 days.

(5) A child protection care agreement must not be made if the total of the following periods would be more than 6 months—

(a) the initial period of the proposed agreement;

(b) the period for which any other child protection care agreement was in force for the child within the previous 12 months.

(6) Before a child protection care agreement ends, it may be extended by agreement of the parties.

(7) A child protection care agreement may be extended more than once.

(8) A child protection care agreement must not be extended if the total of the following periods would be more than 6 months—

(a) the period for which the agreement has been in force;

(b) the period of the proposed extension;

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(c) the period for which any other child protection care agreement was in force for the child within the 12 months before the extension.

(9) The chief executive must not agree to an extension unless—

(a) a case plan is in force for the child; and

(b) the chief executive is satisfied the extension would be in the child's best interests, having regard to the progress made under the case plan and the child's developmental needs.

51ZI Ending an agreement

(1) A party to a care agreement may end the agreement at any time by giving at least 2 days notice to the other parties.

(2) If a care agreement is entered into with only 1 of the child's parents, the other parent may end the agreement at any time by giving at least 2 days notice to the parties.

(3) A care agreement ends automatically if—

(a) a child protection order is made granting custody or guardianship of the child to the chief executive or someone else; or

(b) the chief executive otherwise gains custody or guardianship of the child under this Act or the *Adoption Act 2009*.

Part 4 Child protection orders

Division 1 Preliminary

53 Purpose of part

(1) This part provides for the making of child protection orders.

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(2) A child protection order is made to ensure the protection of a child the Childrens Court decides is a child in need of protection.

Note—

See section 10.

Division 2 Applications for, and making and effect of, child protection orders

53A Chief executive's role in support of litigation director

(1) This section applies if the chief executive refers a child protection matter to the litigation director under the *Director of Child Protection Litigation Act 2016*, section 15.

(2) The chief executive must work collaboratively with the litigation director in relation to the matter, including by giving the litigation director the information, documents and evidence required under that Act.

54 Application for child protection order

An application for a child protection order for a child must—

(a) be made to the Childrens Court; and

(b) state the grounds on which it is made; and

(c) state the nature of the order sought; and

(d) comply with applicable rules of court; and

(e) be filed in the court.

Note—

Only the litigation director may make the application—see the *Director of Child Protection Litigation Act 2016*, section 10.

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55 Registrar to fix time and place for hearing

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

55A Public guardian to be notified, under an arrangement, of applications etc. for orders

(1) The public guardian and the registrar of the Childrens Court at a place may enter into an arrangement under which the registrar advises the public guardian of—

(a) all applications for a child protection order filed at the place; and

(b) all hearings of applications at the place identified under the arrangement.

(2) The registrar of the Childrens Court must give notice of the applications and hearings to the public guardian in a way, and within the time, agreed with the public guardian under the arrangement.

56 Notice of application

(1) As soon as practicable after the application is filed, the chief executive must—

(a) personally serve a copy of it on each of the child's parents; and

(b) tell the child about the application.

Note—

Section 195 deals with compliance with provisions about giving information.

(2) However, if it is not practicable to serve the copy personally, a copy of the application may be served on a parent by leaving it at, or by sending it by post to, the parent's residential address last known to the chief executive.

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

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

(b) the application may be heard and decided even though the parent does not appear in court.

57 Respondents to hearing

The child's parents are respondents to the application.

57A Withdrawal of application

(1) The application may be withdrawn only with the court's leave.

(2) When seeking the court's leave, the litigation director must give reasons why the order is no longer required.

58 Hearing of application in absence of parents

(1) The Childrens Court may hear and decide the application in the absence of the child's parents only if—

(a) the parents have been given reasonable notice of the hearing and fail to attend or continue to attend the hearing; or

(b) it is satisfied it was not practicable to give the parents notice of the hearing.

(2) Subsection (1) does not limit the jurisdiction of the court to exclude a person from a proceeding.

59 Making of child protection order

(1) The Childrens Court may make a child protection order only if it is satisfied—

(a) the child is a child in need of protection and the order is appropriate and desirable for the child's protection; and

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(b) there is a case plan for the child—

(i) that has been developed or revised under part 3A; and

(ii) that is appropriate for meeting the child's assessed protection and care needs; and

(iii) for a long-term guardianship order or a permanent care order for the child—that includes living arrangements and contact arrangements for the child; and

(c) if the making of the order has been contested—

(i) a conference between the parties has been held or reasonable attempts to hold a conference have been made; or

(ii) because of exceptional circumstances, it would be inappropriate to require the parties to hold a conference; and

Example of exceptional circumstances—

The court may be satisfied the risk to the safety of a party if a conference were held outweighs the potential benefit of holding the conference.

(d) the child's wishes or views, if able to be ascertained, have been made known to the court; and

(e) the protection sought to be achieved by the order is unlikely to be achieved by an order under this part on less intrusive terms.

(2) Before making a child protection order, the court may have regard to the following matters—

(a) any contravention of this Act or of an order made under this Act;

(b) a decision by the chief executive to end intervention under part 3B because the intervention was no longer appropriate to meet the child's protection and care needs.

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(3) When deciding whether a case plan is appropriate under subsection (1)(b)(ii), it is not relevant whether or not all persons who participated in the development or revision of the plan agreed with the plan.

(4) The court must not make a child protection order unless a copy of the child's case plan and, if it is a revised case plan, a copy of the report about the last revision under section 51X have been filed in the court.

(5) Also, before making a child protection order granting custody or guardianship of a child to a person other than the chief executive, the court must have regard to any report given, or recommendation made, to the court by the chief executive about the person, including a report about the person's criminal history, domestic violence history and traffic history.

Note—

Section 95 deals with reports about the person's criminal history, domestic violence history and traffic history.

(6) In addition, before making a long-term guardianship order or a permanent care order for a child, the court must be satisfied—

(a) there is no parent able and willing to protect the child within the foreseeable future; or

(b) the child's need for emotional security will be best met in the long term by making the order.

(7) Further, the court must not grant long-term guardianship of a child to—

(a) a person who is not a member of the child's family unless the child is already in custody or guardianship under a child protection order; or

(b) the chief executive if the court can properly grant guardianship to another suitable person.

(7A) The court may make a permanent care order for a child only if, in addition to the other matters about which the court must be satisfied under this section, the court is satisfied—

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(a) the person to whom guardianship of the child is to be granted under the order (the ***proposed guardian***) is—

(i) a suitable person for having guardianship of the child on a permanent basis; and

(ii) willing and able to meet the child's ongoing protection and care needs on a permanent basis; and

(iii) committed to preserving—

(A) the child's identity; and

(B) the child's connection to the child's culture of origin; and

(C) the child's relationships with members of the child's family in accordance with the case plan for the child; and

(b) the child has been in the care of the proposed guardian, under a child protection order granting custody or guardianship of the child to the chief executive or the proposed guardian, for a period of at least 12 months immediately before the making of the application.

(7B) However, the court may make a permanent care order, despite not being satisfied of the matter mentioned in subsection (7A)(b), if the court is satisfied there are exceptional circumstances that, in the best interests of the child, justify the making of the order.

Example of exceptional circumstances—

The proposed guardian is caring for 1 or more of the child's siblings under a permanent care order.

(8) Before the court extends or makes a further child protection order granting custody or short-term guardianship of the child, the court must have regard to the child's need for emotional security and stability.

(9) This section does not apply to the making of an interim order under section 67.

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59A Additional matters about making permanent care orders for Aboriginal or Torres Strait Islander children

(1) This section applies to an application for a permanent care order for an Aboriginal or Torres Strait Islander child.

(2) In deciding whether to make the order, the Childrens Court must have proper regard to—

(a) Aboriginal tradition and Island custom relating to the child; and

Note—

The *Acts Interpretation Act 1954*, schedule 1, contains definitions of *Aboriginal tradition* and *Island custom*.

(b) the Aboriginal and Torres Strait Islander child placement principle in relation to the child.

(3) The court may make the order only if it is satisfied—

(a) the case plan for the child includes appropriate details about how the child's connection with his or her culture, and community or language group, will be developed or maintained; and

(b) the decision to apply for the order has been made in consultation with the child, if the court considers consultation is appropriate.

(4) To inform itself about the matters mentioned in subsection (2)(a), the court may have regard to the views about those matters of—

(a) an independent Aboriginal or Torres Strait Islander entity for the child; or

(b) the child; or

(c) a member of the child's family.

60 Extraterritoriality

To remove doubt, it is declared the Childrens Court may make a child protection order even if the events causing the child to

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be a child in need of protection happened outside Queensland, or partly in Queensland and partly outside Queensland.

61 Types of child protection orders

The Childrens Court may make any 1 or more of the following child protection orders that the court considers to be appropriate in the circumstances—

(a) an order directing a parent of the child to do or refrain from doing something directly related to the child's protection;

(b) an order directing a parent not to have contact, direct or indirect—

(i) with the child; or

(ii) with the child other than when a stated person or a person of a stated category is present;

(c) an order requiring the chief executive to supervise the child's protection in relation to the matters stated in the order;

(d) an order granting custody of the child to—

(i) a suitable person, other than a parent of the child, who is a member of the child's family; or

(ii) the chief executive;

(e) an order granting short-term guardianship of the child to the chief executive;

(f) an order (a ***long-term guardianship order***) granting long-term guardianship of the child to—

(i) a suitable person, other than a parent of the child, who is a member of the child's family; or

(ii) another suitable person, other than a member of the child's family, nominated by the chief executive; or

(iii) the chief executive;

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Note—

The parents of the child may apply to vary or revoke a long-term guardianship order—see section 65(1).

(g) an order (a ***permanent care order***) granting long-term guardianship of the child to a suitable person, other than a parent of the child or the chief executive, nominated by the chief executive.

Note—

Only the litigation director may apply to vary or revoke a permanent care order—see section 65AA.

62 Duration of child protection orders

(1) A child protection order for a child must state the time when it ends.

(2) The stated time for an order that does not grant custody or guardianship of the child must not be more than 1 year after the day it is made.

(3) If no previous child protection order has been made for the child and the order grants custody or short-term guardianship of the child, the stated time for the order must not be more than 2 years after the day it is made.

(4) If a previous child protection order has been made for the child and the order grants custody or short-term guardianship of the child, the stated time for the order must not be—

(a) if, immediately before the making of the order, the child has been in continuous care since the making of the earliest child protection order for the child—later than 2 years after the day the earliest order was made; or

Example—

The court makes an order granting custody of a child to the chief executive. A previous child protection order granting custody of the child to the chief executive was in effect for 1 year. Since the making of the previous order, the child has been in care, including under interim orders, for a continuous period of 18 months. The stated time for the new order must not be more than

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2 years after the previous child protection order was made. As a result, the maximum duration of the new order is 6 months.

(b) otherwise—later than 2 years after the day the earliest child protection order for the child made during the relevant continuous care period was made.

Example—

The court makes an order granting custody of a child to the chief executive and there have been previous orders granting custody of the child to the chief executive. The first order was in effect for 1 year, after which the child was returned to the care of the child's parents for 1 year. Then another order was made granting custody of the child to the chief executive for 12 months. Since the making of the second order, the child has been in care, including under interim orders, for a continuous period of 18 months. The stated time for the new order must not be more than 2 years after the second order was made. As a result, the maximum duration of the new order is 6 months.

(5) However, despite subsection (4), the stated time for an order to which subsection (4) would otherwise apply must not be more than 2 years after the day it is made if—

(a) it is in the best interests of the child to have a longer stated time for the order than the time provided for under subsection (4); and

(b) the Childrens Court considers that reunification of the child with the child's family is reasonably achievable within the longer stated time.

(6) The stated time for an order that grants long-term guardianship of the child must be the end of the day before the child turns 18 years.

(7) The order ends at the stated time unless it is extended or earlier revoked.

(8) Regardless of subsections (1) to (7), the order ends when the child turns 18.

(9) In this section—

child protection order does not include an interim order under section 67.

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relevant continuous care period means a period of continuous care that has not ended immediately before the making of the order.

Division 3 Other provisions about child protection orders

63 Chief executive's obligations after making of child protection order

As soon as practicable after a child protection order for a child is made, the chief executive must give to the parties to the application for the order—

(a) a copy of the order; and

(b) a written notice—

(i) explaining the terms and effect of the order; and

(ii) stating that a party may appeal against the decision to make the order within 28 days after the order is made; and

(iii) stating how to appeal.

64 Extension of certain child protection orders

(1) An application for an extension of a child protection order for a child, other than an order granting long-term guardianship of a child, may be made to the Children's Court.

Note—

Only the litigation director may make the application—see the *Director of Child Protection Litigation Act 2016*, section 10.

(2) The application must be made before the order ends.

(3) If the application is an application to extend a child protection order granting custody or short-term guardianship of a child, the court must not extend the order for a period of time that would result in the child being in continuous care for a period of 2 years or more.

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(4) However, subsection (3) does not apply if the court is satisfied—

(a) it is in the best interests of the child for the order to be extended for a longer time than the time provided for under subsection (3); and

(b) reunification of the child with the child's family is reasonably achievable within the longer time.

(5) Subject to subsections (3) and (4), this part applies, with all necessary changes, to the application as if it were an application for a child protection order.

65 Variation and revocation of particular child protection orders

(1) The litigation director, a child's parent or the child may apply to the Childrens Court for an order to—

(a) vary or revoke a child protection order, other than a permanent care order, for the child; or

(b) revoke a child protection order, other than a permanent care order, for the child and make another child protection order in its place.

(2) However, a child's parent can not—

(a) apply for an order to revoke a child protection order for the child and make another child protection order in its place that grants guardianship of the child; or

(b) without the leave of the court, apply for an order to vary or revoke a child protection order for the child if another application for an order by a parent of the child to vary or revoke the child protection order has been decided by the court; or

(c) apply to vary a long-term guardianship order granting long-term guardianship of the child to the chief executive to grant long-term guardianship of the child to a suitable person mentioned in section 61(f)(i) or (ii).

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(3) For subsection (2)(b), the court may grant leave only if it is satisfied the child's parent has new evidence to give to the court.

(4) This part applies, with the changes prescribed in subsections (5) to (5D) and all other necessary changes, to the application as if it were an application for a child protection order for the child.

(5) If the application is made by the child or a parent of the child—

(a) other parents of the child and the litigation director become respondents to the application; and

(b) immediately after the application is made, the registrar must give written notice to the litigation director and chief executive of the time and place for hearing the application; and

(c) as soon as practicable after receiving the registrar's notice, the chief executive must comply with section 56 except so far as it relates to the applicant.

(5A) Subsection (5B) applies if the litigation director or the child applies to—

(a) vary or revoke a long-term guardianship order for the child; or

(b) revoke a long-term guardianship order for the child and make a permanent care order for the child in its place.

(5B) Section 59(1)(a) and (e), (6)(a), (7) and (8) does not apply to the application.

(5C) However, subsection (5B) does not apply in relation to the application if—

(a) the application is an application by the litigation director or the child mentioned in subsection (5A)(b); and

(b) the court orders, on its own initiative or on the application of the litigation director or the child, that the provisions of section 59 mentioned in subsection (5B) are to apply to the application.

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(5D) The court may make an order under subsection (5C)(b) only if it is satisfied that, because of exceptional circumstances, it is in the best interests of the child for the provisions of section 59 mentioned in subsection (5B) to apply to the application.

(6) The court may, under subsection (1)(a), revoke a child protection order for a child only if it is satisfied the order is no longer appropriate and desirable for the child's protection.

(7) Without limiting the things to which the court may have regard in deciding an application under this section, the court—

(a) may have regard to a contravention of the child protection order or this Act; and

(b) for an application to revoke a child protection order granting long-term guardianship of a child under section 61(f)(i) or (ii)—must have regard to the child's need for emotional security and stability.

(8) In this section—

child protection order does not include an interim order under section 67.

65AA Variation and revocation of permanent care orders

(1) The litigation director may apply to the Childrens Court for an order to—

(a) vary or revoke a permanent care order for a child; or

(b) revoke a permanent care order for a child and make another child protection order in its place.

(2) However, the litigation director may apply to vary or revoke a permanent care order only if the litigation director is satisfied—

(a) that—

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(i) the child has suffered significant harm, is suffering significant harm, or is at an unacceptable risk of suffering significant harm; and

(ii) the child's permanent guardian is not able and willing to protect the child from harm; or

(b) the child's permanent guardian is not complying, in a significant way, with the guardian's obligations under section 79A(1).

Example—

The child's permanent guardian is not, despite it being in the best interests of the child, helping the child maintain the child's relationships with the child's parents or another person of significance to the child.

(3) This part applies, with all necessary changes, to the application as if it were an application for a child protection order for the child.

(4) The court may revoke a permanent care order for a child only if it is satisfied the revocation of the order—

(a) is in the best interests of the child; and

(b) will promote the child's ongoing protection and care needs.

(5) Without limiting the matters to which the court may have regard in deciding an application under this section, the court—

(a) may have regard to a contravention of the permanent care order or this Act; and

(b) must have regard to the child's need for emotional security and stability.

(6) Without limiting the court's powers, in deciding an application to revoke a permanent care order the court may—

(a) revoke the order; or

(b) revoke the order and make another child protection order in its place.

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Division 4 Transition orders

65A Court may make transition order

(1) This section applies if a court—

(a) in relation to a child protection order granted under section 61(d) or (e)—

(i) refuses to extend the order or grant a further order before the order ends; or

(ii) revokes the order; or

(iii) decides an appeal against the making of the order in favour of a person other than the litigation director; or

(b) in relation to a child protection order granted under section 61(f) or (g)—

(i) revokes the order; or

(ii) decides an appeal against the making of the order in favour of a person other than the litigation director.

(2) The court may make an order (a ***transition order***) that the child protection order ends on a later day stated in the transition order.

(3) The transition order may be made on the court's own initiative or on the application, made orally or in the approved form, of a party to the proceeding.

(4) If a party applies for the transition order and the court adjourns the proceeding before deciding the application, the child protection order continues in force, despite the decision mentioned in subsection (1), until the application is decided.

(5) The day stated in the transition order as the day on which the child protection order ends may not be more than 28 days after the day of the court's decision under subsection (1), even if a party applied for the transition order and the court adjourned the proceeding before deciding the application.

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(6) The court may make a transition order in a proceeding only once.

65B Grounds for making transition order

(1) A court may make a transition order if satisfied the order is necessary to allow for the gradual transition of the child into the care of the child's parents in a way that—

(a) supports the child; and

(b) may reduce any disruption or distress experienced by the child; and

(c) is otherwise in the best interests of the child.

(2) When deciding whether to make a transition order—

(a) the court must have regard to—

(i) the child's wishes and views, if able to be ascertained; and

(ii) the parents' readiness to care for the child; and

(b) the court may have regard to any other relevant matter.

Example for paragraph (b)—

The court may have regard to information, from the person caring for the child under the child protection order, about the child's needs.

65C Effect of stay of decision about child protection order

If, under section 119, an appellate court stays a decision mentioned in section 65A(1), a transition order made in relation to the decision ends on the day the decision is stayed.

65D Transition plans

If the court makes a transition order in relation to a child, the chief executive must prepare a plan, for the period of the transition order, that—

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(a) states how the chief executive intends to provide for the support and gradual transition of the child into the care of the child's parents; and

(b) includes matters prescribed under a regulation for inclusion in the plan.

Part 5 Adjournments of proceedings and court ordered conferences

Division 1 Adjournments of proceedings

66 Court may adjourn proceedings

(1) The Childrens Court may adjourn a proceeding for a court assessment order or child protection order for a child for a period decided by the court.

(2) However, for a court assessment order the total period of adjournments must not be longer than 4 weeks.

Note—

Section 47 contains provisions about when a court assessment order ends.

(3) In deciding the period, the court must take into account the principle that it is in the child's best interests for the application for the order to be decided as soon as possible.

(4) The court must state the reasons for the adjournment and may give directions to the parties to the proceeding, the chief executive or a person the court has allowed to take part in the proceeding under section 113 about the things to be done by them during the adjournment.

67 Court's powers to make interim orders on adjournment

(1) On the adjournment of a proceeding for a court assessment order or child protection order, the Childrens Court may make any 1 or more of the following orders—

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(a) an interim order granting temporary custody of the child—

(i) for a court assessment order—to the chief executive; or

(ii) for a child protection order—to the chief executive or a suitable person who is a member of the child's family;

(b) an interim order directing a parent of the child not to have contact (direct or indirect)—

(i) with the child; or

(ii) with the child other than when a stated person or a person of a stated category is present;

(c) an interim order authorising an authorised officer or police officer to have contact with the child.

(2) In addition, the court may make an interim order authorising an authorised officer or police officer to enter and search any place the officer reasonably believes the child is, to find the child, if the court is satisfied—

(a) entry to a place has been, or is likely to be, refused, or it is otherwise justified in particular circumstances, including, for example, because the child's whereabouts are not known; and

(b) the entry is necessary for the effective enforcement of an order made under subsection (1)(c).

(3) On entering a place, an authorised officer or police officer may remain in the place for as long as the officer considers necessary for exercising the officer's powers under this section.

(4) An authorised officer or police officer may exercise the officer's powers under the order with the help, and using the force, that is reasonable in the circumstances.

(5) The order has effect for the period of the adjournment.

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67A Order—procedure before entry

(1) This section applies if an authorised officer or police officer is intending to enter a place under an authority under an interim order mentioned in section 67(2).

(2) Before entering the place, the officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place;

(b) give the person a copy of the order so far as it relates to the entry and searching of the place;

(c) tell the person the officer is permitted by the order to enter and search the place to find the child;

(d) give the person an opportunity to allow the officer immediate entry to the place without using force.

(3) For subsection (2)(a), an authorised officer must produce the officer's identity card to the person for inspection.

Note—

For a police officer, see the *Police Powers and Responsibilities Act 2000*, section 637.

(4) However, the officer need not comply with subsection (2) if the officer reasonably believes that immediate entry to the place is required to ensure the effective exercise of powers under the order is not frustrated.

68 Court's other powers on adjournment of proceedings for child protection orders

(1) On the adjournment of a proceeding for a child protection order, the Childrens Court may also make 1 or more of the following orders—

(a) an order requiring a written social assessment report about the child and the child's family be prepared and filed in the court;

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(b) an order authorising a medical examination or treatment of the child and requiring a report of the examination or treatment be filed in the court;

Note—

Section 97 applies to the medical examination or treatment.

(c) subject to subsection (5), an order about the child's contact with the child's family during the adjournment;

(d) an order requiring the chief executive—

(i) to convene a family group meeting to develop or revise a case plan and file the plan in the court; or

(ii) to convene a family group meeting to consider, make recommendations about, or otherwise deal with, another matter relating to the child's wellbeing and protection and care needs;

(e) an order that a conference between the parties be held before the proceeding continues to decide the matters in dispute or to try to resolve the matters;

(f) an order under section 110 that the child be separately legally represented.

(2) If the court makes an order under subsection (1)(a) or (b), the court must state the particular issues the report must address.

(3) Subsection (2) does not limit the issues that may be addressed in the report.

(4) Without limiting subsection (1)(c), an order mentioned in the paragraph may limit the child's contact with the child's family or provide for how the contact is to happen.

(5) The court must not make an order under subsection (1)(c) requiring the chief executive to supervise family contact with the child unless the chief executive agrees to supervise the contact.

(6) To remove any doubt, it is declared that the chief executive may be the subject of an order mentioned in subsection (1)(a), (b) or (c) even though the chief executive is not a party to the proceeding.

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68A Access to information to prepare a court-ordered report

(1) This section applies if, on an adjournment, the Childrens Court makes an order under section 66(4) or 68(1)(a) or (b) requiring that a report be prepared.

(2) The court may order that a person preparing the report be permitted to view, or be given a copy of, a relevant document or other information before the court.

68B Interim contact orders

Section 99MA deals with particular circumstances in which the court may decide to make an order under section 67(1)(b) or 68(1)(c) while a tribunal proceeding is suspended.

Division 2 Court ordered conferences

69 Registrar to appoint chairperson and convene conference

(1) If the Childrens Court orders a conference be held between the parties to a proceeding, the registrar of the court must—

(a) appoint a chairperson for the conference; and

(b) convene the conference to be held as soon as practicable after the order is made.

(2) The chairperson must have the qualifications or experience prescribed under rules of court.

70 Attendance of parties

(1) The chairperson, the chief executive and the parties must attend the conference.

(2) However, subsection (1) does not require the child to attend the conference.

(3) The parties may be represented by their legal representatives at the conference.

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(4) If the child is an Aboriginal or Torres Strait Islander child, an independent Aboriginal or Torres Strait Islander entity for the child, or member of the entity, may attend the conference.

(5) The public guardian may attend the conference.

(6) No-one else can attend the conference without the chairperson's approval.

71 Communications inadmissible in evidence without consent

Anything said at the conference is inadmissible in a proceeding before any court other than with the consent of all the parties.

72 Report of conference

(1) As soon as practicable after the conference is finished, the chairperson must file in the court a report of the conference containing the particulars prescribed under rules of court.

(2) If the report states the parties have reached an agreement in relation to the application the subject of the proceeding and it is practicable for the application to be heard earlier than the adjournment date, the registrar must immediately—

(a) fix a new time and place for the hearing of the application; and

(b) advise the chairperson and the parties of the time and place for the hearing of the application.

(3) If the new time and place for the hearing of the application is not the same day the conference finished, the registrar must confirm the advice by written notice.

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Part 6 Obligations and rights under orders and care agreements

Division 1 Chief executive's obligations under child protection orders and care agreements

73 Chief executive's obligations about meeting child's protection and care needs under certain orders and agreements

(1) This section applies if—

(a) a child protection order is made for a child, other than an order granting long-term guardianship of the child; or

(b) a care agreement is entered into for a child.

(2) The chief executive must take steps that are reasonable and practicable to help the child's family meet the child's protection and care needs.

(3) For subsection (2), the chief executive must have regular contact with the child and the child's parents or other appropriate members of the child's family.

74 Charter of rights for a child in care

(1) This section applies if the chief executive—

(a) has custody or guardianship of a child under a child protection order; or

(b) has custody of a child under a care agreement.

(2) As far as reasonably practicable, the chief executive must ensure the charter of rights is complied with in relation to the child.

(3) Subsection (2) does not limit another provision of this Act.

(4) The chief executive must ensure the child—

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(a) is told about the charter of rights and its effect; and

(b) is given written information about the charter of rights unless, having regard to the child's age or ability to understand, the chief executive reasonably believes the child would not be able to understand the information; and

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

(d) is told about the public guardian and other entities known to the chief executive that can help the child if the child considers that the charter of rights is not being complied with in relation to the child; and

(e) 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.

(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.

74A Chief executive's obligations to children under particular child protection orders

(1) This section applies if either of the following orders is made in relation to a child—

(a) a long-term guardianship order granting long-term guardianship of the child to a person other than the chief executive;

(b) a permanent care order.

(2) The chief executive must ensure the child—

(a) is regularly told about the charter of rights and its effect; and

(b) is regularly given written information about the charter of rights unless, having regard to the child's age or ability to understand, the chief executive reasonably

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believes the child would not be able to understand the information; and

(c) is regularly told about the obligations of the child's long-term guardian or permanent guardian under section 79A; and

(d) is regularly told about the public guardian and other entities known to the chief executive who can help the child if the child considers that the child's long-term guardian or permanent guardian is not complying with the guardian's obligations in relation to the child; and

(e) 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) 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.

75 Transition to independence

(1) This section applies to a person who is or has been a child in the custody or under the guardianship of the chief executive.

(2) As far as practicable, the chief executive must—

(a) ensure help is available to assist the person in the transition from being a child in care to independence; and

(b) ensure the help is available to the person for the period starting when the person turns 15 and ending when the person turns 25.

(3) Without limiting subsection (2)(a), the help may include the following—

(a) help to access entitlements, including, for example, social security allowances or payments;

(b) help to access appropriate accommodation;

(c) help to access education and training;

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(d) help to obtain employment;

(e) help to obtain legal advice;

(f) help to access health and community services, including, for example, specialist disability support services;

(g) support in establishing or maintaining relationships with the person's family or carer;

(h) help in accessing information, including information in the chief executive's possession or control, about the person and his or her time in care;

Note—

See section 188C about the information the chief executive may give the person.

(i) counselling or other support to help the person in relation to information mentioned in paragraph (h);

(j) other assistance, based on an assessment of the person's needs, provided by the chief executive.

Examples of assistance, based on a person's needs, that may be provided by the chief executive—

- financial assistance under section 159
- help given to ensure a young person with impaired capacity is given the opportunity to develop decision-making skills and exercise the rights mentioned in the *Guardianship and Administration Act 2000*, sections 5 and 6

(4) In this section—

information includes a document or copy of a document.

Division 2 Orders for supervision

76 Application of div 2

This division applies if, under a child protection order for a child, the chief executive is required to supervise the child's protection in relation to matters stated in the order.

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77 Obligations of child's parents and powers of authorised officers

(1) The child's parents or other person with whom the child is living must—

(a) keep the chief executive informed about where the child is living; and

(b) allow authorised officers to have reasonable contact with the child.

(2) For subsection (1)(b), an authorised officer may enter the place where the child is living at any reasonable time to have contact with the child and to inquire about the child's care.

(3) The officer may exercise the officer's powers under subsection (2) with the help, and using the force, that is reasonable in the circumstances.

78 Chief executive's powers

(1) For giving effect to the child protection order, the chief executive may, by written notice given to a parent of the child, direct the parent to do or refrain from doing something specifically relating to the supervision matters stated in the order.

(2) The notice mentioned in subsection (1) must comply with the QCAT Act, section 157(2).

(3) The parent may apply to have the decision to give the direction reviewed only on the ground that the direction does not specifically relate to the supervision matters.

(4) The tribunal may not stay the operation of the decision under the QCAT Act, section 22(3).

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Division 3 Obligations under orders granting custody or guardianship to member of family or other suitable person

79 Obligations of family members and other persons to department under orders

(1) If, under a child protection order, a member of a child's family is granted custody of the child, the family member must help the chief executive achieve the child's future protection, including, for example, by taking part in meetings with the child's family.

(2) The family member must—

(a) keep the chief executive informed about where the child is living; and

(b) allow authorised officers to have reasonable contact with the child.

(3) A long-term guardian or permanent guardian of a child must keep the chief executive informed about where the child is living.

79A Obligations of long-term guardians and permanent guardians to children under orders

(1) A long-term guardian or permanent guardian of a child must—

(a) as far as reasonably practicable, ensure the charter of rights for a child in care in schedule 1 is complied with in relation to the child as if—

(i) the guardian were the chief executive; and

(ii) the child were a child in need of protection in the custody or care of the chief executive; and

(b) ensure the child is provided with appropriate help in the transition from being a child in care to independence; and

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(c) to the extent it is in the best interests of the child, preserve the child's identity and connection to the child's culture of origin; and

(d) to the extent it is in the best interests of the child, help maintain the child's relationships with the child's parents, family members and other persons of significance to the child.

(2) However, the Childrens Court may order that any of the requirements mentioned in subsection (1) do not apply, or apply with stated modifications or apply to a stated extent, if the court is satisfied compliance with the requirement would—

(a) constitute a significant risk to the safety of the child or anyone else with whom the child is living; or

(b) otherwise not be in the best interests of the child.

80 Obligations of family members and other persons to child's parents

(1) If, under a child protection order for a child, a member of the child's family or another suitable person is granted custody or guardianship of the child, the family member or person must—

(a) tell the parents where the child is living; and

(b) give them information about the child's care; and

(c) provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances.

(2) However, if the Childrens Court is satisfied compliance with the requirements of subsection (1) would constitute a significant risk to the safety of the child or anyone else with whom the child is living, the court may order that all or part of the requirements do not apply, or apply with stated modifications or apply to a stated extent.

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80A Obligations if child is no longer cared for by long-term guardian or permanent guardian

(1) This section applies if—

(a) either of the following child protection orders are in force for a child—

(i) a long-term guardianship order granting long-term guardianship of the child to a person other than the chief executive;

(ii) a permanent care order; and

(b) either—

(i) the child's long-term guardian or permanent guardian reasonably believes the guardian's care of the child will end in the near future; or

Example—

The guardian has a health condition that will result in the guardian not being able to care for the child in the near future.

(ii) the child is no longer cared for by the child's long-term guardian or permanent guardian.

Examples—

1 The child is an older child transitioning to independent living.

2 The relationship between the child and the guardian has broken down and the child is no longer able to live with the guardian.

(2) The long-term guardian or permanent guardian must immediately give the chief executive written notice of—

(a) if the guardian reasonably believes the guardian's care of the child will end in the near future—that fact; or

(b) if the care has ended—that fact and, if the guardian knows where the child is living, that information.

(3) If the chief executive is given notice under subsection (2), the chief executive must—

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(a) review the child's protection and care needs and wellbeing; and

(b) take any further action the chief executive considers appropriate.

Division 3A Complaints about permanent guardians

80B Making a complaint

(1) This section applies if a child or a member of the child's family honestly and reasonably believes a permanent guardian of the child is not complying with the guardian's obligations under section 79A.

(2) The person may make a complaint about the non-compliance to the chief executive.

(3) A complaint may be made for the person by another person acting with the first person's consent.

80C Chief executive may require further information

The chief executive may, by notice, ask the complainant to give the chief executive further information about the complaint within the reasonable time stated in the notice.

80D Refusal to deal with complaint

(1) The chief executive may refuse to deal with the complaint if the chief executive reasonably believes—

(a) the complaint is trivial, unreasonable or without substance; or

(b) the complaint was made vexatiously; or

(c) the complainant refuses, without a reasonable excuse, to provide further information reasonably required by the

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chief executive to decide whether to deal with the complaint.

(2) If the chief executive refuses to deal with a complaint, the chief executive must—

(a) as soon as practicable, give written notice of the decision to the complainant; and

(b) keep a record about the complaint and the chief executive's refusal to deal with the complaint.

(3) The notice mentioned in subsection (2)(a) must comply with section 157(2) of the QCAT Act.

80E Dealing with complaint

(1) If the chief executive does not refuse to deal with a complaint under section 80D, the chief executive must take all reasonable steps to resolve the complaint as soon as is reasonably practicable.

(2) After taking the reasonable steps, the chief executive must give the complainant a response to the complaint stating—

(a) the steps taken to resolve the complaint; and

(b) the reason the chief executive considers the steps taken are reasonable in the circumstances; and

(c) any results of the steps taken that are known at the time of giving the response.

Division 4 Placing child in care

81 Application of div 4

This division applies if the chief executive has custody or guardianship of a child under this Act.

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82 Placing child in care

(1) The chief executive may place the child in the care of—

(a) an approved kinship carer for the child; or

(b) an approved foster carer; or

(c) an entity conducting a departmental care service; or

(d) a licensee; or

(e) if it is not possible, or not in the child's best interests, for the child to be placed in the care of an entity mentioned in paragraphs (a) to (d)—a provisionally approved carer for the child; or

(f) if the chief executive is satisfied another entity would be the most appropriate for meeting the child's particular protection and care needs—that entity.

Example for paragraph (f)—

A particular medical or residential facility may be the most appropriate entity for a child with a disability.

(2) Also, if the child is in the chief executive's custody or guardianship under a child protection order, the chief executive may place the child in the care of a parent of the child.

82A Placement with more than 1 approved carer

(1) The child may be placed in the care of more than 1 approved carer at the same time.

(2) If it is proposed to place the child in the care of an approved carer, and the approved carer lives with his or her spouse and holds a certificate of approval jointly with the spouse, the child must be placed in the care of both of them.

83 Additional provisions for placing Aboriginal and Torres Strait Islander children in care

(1) This section applies if the child is an Aboriginal or a Torres Strait Islander child.

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(2) The chief executive must, in consultation with the child and the child's family, arrange for an independent Aboriginal or Torres Strait Islander entity for the child to facilitate the participation of the child and the child's family in the process for making a decision about where or with whom the child will live.

(3) However, the chief executive is not required to arrange for the involvement of an independent Aboriginal or Torres Strait Islander entity for the child under subsection (2) if—

(a) it is not practicable because an entity is not available or urgent action is required to protect the child; or

(b) the chief executive is satisfied that an entity's involvement—

(i) is likely to have a significant adverse effect on the safety or psychological or emotional wellbeing of the child or any other person; or

(i) is not otherwise in the child's best interests; or

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

(4) In making a decision about the person in whose care the child should be placed, the chief executive must, if practicable, place the child with a member of the child's family group.

(5) However, if it is not practicable to place the child with a member of the child's family group, in making a decision about the person in whose care the child should be placed, the chief executive must place the child with—

(a) a member of the child's community or language group; or

(b) if it is not practicable to place the child in the care of a person mentioned in paragraph (a), an Aboriginal or Torres Strait Islander person who is compatible with the child's community or language group; or

(c) if it is not practicable to place the child in the care of a person mentioned in paragraph (a) or (b), another Aboriginal or Torres Strait Islander person; or

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(d) if it is not practicable to place the child in the care of a person mentioned in paragraphs (a) to (c), a person who—

(i) lives near the child's family, community or language group; and

(ii) has a demonstrated capacity for ensuring the child's continuity of connection to kin, country and culture.

(6) Also, the chief executive must give proper consideration to—

(a) the views of the child and the child's family; and

(b) ensuring the decision provides for the optimal retention of the child's relationships with parents, siblings and other people of significance to the child under Aboriginal tradition or Island custom.

(7) Before placing the child in the care of a family member or other person who is not an Aboriginal person or Torres Strait Islander, the chief executive must give proper consideration to whether the person is committed to—

(a) facilitating contact between the child and the child's parents and other family members, subject to any limitations on the contact under section 87; and

(b) helping the child to maintain contact with the child's community or language group; and

(c) helping the child to maintain a connection with the child's Aboriginal or Torres Strait Islander culture; and

(d) preserving and enhancing the child's sense of Aboriginal or Torres Strait Islander identity.

83A Giving information to carers and children

(1) Before placing the child in care under section 82, the chief executive must—

(a) give to the proposed carer the information that the chief executive has about the child that the proposed carer

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reasonably needs to help him or her make an informed decision whether to agree to the placement, including, for example, the following information—

(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

(b) give the child information the chief executive has about the proposed carer and members of the proposed carer's household that the child reasonably needs to participate meaningfully in the decision about who will be the child's carer; and

(c) if possible, give the child an opportunity to meet the proposed carer and members of the proposed carer's household.

(2) When placing the child in care, and while the child is in care, the chief executive must give the carer information that the chief executive has relating to the child that the carer reasonably needs—

(a) to provide care for the child under this Act; and

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

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- 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

(b) to ensure the safety of the child, the carer and other members of the carer's household.

(3) If the child is placed in the care of a licensee—

(a) a requirement under subsection (1) or (2) to give information to the proposed carer or carer applies to the licensee instead of the chief executive; and

(b) the chief executive must give the licensee the information that the chief executive has about the child that the licensee needs to comply with the requirement.

(4) In deciding the information about the child to give to someone under this section, the chief executive must have regard to—

(a) the views and wishes of the child, having regard to the child's age and ability to understand; and

(b) the proposed length of time of the placement; and

(c) the child's right to privacy under the charter of rights.

(5) Before giving information about the child to someone under this section, the chief executive must tell the child what information is being given and why it is being given.

(6) 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.

(7) In this section—

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carer, in relation to a child, means—

(a) if the child is placed in the care of an approved carer—the approved carer; or

(b) if the child is placed in the care of another entity—the individual who directly provides care to the child.

84 Agreements to provide care for children

(1) If an approved carer agrees to care for the child, the chief executive and approved carer must enter into a written agreement for the child's care.

Note—

Provisions of the agreement may be included in the child's case plan.

(2) The terms prescribed under a regulation must be included in the agreement.

85 Chief executive to tell parents of placing child in care—assessment order

(1) This section applies if the child is in the chief executive's custody under an assessment order.

(2) Subject to subsections (3) and (4), the chief executive must, as soon as practicable after deciding in whose care to place the child, tell the child's parents in whose care the child is placed and where the child is living.

(3) Before complying with subsection (2), the chief executive must consider the matters prescribed under a regulation.

(4) If, after considering the matters, the chief executive reasonably suspects compliance with subsection (2) could constitute a significant risk to the safety of the child or anyone else with whom the child is living, the chief executive need not comply with the subsection.

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86 Chief executive to notify parents of placing child in care—child protection order

(1) This section applies if the child is in the chief executive's custody or guardianship under a child protection order.

(2) Subject to subsections (3) and (4), the chief executive must, as soon as practicable after deciding in whose care to place the child, give written notice of the decision to the child and the child's parents stating the following—

(a) the person in whose care the child is placed;

(b) where the child is living;

(c) the reasons for the decision;

(d) the child or child's parent may apply to the tribunal to have the decision reviewed;

(e) how, and the time within which, the child or child's parent may apply to have the decision reviewed;

(f) any right the child or child's parent has to have the operation of the decisions stayed.

(3) Before complying with subsection (2), the chief executive must consider the matters prescribed under a regulation.

(4) If, after considering the matters, the chief executive reasonably suspects compliance with subsection (2) would constitute a significant risk to the safety of the child or anyone else with whom the child is living, the chief executive may decide not to comply with the subsection.

(5) If the chief executive makes a decision under subsection (4), the chief executive must give written notice of the decision to the child and the child's parents stating the following—

(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;

(b) the reasons for the decision;

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(c) the child or child's parent may apply to the tribunal to have the decision reviewed;

(d) how, and the time within which, the child or child's parent may apply to have the decision reviewed;

(e) any right the child or child's parent has to have the operation of the decisions stayed.

(6) Subsection (2) does not apply if the chief executive is satisfied it is not reasonably practicable for the chief executive to give the notice because the child is placed in the person's care for less than 7 days.

87 Chief executive to provide contact between child and child's parents

(1) The chief executive must provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances.

(2) However, the chief executive may refuse to allow, or restrict or impose conditions on, contact between the child and the child's parents or members of the child's family, if the chief executive is satisfied it is in the child's best interests to do so or it is not reasonably practicable in the circumstances for the parents or family member to have the contact.

(3) If the chief executive refuses to allow, or restricts or imposes conditions on contact between the child and a person, the chief executive must give written notice of the decision to each person affected by the decision.

(4) The notice mentioned in subsection (3) must comply with the QCAT Act, section 157(2).

88 Chief executive to provide contact between Aboriginal or Torres Strait Islander child and child's community or language group

(1) This section applies if the child is an Aboriginal or a Torres Strait Islander child.

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(2) The chief executive must provide opportunity for contact, as often as is appropriate in the circumstances, between the child and appropriate members of the child's community or language group.

89 Removal from carer's care

The chief executive may decide to remove the child from the care of the child's carer if the chief executive is satisfied it is in the child's best interests.

90 Notice of removal from care

(1) This section applies if the chief executive—

(a) has custody or guardianship of the child under a child protection order; or

(b) has custody of the child under a care agreement.

(2) As soon as practicable after making the decision to remove the child from the care of the child's carer, the chief executive must give written notice of the decision to the carer and the child unless—

(a) the child is placed in the carer's care for less than 7 days; or

(b) if the child is in the care of an approved carer—the child is removed under a provision of the agreement under section 84 relating to the duration of the child's care.

(3) The notice to the carer must state the following—

(a) the reasons for the decision;

(b) if, under section 91, the carer is entitled to apply to have the decision reviewed—

(i) the carer may apply to the tribunal to have the decision reviewed; and

(ii) how, and the time within which, the carer may apply to have the decision reviewed; and

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(iii) any right the carer has to have the operation of the decisions stayed.

(4) The notice to the child must state—

(a) the reasons for the decision; and

(b) that the child may apply to the tribunal to have the decision reviewed; and

(c) how, and the time within which, the child may apply to have the decision reviewed; and

(d) any right the child has to have the operation of the decisions stayed.

(5) Subsection (4)(b) to (d) do not apply if—

(a) the child was placed with the carer under a care agreement; or

(b) the carer is a provisionally approved carer.

91 Review of decision to remove child from carer's care

The child's carer is entitled to have the decision to remove the child from the carer's care reviewed by the tribunal if—

(a) the chief executive has custody or guardianship of the child under a child protection order; and

(b) the carer is not a provisionally approved carer; and

(c) either—

(i) the child protection order grants the chief executive long-term guardianship of the child; or

(ii) the stated reason for the decision is the carer is no longer a suitable person to have the care of the child or the carer is no longer able to meet the standards of care in the statement of standards for the child.

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Division 5 Property of child

92 Application of div 5

This division applies if, under a child protection order, the chief executive is granted custody or guardianship of a child.

93 Management of child's property by public trustee

(1) This section applies if—

(a) the child has an entitlement to property; and

(b) the chief executive has powers and duties in relation to the property; and

(c) the chief executive is satisfied it is in the child's best interests for the public trustee to manage the property.

(2) The chief executive may give written notice to the public trustee requiring the public trustee to manage the property for the child.

(3) On receipt of the notice, the public trustee becomes the manager of the property and has the powers and duties in relation to it under the *Public Trustee Act 1978*, part 6, as if the child were an incapacitated person.

94 Audit of trust by public trustee

(1) This section applies if the child is a beneficiary under a trust.

(2) For the *Public Trustee Act 1978*, section 60, the chief executive is a person interested in the trust.

Part 7 General

95 Report about person's criminal history etc.

(1) Subsection (2) applies if—

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(a) the chief executive intends to give a report or make a recommendation to the Childrens Court, or is asked or required by the court to give a report or make a recommendation to the court, about—

(i) a child's parents; or

(ii) a person to whom the court is considering granting custody or guardianship of a child; or

(b) the chief executive proposes to place a child who is in the chief executive's custody or guardianship in the care of an individual, other than an approved carer, who has agreed to care for the child (the ***proposed individual***).

Example for paragraph (b)—

A child is placed in the care of a member of the child's family as part of a plan for reunification with the child's parents.

(2) For ensuring the chief executive or court has all relevant information the chief executive or court needs for assessing the suitability of a person to have the custody, guardianship or care of a child who is found to be a child in need of protection, the chief executive may ask—

(a) the police commissioner to give the chief executive a written report about the criminal history and domestic violence history of—

(i) the parents, person to whom the court is considering granting custody or guardianship or an adult member of the parents' or person's household; or

(ii) the proposed individual or an adult member of the proposed individual's household; and

(b) the chief executive for transport to give the chief executive a written report about the traffic history of the parents, person to whom the court is considering granting custody or guardianship of the child or proposed individual.

(3) Also, for the purpose of making any other decision under this Act, the chief executive may—

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(a) ask the police commissioner to give the chief executive a written report about the criminal history and domestic violence history of—

(i) a parent of the child; or

(ii) an adult member of a parent's household; or

(iii) an adult against whom an allegation of harm or risk of harm to a child has been made; and

(b) ask the chief executive for transport to give the chief executive a written report about the traffic history of a parent of the child.

(4) The police commissioner or chief executive for transport must comply with a request under subsection (2) or (3).

(5) Subsections (2)(a) and (3)(a) apply to the criminal history or domestic violence history in the police commissioner's possession or to which the police commissioner has access.

(6) Subsection (4) applies despite the *Transport Operations (Road Use Management) Act 1995*, section 77.

(7) Subsection (8) applies to a person in relation to whom the police commissioner must give a report mentioned in subsection (2) or (3).

(8) Also, the police commissioner may give the chief executive a copy of, or extract from, the police commissioner's records in relation to—

(a) the commission or alleged commission of the following offences by the person—

(i) a personal offence against anyone;

(ii) an offence against the *Drugs Misuse Act 1986*;

(iii) an offence against section 162, 164, 166, 167 or 168; or

(b) an application for a protection order under the *Domestic and Family Violence Protection Act 2012* in which the person is an aggrieved or respondent under that Act.

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97 Carrying out medical examinations or treatment

(1) This section applies if—

(a) an authorised officer or police officer—

(i) takes a child into the chief executive's custody; and

(ii) seeks medical examination of, or treatment for, the child; or

Note—

Under section 18(7), an authorised officer or police officer may arrange for a child's medical examination or treatment.

(b) a child is in the chief executive's custody under this Act and the chief executive seeks medical examination of, or treatment for, the child; or

(c) an order for a child authorises the child's medical examination or treatment.

Note—

Under section 28(1)(b) a temporary assessment order may authorise the medical examination or treatment of the child. Also, under section 45(1)(b) a court assessment order may authorise the medical examination or treatment of the child.

(2) A health practitioner may medically examine or treat the child.

(3) Subsection (2) applies even though the child's parents have not consented to the examination or treatment.

(4) However, subsection (2) is subject to the rights the child has in relation to the examination or treatment.

(5) Also, the health practitioner may only carry out medical treatment that is reasonable in the circumstances.

(6) If this section applies because of subsection (1)(a) or (b) or because of an order mentioned in subsection (1)(c) that is an assessment order, the health practitioner must give the chief executive or police commissioner a report about the medical examination or treatment.

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(7) For the purpose of deciding any liability in relation to the carrying out of the examination or treatment, the health practitioner is taken to have the consent of the child's parents to the examination or treatment.

(8) In this section—

treatment includes vaccination.

98 Carrying out social assessments

(1) If, on an application for a child protection order, the Childrens Court makes an order requiring a social assessment of the child and the child's family, an appropriately qualified practitioner may carry out the social assessment.

Note—

See section 68(1)(a).

(2) The practitioner does not incur liability for an act or omission done or omitted to be done honestly and without negligence in carrying out the social assessment.

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

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(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.

Chapter 2A Tribunal proceedings

Part 1 Preliminary

99A Application of ch 2A

This chapter applies to a proceeding before the tribunal that relates to this Act.

99B Definitions for ch 2A

In this chapter—

president means the president under the QCAT Act.

registrar means the principal registrar under the QCAT Act.

reviewable decision includes a reviewable decision under the *Public Guardian Act 2014*, section 128.

review application means an application made, as provided under the QCAT Act, for review of a reviewable decision by the tribunal.

separate representative see section 99Q(3).

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support person means a person allowed by the tribunal under the QCAT Act, section 91 to attend a hearing for the purpose of supporting a party or witness.

99C Object of ch 2A

The object of this chapter is to provide for the tribunal—

(a) to make decisions in a review that promote the welfare and best interests of the child about whom the reviewable decision was made; and

(b) to conduct proceedings in a way that uses adversarial and inquisitorial procedures, as appropriate, to arrive at the best possible decision in the circumstances; and

(c) to foster an atmosphere of review that enhances the delivery of services to children.

99D Tribunal to have regard to particular principles

In exercising its jurisdiction, functions or powers in relation to this Act, the tribunal must have regard to the principles mentioned in sections 5A to 5C, to the extent the principles are relevant.

Part 2 Tribunal proceedings

99E Registrar to give notice of review application

(1) The registrar must give notice of a review application to the decision-maker.

(2) Within 7 days after receiving the notice, the decision-maker must give the registrar notice of the names and addresses of all persons, apart from the applicant—

(a) who are entitled to apply for a review of the reviewable decision concerned; and

(b) of whom the decision-maker is aware.

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(3) The tribunal may shorten the period for giving the decision-maker's notice to the registrar.

(4) The tribunal may act under subsection (3) only if satisfied that not to do so will result in a child's interests being adversely affected or another party to the review suffering hardship.

(5) For subsection (2), a person's entitlement to apply for a review is taken to be unaffected by the ending of the period of 28 days mentioned in the QCAT Act, section 33(3).

(6) Immediately on receipt of the decision-maker's notice, the registrar must give an information notice to each person named in the decision-maker's notice.

(7) The information notice must state—

(a) details of the review application; and

(b) that the person may elect to become a party to the review and the period within which the notice of election must be filed under section 99ZB; and

(c) how the person may elect to become a party to the review.

99F Review applications by public guardian

(1) This section applies if the applicant for a review application is the public guardian.

(2) The review application must be made within 28 days after the public guardian gives notice under the *Public Guardian Act 2014*, section 133(4) to the chief executive about the reviewable decision.

99G Government entity may nominate decision-maker

The department may give the registrar a notice nominating an officer or employee of the department, or the holder for the time being of an office in the department, as the decision-maker for a review.

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99H Constitution of tribunal

(1) The tribunal must be constituted by 3 members with at least 1 legally qualified member.

(2) A compulsory conference must be heard by at least 2 members, at least 1 of whom is a legally qualified member.

(3) If a child to which a proceeding before the tribunal relates is Aboriginal or Torres Strait Islander, the tribunal hearing the proceeding must include, if practicable, a member who is Aboriginal or Torres Strait Islander.

(4) The president may choose a member to constitute the tribunal for a proceeding to which this part applies only if the president considers the member—

(a) is committed to the principles mentioned in sections 5A to 5C; and

(b) has extensive professional knowledge and experience of children; and

(c) has demonstrated a knowledge of and has experience in 1 or more of the fields of administrative review, child care, child protection, child welfare, community services, education, health, indigenous affairs, law, psychology or social work.

(5) A member is ineligible to be a constituting member for a review of a reviewable decision if the member—

(a) has been refused a certificate of approval, or a renewal of a certificate of approval, as an approved carer; or

(b) has had a certificate of approval as an approved carer cancelled.

(6) In this section—

member has the meaning given by the QCAT Act.

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99I Power of tribunal to stay operation of decision limited in particular circumstances

(1) This section applies if the tribunal is constituted by less than 3 members for a compulsory conference.

(2) The tribunal may, under the QCAT Act, section 22(3), only make an order staying the operation of a reviewable decision if the relevant decision-maker for the reviewable decision does not oppose the staying of the decision's operation.

99J Proceedings relating to this Act must usually be held in private

(1) A hearing of a proceeding before the tribunal to which this part applies must be held in private.

(2) However, the following are entitled to be present at the proceeding—

(a) each party to the proceeding;

(b) if, under an Act, a party is entitled to be represented by someone else at the proceeding, the party's representative;

(c) a separate representative representing a child in the proceeding;

(d) the public guardian;

(e) a witness while giving evidence;

(f) a support person for a witness, while the witness is giving evidence;

(g) a person allowed to be present by the tribunal.

(3) This section is subject to the QCAT Act, section 220.

Editor's note—

QCAT Act, section 220 (Tribunal may exclude person)

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99K When proceeding may be held in public

Despite section 99J, the tribunal may allow a proceeding before the tribunal to be held in public if information identifying, or likely to lead to the identification of, a particular child will not be given in the proceeding.

99L Adjournments

(1) In considering whether to adjourn a proceeding before the tribunal involving a child, the tribunal must take into account any impact that adjourning the proceeding will have on the child.

(2) When it adjourns a proceeding, the tribunal must—

(a) give reasons for the adjournment; and

(b) state any matters it requires a party to the proceeding to address during the adjournment; and

(c) give directions and make orders it considers necessary or desirable.

99M When matter before court

(1) Subsection (2) applies if—

(a) a review application is before the tribunal; and

(b) some or all the matters to which the reviewable decision relates are also before a court.

(2) A legally qualified member of the tribunal must suspend the tribunal's review if the member considers—

(a) the court's decision about the matters would effectively decide the same issues to be decided by the tribunal; and

(b) the matters will be dealt with quickly by the court.

(3) If a legally qualified member acts under subsection (2), the court decides the matters and the decision effectively decides the issues before the tribunal, the member must dismiss the review application.

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(4) Subsection (5) applies if—

(a) a legally qualified member has suspended the tribunal's review; and

(b) the matters have not been decided by the court.

(5) The member may cancel the suspension and the tribunal may continue to deal with the review application.

(6) A legally qualified member may act under subsection (2), (3) or (5) on the member's own initiative or on application by a party to the review.

99MA Suspension of review proceeding if court may deal with contact matter

(1) This section applies if—

(a) the chief executive makes a reviewable decision under section 87(2) about contact between a child and the child's parents or members of the child's family; and

(b) a review application for the reviewable decision is made; and

(c) a proceeding for the review application (the ***review proceeding***) is before the tribunal; and

(d) the applicant is also a party to a child protection proceeding relating to the child before the Childrens Court.

(2) If the chief executive becomes aware the circumstances mentioned in subsection (1) have arisen, the chief executive must notify the tribunal registrar.

(3) After the tribunal registrar is notified—

(a) a legally qualified member of the tribunal must suspend the review proceeding; and

(b) the tribunal registrar must notify the parties to the review proceeding and the court registrar of the suspension; and

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(c) the chief executive must notify the parties to the child protection proceeding of the suspension.

(4) While the review proceeding is suspended, the court may make an order that the subject matter of the reviewable decision may be dealt with by the tribunal in the review proceeding.

(5) The court registrar must—

(a) if the court makes an order under subsection (4)—give the tribunal registrar a copy of the order; or

(b) if the court adjourns the child protection proceeding and makes an interim contact order—give the tribunal registrar a copy of the interim contact order; or

(c) if the court decides the child protection proceeding without making an order under subsection (4) or an interim contact order—notify the tribunal registrar of that action.

(6) If the tribunal registrar is notified that the court has acted in a way mentioned in subsection (5)(a) or (c)—

(a) a legally qualified member of the tribunal must cancel the suspension of the review proceeding; and

(b) the tribunal registrar must notify the parties to the review proceeding that the proceeding is no longer suspended.

(7) If the tribunal registrar is notified that the court has made an interim contact order—

(a) a legally qualified member of the tribunal must dismiss the review application; and

(b) the tribunal registrar must notify the parties to the review proceeding of the dismissal.

(8) This section does not affect the tribunal's power to dismiss the review application apart from this section.

(9) In this section—

court registrar means the registrar of the Childrens Court.

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interim contact order means an order under section 67(1)(b) or 68(1)(c) about the subject matter of the reviewable decision mentioned in subsection (1)(a).

party, to a child protection proceeding, includes—

(a) a separate representative for the child in the proceeding; and

(b) a person taking part in the proceeding under an order in force under section 113.

tribunal registrar means the principal registrar under the QCAT Act.

99N Compulsory conferences

(1) This section applies to a compulsory conference under the QCAT Act to which the parties to a proceeding before the tribunal have been directed to attend by the tribunal or principal registrar.

(2) In addition to anything the person presiding over the conference may do under the QCAT Act, the person may do 1 or more of the following—

(a) identify information to be given to the tribunal by the parties;

(b) give the parties information about the tribunal's practice and procedures;

(c) refer the parties to alternative dispute resolution.

(3) Also, the person presiding over the conference may meet with a party separately—

(a) if the person considers doing so may avoid the escalation of conflict between the parties; or

(b) if the party is a child and the person considers doing so is in the child's best interests having regard to the child's views and wishes.

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Part 3 Children in tribunal proceedings

99O Requirements about ensuring proper understanding of tribunal proceedings

(1) In addition to the QCAT Act, section 29 the tribunal must take all reasonable steps to ensure each child taking part in a proceeding before the tribunal, who is not a party to the proceedings, understands the tribunal's procedures.

(2) Also, a child entitled to start, or participate in, a proceeding before the tribunal—

(a) should be given the information and help necessary for the child to do so; and

(b) should have access to appropriate representation.

99P Review applications on behalf of children

(1) A person, other than the public guardian, may file a review application on behalf of a child only with the president's permission.

(2) The president may give permission only if the president considers—

(a) the person is not, on the person's own behalf, entitled to apply for the decision to be reviewed by the tribunal; and

(b) it is in the child's best interests that the application be made; and

(c) it would be inappropriate for, or unreasonable to require, the child to make the application himself or herself.

(3) An applicant, other than the public guardian, may withdraw a review application filed on behalf of a child only with the permission of the president or the tribunal.

(4) The president or tribunal may give permission under subsection (3) only if the president or tribunal considers that,

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having regard to the child's views or wishes, if any, it is in the child's best interests that the application be withdrawn.

99Q Separate representation of children

(1) This section applies if a reviewable decision is about a child and the decision is the subject of a review application.

(2) Also, this section applies whether or not the child—

(a) is a party to a proceeding before the tribunal; or

(b) is represented by a lawyer or someone else under the QCAT Act, section 43.

(3) The tribunal must consider whether it would be in the child's best interests for the child to be separately represented under this section before the tribunal by a lawyer (a ***separate representative***).

(4) If the tribunal considers it would be in the child's best interests for the child to be separately represented under this section before the tribunal by a lawyer, the tribunal must order that the child be represented by a separate representative.

(5) A separate representative may represent more than 1 child in the same proceeding before the tribunal.

(6) A separate representative must—

(a) act in the child's best interests having regard to any expressed views or wishes of the child; and

(b) as far as possible, present the child's views and wishes to the tribunal.

(7) For the QCAT Act, a separate representative has the same rights and obligations as a party to the review.

99R Separate representative must not be called to give evidence

A separate representative must not, in any proceeding before the tribunal, be called to give evidence, and if called must not give evidence, about a communication between the

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representative and the child for whom the representative was appointed.

99S Representation of children

(1) This section applies if a party to a proceeding before the tribunal is a child who is represented by a separate representative under section 99Q.

(2) In the proceeding, the party may also be represented by a lawyer or someone else under the QCAT Act, section 43.

99T Children must not be compelled to give evidence

(1) A child must not be compelled to give evidence in a proceeding before the tribunal.

(2) Without limiting subsection (1), the tribunal may not require a child to do either of the following under the QCAT Act, section 97(1)—

(a) attend a hearing of a proceeding to give evidence;

(b) produce a stated document or other thing to the tribunal.

(3) Before a child gives evidence in a proceeding, the tribunal must satisfy itself that the child is willing to give the evidence.

99U Child's right to express views to tribunal

(1) This section applies if a reviewable decision is about a child and the decision is being reviewed by the tribunal.

(2) Whether or not the child is a party to the review or appears as a witness before the tribunal, the child has the right to express his or her views to the tribunal about matters relevant to the review.

99V Children giving evidence or expressing views to tribunal

(1) This section applies if a child is giving evidence or expressing the child's views to the tribunal.

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(2) Only the following persons may be present while the child gives evidence or expresses the child's views—

(a) the constituting members;

(b) the lawyer, if any, representing the child;

(c) the separate representative, if any, for the child;

(d) the child's support person if the child has a support person and agrees to that person's presence;

(e) the public guardian.

(3) Despite subsection (2), the child may elect to give evidence or express the child's views in the presence of the parties and their representatives if the child—

(a) is 12 years or more; and

(b) is represented by a lawyer or a separate representative.

99W Questioning of children

(1) A child giving evidence or expressing the child's views in a proceeding before the tribunal must not be cross-examined.

(2) Also, only the following persons may ask questions of a child giving evidence or expressing the child's views in a proceeding—

(a) the constituting members;

(b) the lawyer, if any, representing the child;

(c) the separate representative, if any, for the child.

99X Provisions applying if party to review is a child who is a parent of the child about whom the reviewable decision was made

(1) This section applies if—

(a) a party to a proceeding before the tribunal to have a reviewable decision reviewed is—

(i) a child; and

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(ii) a parent of the child about whom the reviewable decision was made; and

(b) in the proceeding the parent elects to give evidence.

(2) Sections 99V and 99W do not apply to the parent.

(3) Before the parent gives evidence, the tribunal must tell the parent that—

(a) he or she may be cross-examined by the tribunal or a party to the proceeding; and

(b) he or she may, at any time while the cross-examination is continuing, refuse to be further cross-examined; and

(c) if he or she acts under paragraph (b), this may affect the weight given by the tribunal to his or her evidence.

Part 4 Medical examinations

99Y President or tribunal may authorise medical examination of child

(1) For a review, the president or the tribunal may, by order, authorise a medical examination of a child and require a report of the examination to be filed with the registrar.

(2) The order must state the particular issues the report must address.

(3) The president or tribunal must not make the order unless the president or tribunal is satisfied—

(a) the medical information, if any, available to the tribunal about the child is insufficient to allow the tribunal to decide the review; and

(b) the child's interests will be best served by making the order.

(4) In deciding whether the child's interests will be best served by making the order, the president or tribunal must consider the child's views and wishes, if any, and the effect the medical

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examination may have on the child having regard to the number and frequency of any previous medical examinations the child has undergone.

99Z Carrying out medical examinations

(1) This section applies if an order under section 99Y authorises a child's medical examination.

(2) A doctor may medically examine the child.

(3) Subsection (2) applies even though the child's parents or guardian has not consented to the examination.

(4) However, subsection (2) is subject to the rights the child has in relation to the examination.

(5) For deciding any liability in relation to the carrying out of the examination, the doctor is taken to have the consent of the child's parents or guardian to the examination.

Part 5 Parties

99ZA Parties to review

The parties to a review are—

(a) the applicant for the review; and

(b) the decision-maker; and

(c) a person who elects to become a party under section 99ZB; and

(d) a person joined as a party under section 99ZC.

99ZB Certain persons may elect to become parties

(1) This section applies to a person who is given an information notice under section 99E(6).

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(2) The person may elect to become a party to the review to which the notice relates by filing a notice of election with the registrar.

(3) The notice of election must be filed with the registrar within 7 days after the person receives the information notice.

(4) The tribunal may shorten the period for filing the notice of election.

(5) The tribunal may act under subsection (4) only if satisfied that not to do so will result in a child's interests being adversely affected or another party to the review suffering hardship.

99ZC Joinder of person as party to review

(1) The tribunal may join a person as a party to a review if it is satisfied the person is genuinely concerned in the subject matter of the review.

(2) However, if the review concerns a child, the tribunal may not join a person as a party unless it is satisfied that to do so would be in the child's best interests.

(3) The tribunal may join a person as a party to the review on its own initiative or on application by the person.

(4) The tribunal may join a person as a party to the review at any time before the review application is finally decided by the tribunal.

Part 6 Confidentiality

99ZD Confidentiality order

(1) The tribunal may, by order (a ***confidentiality order***), prohibit or restrict the disclosure to a party to a proceeding before the tribunal of all or some of the evidence given before the tribunal, or of the whole or part of the contents of a document given to, or received in evidence by, the tribunal for the review.

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(2) Subsection (3) applies for the purpose of the tribunal—

(a) deciding whether to make a confidentiality order; or

(b) giving effect to a confidentiality order.

(3) The tribunal may—

(a) exclude a party, and any representative of the party, from part of the proceeding before the tribunal; or

(b) deal with a document in a way that ensures it is not disclosed to a party.

(4) The tribunal may make a confidentiality order only if it is satisfied that if it does not do so—

(a) a child is likely to be harmed; or

(b) the safety of another person is likely to be endangered; or

(c) there would be undue interference with the privacy of a child or another person.

(5) The tribunal may act under subsection (1) on its own initiative or on application by a party to the proceeding before the tribunal.

(6) A confidentiality order does not act to prohibit or limit the disclosure of material to a separate representative in a proceeding before the tribunal.

99ZE Limited access to tribunal's register of proceedings

(1) This section applies to the register of proceedings kept by the principal registrar under the QCAT Act, section 229(1).

(2) Despite the QCAT Act, section 229(2) the principal registrar must ensure that part of the register which relates to proceedings before the tribunal to which this part applies is not available for inspection by the public.

(3) The QCAT Act, section 229(4) does not apply to that part of the register which relates to proceedings before the tribunal to which this part applies.

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99ZF Limited access to tribunal's record of proceedings

(1) This section applies to a record kept under the QCAT Act, section 230 for a proceeding before the tribunal to which this part applies.

(2) Despite the QCAT Act, section 230(3) a person who is not a party to the proceeding may not inspect, or obtain a copy of, the record or a part of the record.

99ZG Certain information not to be published

(1) A person must not publish—

(a) information given in evidence or otherwise in a proceeding before the tribunal; or

(b) information that is likely to identify a person who—

(i) appears as a witness before the tribunal in a proceeding; or

(ii) is a party to the proceeding; or

(iii) is mentioned, or otherwise involved, in the proceeding.

Maximum penalty—

(a) for a corporation—1,000 penalty units; or

(b) for an individual—100 penalty units or 2 years imprisonment.

(2) Subsection (1)(a) does not apply to—

(a) a person if the tribunal or the president of the tribunal consents to the publication of the information by the person; or

(b) the tribunal publishing its final decision in a proceeding, with or without the reasons for the decision.

(3) The tribunal or the president may only consent to the publication as mentioned in subsection (2) if the tribunal or the president is satisfied the publication of the information—

(a) is in the public interest; and

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(b) does not conflict with the best interests of the child.

(4) In this section—

information includes—

(a) a matter contained in a document filed with, or received by, the tribunal; and

(b) the tribunal's decision or reasons for a decision.

publish, for information, means to publish it to the public by way of the internet, newspaper, radio, television or other form of communication.

Part 7 Ensuring tribunal decisions and recommendations are given effect

99ZH Application of pt 7

(1) This part applies to each decision of the tribunal on a review application other than a decision to confirm the reviewable decision.

(2) This part also applies to recommendations made by the tribunal, after reviewing a reviewable decision, to the chief executive about policies, practices and procedures of the entity relevant to the making of reviewable decisions.

99ZI Requests to chief executive

The president may ask the chief executive to notify the president, within a reasonable stated time—

(a) of the steps taken to give effect to the tribunal's decision; or

(b) of the steps taken to give effect to the tribunal's recommendations and, if no steps have been taken, the reasons for this.

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99ZJ What happens if decision not given effect etc.

(1) This section applies if the president, after considering the response of the chief executive given under section 99ZI, is of the opinion that—

(a) the tribunal's decision has not been given effect; or

(b) no steps have been taken to give effect to the tribunal's recommendations or the steps taken are inadequate or inappropriate.

(2) The president may report on the matter to the Minister responsible for the department.

(3) The president must attach the following to the report—

(a) if the report is about the tribunal's decision—copies of the decision and response;

(b) if the report is about the tribunal's recommendations—copies of the recommendations and response.

Chapter 3 Court proceedings

Part 1 Preliminary

100 Application of ch 3

This chapter applies to a proceeding under this Act.

101 Definition for ch 3

In this chapter—

order means a court assessment order or child protection order.

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Part 2 Jurisdiction

102 Court's jurisdiction and constitution

(1) The Childrens Court must be constituted by a judge when exercising its jurisdiction to hear appeals against decisions of the court constituted in another way.

(2) The Childrens Court must be constituted by a judge or magistrate when exercising its jurisdiction to decide applications for child protection orders.

(3) The Childrens Court must be constituted by a judge or magistrate or 2 justices of the peace (magistrates court) when exercising its jurisdiction to—

(a) decide applications for court assessment orders; or

(b) make interim orders on applications for court assessment orders or child protection orders or adjourn the hearing of the applications.

Note—

Under the *Acts Interpretation Act 1954*, section 24AA, the court has power to amend or repeal an instrument or decision it is authorised or required to make. The power is exercisable in the same way, and subject to the same conditions, as the power to make the instrument or decision.

(4) Subsection (3) has effect despite the *Justices of the Peace and Commissioners for Declarations Act 1991*, section 29(4).

Note—

Under the *Justices of the Peace and Commissioners for Declarations Act 1991*, section 29(4), the exercise of powers of justices of the peace (magistrates court) constituting a court are limited unless expressly provided in the Act conferring powers on the justices.

103 Court's jurisdiction unaffected by pending criminal proceeding

(1) The Childrens Court's jurisdiction is not affected merely because a criminal proceeding is pending against—

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(a) the child concerned; or

(b) a parent of the child; or

(c) another party to the proceeding in the court; or

(d) anyone else.

(2) Subsection (1) applies whether or not the criminal proceeding has arisen out of the same or similar facts as those out of which the proceeding in the court has arisen.

Part 3 Procedural provisions

Division 1 Court's procedures

104 Court must have regard to particular principles and state reasons

(1) In exercising its jurisdiction or powers, the Childrens Court must have regard to the principles stated in sections 5A to 5C, to the extent the principles are relevant.

(2) When making a decision under this Act, the Childrens Court must state its reasons for the decision.

105 Evidence

(1) In a proceeding, the Childrens Court is not bound by the rules of evidence, but may inform itself in any way it thinks appropriate.

(2) If, on an application for an order, the Childrens Court is to be satisfied of a matter, the court need only be satisfied of the matter on the balance of probabilities.

106 Court to ensure parties understand proceeding

(1) In a proceeding for a child, the Childrens Court must, as far as practicable, ensure the child's parents and other parties to the

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proceeding (including the child if present) understand the nature, purpose and legal implications of the proceeding and of any order or ruling made by the court.

(2) If the child, parent of a child or other party to a proceeding has a difficulty communicating in English or a disability that prevents him or her from understanding or taking part in the proceeding, the Childrens Court must not hear the proceeding without an interpreter to translate things said in the proceeding or a person to facilitate his or her taking part in the proceeding.

107 Expert help

(1) In a proceeding on an application for an order, the Childrens Court may appoint a person having a special knowledge or skill to help the court.

(2) The court may act under subsection (1) on the court's own initiative or on the application of a party to the proceeding.

Division 2 Right of appearance and representation at hearing

108 Right of appearance and representation

(1) In a proceeding on an application for an order for a child—

(a) the child may appear in person or be represented by either or both of the following—

(i) a lawyer engaged as the child's direct representative to act on the child's instructions;

(ii) a lawyer appointed under section 110 to act in the child's best interests; and

(b) the child's parents and other parties may appear in person or be represented by a lawyer.

(2) Also, if the child's parents for any reason can not appear in person, another person appointed in writing by the parents

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may, with the leave of the court, present their views and wishes.

108B Right of appearance of public guardian

(1) The public guardian may appear in a proceeding on an application for an order for a child.

(2) If the public guardian intends to appear at a proceeding, the public guardian must give written notice of the intention to the registrar of the Childrens Court at the place where the hearing is to be conducted within a reasonable time before the hearing of the application starts.

(3) However, a failure to give notice as required under subsection (2) does not prevent the public guardian appearing at the hearing.

(4) A reference in this part to the public guardian includes a reference to someone authorised in writing by the public guardian for this part.

(5) A person authorised in writing by the public guardian for this part must, if asked, produce evidence of the authorisation.

108C Public guardian's role at hearing

(1) The public guardian's role in a proceeding on an application for an order for a child is—

(a) to support the child by presenting the child's views and wishes to the Childrens Court; and

(b) to make submissions, call witnesses and test evidence, including by cross-examining witnesses.

(2) The public guardian's role in the proceeding is not diminished even if there is a direct representative or separate representative for the child.

(3) The public guardian is not a party to the proceeding.

(4) The public guardian's role in the proceeding ends when the application is decided or withdrawn.

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108D Access

(1) This section applies if, in a proceeding in the Childrens Court on an application for an order for a child, a document is before the court.

(2) The public guardian may access a document, and make copies of the document, if a party to the proceeding may also access the document.

(3) Without limiting section 108C(1)(b), the public guardian may make submissions about a document accessed under this section.

(4) In this section—

document includes information.

109 Legal representation of child's parents

(1) If, in a proceeding on an application for an order for a child, a parent of the child appears in the Childrens Court but is not represented by a lawyer, the court may continue with the proceeding only if it is satisfied the parent has had reasonable opportunity to obtain legal representation.

(2) Subsection (1) does not prevent the court exercising powers under chapter 2, part 5, division 1.

110 Appointment of a separate representative

(1) If, in a child protection proceeding, the Childrens Court considers it is necessary in the child's best interests for the child to be separately represented by a lawyer, the court may—

(a) order that the child be separately represented by a lawyer (the child's ***separate representative***); and

(b) make any other orders it considers necessary to secure the child's separate legal representation.

(2) Without limiting subsection (1), the court must consider making an order for the child to have a separate representative

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if the proceeding concerns an application that is contested by the child's parents or opposed by the child.

(3) The rules of court may prescribe matters that the court must consider when deciding whether to make an order for the child to have a separate representative.

(4) If a separate representative is appointed, he or she must—

(a) to the extent that is appropriate, taking into account the child's age and ability to understand—

(i) meet with the child; and

(ii) explain the separate representative's role; and

(iii) help the child take part in the proceedings; and

(b) as far as possible, present the child's views and wishes to the court.

(5) The separate representative must act in the child's best interests regardless of any instructions from the child.

(6) The separate representative is not a party to a proceeding on the application but—

(a) must do anything required to be done by a party; and

(b) may do anything allowed to be done by a party.

(7) The parties to the proceeding must act in relation to the proceeding as if the separate representative were a party to the proceeding.

(8) The separate representative's role ends when—

(a) the application is decided or withdrawn; or

(b) if there is an appeal in relation to the application—the appeal is decided or withdrawn.

111 Legal representation of more than 1 child

(1) A lawyer may represent more than 1 child in the same proceeding.

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(2) However, if the court considers a lawyer should not represent more than 1 child because of a conflict of interest, or a possible conflict of interest, the court may order that a child be represented by another lawyer.

112 Child can not be compelled to give evidence

(1) In a proceeding on an application for an order for a child, the child may only be called to give evidence with the leave of the Childrens Court.

(2) The court may grant leave only if the child—

(a) is at least 12 years; and

(b) is represented by a lawyer; and

(c) agrees to give evidence.

(3) If the child gives evidence, he or she may be cross-examined only with the leave of the court.

113 Court may allow non-parties to take part in proceedings

(1) This section applies in relation to a proceeding on an application for an order for a child.

(2) On application by a person who is not a party, the court may, by order, allow the person to take part in the proceeding by doing all or some of the things that a party is or may be allowed to do.

(3) Before deciding the application, the court must—

(a) give the other parties a reasonable opportunity to make submissions about the person's participation; and

(b) consider—

(i) the extent to which the person may be able to inform the court about a matter relevant to the proceeding; and

(ii) the person's relationship with the child.

(4) An order allowing the person to take part in the proceeding—

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(a) must state—

(i) how the person may take part; and

(ii) whether the participation is allowed until the proceeding ends or only for a stated part of the proceeding; and

(b) may be subject to conditions; and

(c) may require the person to do a thing that a party is or may be required to do; and

(d) may provide that a stated provision of this Act, or all provisions, apply in relation to the person as if the person were a party.

(5) This Act applies in relation to the person, as if the person were a party, to the extent provided in the order.

(6) The person may be represented by a lawyer for the purpose of taking part in the proceeding.

Division 3 General

114 Transfer of proceedings

(1) If a magistrate constituting the Childrens Court is of the opinion a proceeding before the magistrate should be heard by the court constituted by a magistrate at another place, the magistrate may order that the proceeding be transferred to the court constituted by a magistrate at the other place.

(2) A magistrate may act under subsection (1) on the magistrate's own initiative or on the application of a party to the proceeding.

115 Hearing of applications together

(1) The Childrens Court may hear 2 or more applications for orders together if the court considers it is in the interests of justice to do so.

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(2) Subsection (1) applies even though the parties, or all of the parties, to the proceedings are not the same.

(3) The court may decide to act under subsection (1), at any time before the applications are decided, on its own initiative or on the application of a party to the proceeding.

116 Costs

The parties to a proceeding in the Childrens Court for an order must pay their own costs of the proceeding.

Part 4 Court appeals

117 Who may appeal

(1) The following persons may appeal to the appellate court against a decision on an application for a temporary assessment order or a temporary custody order for a child—

(a) the applicant;

(b) the child;

(c) the child's parents.

(2) A party to the proceeding for an application for a court assessment order or child protection order for a child may appeal to the appellate court against a decision on the application.

118 How to start appeal

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

(2) The appellant must serve a copy of the notice on the other persons entitled to appeal against the decision.

(3) The notice of appeal must be filed within 28 days after the decision is made.

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(4) The court may at any time extend the period for filing the notice of appeal.

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

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.

119 Stay of operation of decisions

(1) The appellate court may stay a decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

(a) may be given on the reasonable conditions the court considers appropriate; and

(b) operates for the period fixed by the court; and

(c) may be revoked or amended by the court.

(3) However, the period of a stay must not extend past the time when the court decides the appeal.

(4) An appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed.

120 Hearing procedures

(1) An appeal against a decision of a magistrate on an application for a temporary assessment order or a temporary custody order is not restricted to the material before the magistrate.

(2) An appeal against another decision must be decided on the evidence and proceedings before the Childrens Court.

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

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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

(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

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(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.

Chapter 4 Regulation of care

Part 1 Standards of care

122 Statement of standards

(1) The chief executive must take reasonable steps to ensure a child placed in care under section 82(1) is cared for in a way that meets the following standards (the ***statement of standards***)—

(a) the child's dignity and rights will be respected at all times;

(b) the child's needs for physical care will be met, including adequate food, clothing and shelter;

(c) the child will receive emotional care that allows him or her to experience being cared about and valued and that contributes to the child's positive self-regard;

(d) the child's needs relating to his or her culture and ethnic grouping will be met;

(e) the child's material needs relating to his or her schooling, physical and mental stimulation, recreation and general living will be met;

(f) the child will receive education, training or employment opportunities relevant to the child's age and ability;

(g) the child will receive positive guidance when necessary to help him or her to change inappropriate behaviour;

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(h) the child will receive dental, medical and therapeutic services necessary to meet his or her needs;

(i) the child will be given the opportunity to participate in positive social and recreational activities appropriate to his or her developmental level and age;

(j) the child will be encouraged to maintain family and other significant personal relationships;

(k) if the child has a disability—the child will receive care and help appropriate to the child's special needs.

(2) For subsection (1)(g), techniques for managing the child's behaviour must not include corporal punishment or punishment that humiliates, frightens or threatens the child in a way that is likely to cause emotional harm.

(3) For subsection (1)(j), if the chief executive has custody or guardianship of the child, the child's carer must act in accordance with the chief executive's reasonable directions.

(4) The application of the standards to the child's care must take into account what is reasonable having regard to—

(a) the length of time the child is in the care of the carer or care service; and

(b) the child's age and development.

Part 2 Licensing of care services and approval of carers

Division 1 Preliminary

123 Purpose of pt 2

The purpose of this part is to provide a system of licensing services, and approving individuals, to provide care for children to enable the chief executive to ensure the care of

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children in the chief executive's custody or guardianship meets the standards of care in the statement of standards.

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.

Division 2 Licensing of care services

124 Individuals can not hold licences

An individual is not eligible to hold a licence.

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125 Application for, or renewal of, licence

(1) An application for, or renewal of, a licence to provide care services must—

(a) be made by a corporation; and

(b) be made to the chief executive in the approved form; and

(c) nominate an adult to be nominee for the licence; and

(d) be accompanied by a notice that—

(i) is signed by the nominee for the licence; and

(ii) states whether or not, for each person mentioned in section 126(b)(i) or (ii), the person holds a working with children authority or negative notice; and

(iii) if the person holds a working with children authority—states the expiry date for the authority; and

(iv) if the person does not hold a working with children authority—states whether or not the person has made a working with children check application and whether the application has been decided or withdrawn; and

(e) if the application is for renewal of a licence—be made at least 30 days before the licence ends.

(2) The application form approved by the chief executive may require the disclosure of the domestic violence history and traffic history of a person to whom section 142A(a) applies.

126 Restrictions on granting application

The chief executive must not grant the application unless the chief executive is satisfied—

(a) the applicant is a suitable entity to provide care services; and

(b) the following persons are suitable persons—

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(i) the directors of the applicant;

(ii) the nominee for the licence;

(iii) the persons who will be, or are, responsible for directly managing a care service the subject of the application;

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

(c) each person mentioned in paragraph (b)(i) or (ii) holds a working with children authority; and

(d) the applicant will comply with the *Working with Children Check Act 2000*, chapter 7, in carrying on a regulated business or employing persons in regulated employment under that Act; and

(e) the standard of care provided complies, and will continue to comply, with the statement of standards; and

(f) methods for the selection, training and management of people engaged in providing the services are suitable; and

(g) the applicant's primary function is a function relating to the care of children in need of protection who are in the custody or guardianship of the chief executive; and

(h) any accommodation provided by the applicant to children in need of protection is, and will continue to be, at a place that the applicant has a suitable right to occupy.

Example of a place that an applicant has a suitable right to occupy—

residential premises leased, rented or owned by the applicant

Example of a place that an applicant does not have a suitable right to occupy—

a motel room booked by the applicant

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127 Grant of application

(1) If the chief executive decides to grant the application, the chief executive must issue and give to the applicant a licence.

(2) The licence may be issued subject to the reasonable conditions the chief executive considers appropriate.

(3) The licence must be in the approved form.

(4) The approved form must provide for the inclusion of the following—

(a) the licensee's name;

(b) the name of the nominee for the licence;

(c) the address of the licensed premises;

(d) any conditions of the licence.

128 Duration of licence

The licence or its renewal has effect for 3 years.

129 Refusal of application

(1) If the chief executive decides to refuse the application, the chief executive must give written notice of the decision to the applicant.

(2) The notice must—

(a) be given within 10 days after the decision is made; and

(b) state the reasons for the decision; and

(c) unless the application is refused because a person mentioned in section 126(b)(i) or (ii) does not hold a working with children authority—

(i) state the applicant may apply to the tribunal to have the decision reviewed; and

(ii) state how, and the time within which, the applicant may apply to have the decision reviewed; and

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(iii) state any right the applicant has to have the operation of the decisions stayed.

129A Licensee's obligations

A licensee must ensure that—

(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

(c) for carrying on a regulated business or employing persons in regulated employment under the *Working with Children Check Act 2000*—the *Working with Children Check Act 2000*, chapter 7 is complied with.

130 Nominees

(1) The nominee for a licence is responsible for ensuring the licensee complies with section 129A unless—

(a) if the nominee is in a position to influence the conduct of the licensee in relation to the licensee's compliance—the nominee took reasonable steps to ensure the licensee complied; or

(b) the nominee was not in a position to influence the conduct of the licensee in relation to the licensee's compliance.

(2) An adult may be a nominee for more than 1 licence.

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Division 3 Approval of foster carers and kinship carers

131 Application of div 3

This division applies to—

(a) a certificate of approval as an approved foster carer (a ***foster carer certificate***); or

(b) a certificate of approval as an approved kinship carer (a ***kinship carer certificate***).

132 Holding a certificate

(1) Only an individual is eligible to hold a certificate.

(2) Two or more individuals may hold a certificate jointly.

(3) A person living with his or her spouse may only hold a certificate jointly with the spouse.

(4) A person may hold more than 1 kinship carer certificate.

133 Process for initial issue of a certificate

(1) A person may apply to the chief executive to be issued with a certificate.

(2) The application must be in the approved form.

(3) The approved form may require the disclosure of any of the following—

(a) the applicant's criminal history, domestic violence history and traffic history;

(b) the membership of the applicant's household;

(c) information of which the applicant is aware, or that the applicant reasonably suspects, about the criminal history, domestic violence history and traffic history of each member of the applicant's household;

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(d) information about whether the applicant and each adult member of the applicant's household either—

(i) holds a working with children authority or negative notice; or

(ii) has made a working with children check application;

(e) if the applicant or an adult member of the applicant's household holds a working with children authority—the expiry date for the authority.

(4) The application must be signed by the applicant and each adult member of the applicant's household.

Note—

Under division 7, the chief executive may obtain information about the applicant and adult members of the applicant's household direct from the police commissioner and the chief executive for transport.

(5) If the chief executive decides to grant the application, the chief executive must issue a certificate and give it to the applicant.

(6) The certificate may be issued subject to the reasonable conditions the chief executive considers appropriate.

(7) If it is a kinship carer certificate, it must relate only to the care of 1 child.

(8) The matters stated in the certificate must include the following—

(a) the approved carer's name;

(b) whether the carer is an approved foster carer or approved kinship carer;

(c) for a kinship carer certificate—the name of the child for whom the carer is approved;

(d) any conditions of the certificate;

(e) the day of its issue;

(f) the day on which it is due to expire (the ***expiry day***).

(9) The expiry day must be—

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(a) for a foster carer certificate—1 year from the day of issue; or

(b) for a kinship carer certificate—not more than 1 year from the day of issue.

(10) Subject to this Act, the certificate has effect until the expiry day.

134 Process to renew a certificate

(1) Before a certificate ends, the holder may apply to the chief executive to renew the certificate.

(2) The application must be in the approved form.

(3) The approved form may require the disclosure of a change to any of the following information that has not been previously notified to the chief executive—

(a) the applicant's criminal history, domestic violence history and traffic history;

(b) the membership of the applicant's household;

(c) information of which the applicant is aware, or that the applicant reasonably suspects, about the criminal history, domestic violence history and traffic history of a member of the applicant's household;

(d) information about whether the applicant and each adult member of the applicant's household either—

(i) holds a working with children authority or negative notice; or

(ii) has made a working with children check application;

(e) if the applicant or an adult member of the applicant's household holds a working with children authority—the expiry date for the authority.

(4) The application must be signed by the applicant and each adult member of the applicant's household.

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Note—

Under division 7, the chief executive may obtain information about the applicant and adult members of the applicant's household direct from the police commissioner and the chief executive for transport.

(5) If the chief executive decides to grant the application, the chief executive must issue a new certificate and give it to the applicant.

(6) The matters stated in the certificate must include the following—

(a) that it is a renewed certificate;

(b) the approved carer's name;

(c) whether the carer is an approved foster carer or approved kinship carer;

(d) for a kinship carer certificate—the name of the child for whom the carer is approved;

(e) any conditions of the certificate;

(f) the day of its issue;

(g) the day on which it is due to expire (the ***expiry day***).

(7) The conditions may only include conditions that applied immediately before the renewal.

Note—

The conditions may be changed by amending the certificate under division 4.

(8) The expiry day must be—

(a) for a foster carer certificate—3 years from the day of issue; or

(b) for a kinship carer certificate—not more than 3 years from the day of issue.

(9) Subject to this Act, the certificate has effect until the expiry day.

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135 Restrictions on granting application

(1) The chief executive must not grant an application for, or to renew, a certificate unless the chief executive is satisfied of the following matters—

(a) for a foster carer certificate—

(i) the applicant is a suitable person to be an approved foster carer; and

(ii) all members of the applicant's household are suitable persons to associate on a daily basis with children; and

(iii) the applicant and each adult member of the applicant's household hold a working with children authority; and

(iv) the applicant is able to meet the standards of care in the statement of standards; and

(v) the applicant is able to help in appropriate ways towards achieving plans for the protection of a child placed in the carer's care;

(b) for a kinship carer certificate—

(i) the applicant is kin to the child to whom the approval relates; and

(ii) the applicant is a suitable person to be an approved kinship carer for the child; and

(iii) all members of the applicant's household are suitable persons to associate on a daily basis with the child; and

(iv) the applicant and each adult member of the applicant's household hold a working with children authority; and

(v) the applicant is able to meet the standards of care in the statement of standards; and

(vi) the applicant is able to help in appropriate ways towards achieving plans for the child's protection.

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(2) However, subsection (1)(b)(ii) to (v) does not apply if the applicant is an approved kinship carer for 1 or more other children.

(3) In this section—

adult member, of an applicant's household, means a person who is an adult member of the household both at the time when the application is made and when it is decided.

136 Refusal of application

(1) If the chief executive decides to refuse an application for, or to renew, a certificate, the chief executive must give written notice of the decision to the applicant.

(2) The notice must—

(a) be given within 10 days after the decision is made; and

(b) state the reasons for the decision; and

(c) unless the application is refused because a person mentioned in section 135(1)(a)(iii) or (b)(iv) does not hold a working with children authority—

(i) state the applicant may apply to the tribunal to have the decision reviewed; and

(ii) state how, and the time within which, the applicant may apply to have the decision reviewed; and

(iii) state any right the applicant has to have the operation of the decisions stayed.

Division 3A Provisional approval of carers

136A Application and purpose of div 3A

(1) This division applies to a certificate of approval as a provisionally approved carer.

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(2) The purpose of this division is to enable the chief executive to give limited approval to a person to care for a particular child in circumstances where—

(a) the person has been provisionally assessed as suitable to care for the child; and

(b) it is not possible, or not in the child's best interests, for the child to be placed in the care of an approved kinship carer for the child, approved foster carer, entity conducting a departmental care service or licensee.

136B Holding a certificate

(1) Only an individual is eligible to hold a certificate.

(2) Two or more individuals may hold a certificate jointly.

(3) A person living with his or her spouse may only hold a certificate jointly with the spouse.

(4) A person may hold more than 1 certificate.

136C Basis for issuing a certificate

The chief executive may decide to issue a person with a certificate relating to the care of a particular child if—

(a) the chief executive proposes to place the child in care under this Act; and

(b) the person has applied for a certificate of approval as—

(i) an approved foster carer; or

(ii) an approved kinship carer for the child; and

(c) the application has not yet been decided; and

(d) the person agrees to being issued with a certificate of approval as a provisionally approved carer for the child; and

(e) the chief executive is satisfied of the following matters—

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(i) the person is a suitable person to be a provisionally approved carer for the child;

(ii) all members of the person's household are suitable persons to associate on a daily basis with the child;

(iii) the person is able to meet the standards of care in the statement of standards.

136D Issue of certificate

(1) If the chief executive makes a decision under section 136C, the chief executive must issue a certificate and give it to the applicant.

(2) The certificate may be issued subject to the reasonable conditions the chief executive considers appropriate.

(3) The certificate must relate only to the care of 1 child.

(4) The matters stated in the certificate must include the following—

(a) the approved carer's name;

(b) that it is a certificate of approval as a provisionally approved carer;

(c) the name of the child for whom the carer is approved;

(d) any conditions of the certificate;

(e) the day of its issue;

(f) the day on which it is due to expire (the ***expiry day***).

(5) The expiry day must be not more than 60 days from the day of issue.

(6) Subject to this Act, the certificate has effect until the earlier of the following days—

(a) the expiry day;

(b) the day the carer is—

(i) issued with a foster carer certificate or kinship carer certificate for the child; or

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(ii) given written notice that the carer's application for a foster carer certificate or kinship carer certificate for the child has been refused.

(7) If the approved carer starts to live with his or her spouse after the issue of the certificate but before its expiry day, the certificate continues to have effect until the day mentioned in subsection (6).

Division 4 Amendment, suspension, cancellation and surrender of authorities

Subdivision 1 Amendment

137 Amendment of authority on application of holder

(1) The holder of an authority may apply to the chief executive for an amendment of the authority.

(2) A certificate of approval as an approved kinship carer or a provisionally approved carer may not be amended to change the child for whom the carer is approved.

(3) The chief executive must consider the application and decide whether to grant or refuse it within 28 days after receiving it.

(4) If the chief executive is satisfied the amendment is necessary or desirable, the chief executive must grant the application.

(5) If the amendment is about changing the nominee for a licence, in deciding whether the amendment is necessary or desirable, the chief executive must consider—

(a) whether the proposed nominee is a suitable person; and

(b) whether the proposed nominee either—

(i) holds a working with children authority; or

(ii) has made a current working with children check application.

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(6) 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 for providing accommodation to children in need of protection.

(7) If the chief executive is not satisfied the amendment is necessary or desirable, the chief executive must—

(a) refuse the application; and

(b) give written notice to the applicant of the decision.

(8) The notice must—

(a) be given within 10 days after the chief executive decides to refuse the application; and

(b) state the reasons for the decision; and

(c) state the applicant may apply to the tribunal to have the decision reviewed; and

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(d) state how, and the time within which, the applicant may apply to have the decision reviewed; and

(e) state any right the applicant has to have the operation of the decisions stayed.

(9) Subsection (8)(c) and (d) does not apply to a provisional certificate.

138 Amendment of authority by the chief executive

(1) The chief executive may amend an authority at any time if—

(a) the holder agrees to the amendment; or

(b) the chief executive considers it is necessary or desirable because—

(i) the holder is not meeting the standards required under the authority or a condition of the authority; or

(ii) the holder has contravened a provision of this Act; or

(iii) the authority was issued because of a materially false or misleading representation or declaration (made either orally or in writing); or

(iv) of another circumstance prescribed under a regulation.

(2) 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

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(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.

(3) If the chief executive considers it necessary or desirable to amend an authority under subsection (1)(b) or (2), the chief executive must give the holder a written notice under this section.

(4) The notice must state the following—

(a) the proposed amendment and the grounds for the amendment;

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

(c) that the holder may make written representations to the chief executive to show why the authority should not be amended;

(d) the term, at least 28 days after the notice is given to the holder, within which the representations may be made.

(5) After the end of the term stated in the notice, the chief executive must consider the representations properly made by the holder.

(6) If the chief executive is satisfied the amendment is necessary or desirable, the chief executive must give written notice to the holder of the decision.

(7) The notice must—

(a) be given within 10 days after the decision is made; and

(b) state the reasons for the decision; and

(c) state the holder may apply to the tribunal to have the decision reviewed; and

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(d) state how, and the time within which, the holder may apply to have the decision reviewed; and

(e) state any right the holder has to have the operation of the decisions stayed.

(8) If the chief executive is not satisfied the amendment is necessary or desirable, the chief executive must, as soon as practicable, give written notice to the holder of the decision.

(9) The chief executive may not act under this section—

(a) to amend a certificate of approval to extend the period for which the certificate has effect; or

(b) to amend a provisional certificate.

138A Amendment of kinship carer certificate to extend its expiry day

(1) This section applies to a certificate of approval as an approved kinship carer.

(2) The chief executive may amend the certificate to extend its expiry day if—

(a) the certificate is still in force; and

(b) the chief executive is satisfied the amendment is appropriate and desirable to meet the needs of the child for whom the holder is approved; and

(c) the holder agrees to the amendment.

(3) The expiry day may only be extended to a day that is—

(a) for an initial certificate—not more than 1 year after the day it is issued; or

(b) for a renewed certificate—not more than 3 years after the day it is issued.

(4) In this section—

expiry day means the day on which the certificate is due to expire.

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138B Amendment of provisional certificate to extend its expiry day

(1) This section applies to a certificate of approval as a provisionally approved carer.

(2) The chief executive may amend the certificate to extend its expiry day if—

(a) the certificate is still in force; and

(b) the chief executive is satisfied the amendment is appropriate and desirable to meet the needs of the child for whom the holder is approved; and

(c) the holder agrees to the amendment.

(3) Despite section 136D(5), the expiry day may be extended to a day that is more than 60 days after the day the certificate was issued.

(4) The expiry day may not be extended by more than 30 days.

(5) The expiry day may only be extended once.

(6) In this section—

expiry day means the day on which the certificate is due to expire.

138C Other amendment of provisional certificate by the chief executive

(1) This section applies to a certificate of approval as a provisionally approved carer.

(2) The chief executive may amend the certificate at any time if—

(a) the holder agrees to the amendment; or

(b) the chief executive considers it is necessary or desirable because—

(i) the holder is not meeting the standards required under the certificate or a condition of the certificate; or

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(ii) the holder has contravened a provision of this Act; or

(iii) the certificate was issued because of a materially false or misleading representation or declaration (made either orally or in writing); or

(iv) the chief executive has obtained further information relating to the holder's application for a certificate of approval as an approved foster carer or approved kinship carer; or

(v) of another circumstance prescribed under a regulation.

(3) If the chief executive decides to amend the certificate under subsection (2)(b), the chief executive must give the holder a written notice stating—

(a) the amendment; and

(b) the reasons for the decision to make the amendment.

(4) This section does not apply to an amendment of the certificate to extend its expiry day.

Subdivision 2 Suspension or cancellation, other than immediate suspension or cancellation

139 Authority may be suspended or cancelled

(1) The chief executive may suspend or cancel an authority on the following grounds—

(a) if the authority is a licence—a relevant person, for the licence, is not a suitable person;

(b) if the authority is a certificate of approval as an approved foster carer—

(i) the holder of the certificate is not a suitable person to be an approved foster carer; or

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(ii) a member of the holder's household is not a suitable person to associate on a daily basis with children;

(c) if the authority is a certificate of approval as an approved kinship carer—

(i) the holder of the certificate is not a suitable person to be an approved kinship carer for the child to whom the approval relates; or

(ii) a member of the holder's household is not a suitable person to associate on a daily basis with the child to whom the approval relates;

(d) if the authority is a certificate of approval as a provisionally approved carer—

(i) the holder is not a suitable person to be a provisionally approved carer for the child to whom the approval relates; or

(ii) a member of the holder's household is not a suitable person to associate on a daily basis with the child to whom the approval relates; or

(iii) the chief executive has decided to refuse the holder's application for a certificate of approval as an approved foster carer or approved kinship carer;

(e) the holder is not meeting the standards required under the authority or another condition of the authority;

(f) the holder has contravened a provision of this Act;

(g) the authority was issued because of a materially false or misleading representation or declaration (made either orally or in writing);

(h) it is inappropriate for the holder to continue to hold the authority because of—

(i) information given to the chief executive under division 6 or the *Working with Children Check Act 2000*, other than information in relation to which

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the chief executive must suspend or cancel the authority under subdivision 3; or

(ii) a circumstance prescribed under a regulation.

(2) The chief executive may cancel a certificate of approval if the holder lives with the holder's spouse but does not hold the certificate jointly with the spouse.

(3) The chief executive may cancel a certificate of approval held jointly by 2 persons if—

(a) when the certificate was issued to them, they were spouses living together; and

(b) they have stopped being spouses or stopped living together; and

(c) the chief executive considers it inappropriate in all the circumstances for them to continue to jointly hold the certificate.

(4) However, if the holder of a certificate of approval mentioned in subsection (2) or (3) (the ***current certificate***) applies for another certificate of approval, the chief executive must not cancel the current certificate under subsection (2) or (3) until the application is decided.

(5) Also, the chief executive may suspend or cancel an authority if any of the following persons does not hold a working with children authority—

(a) if the authority is a licence—a relevant person for the licence;

(b) if the authority is a certificate of approval—the holder of the certificate or an adult member of the holder's household.

(6) Subsection (5) does not apply to an authority that may be suspended or cancelled under subdivision (3).

(7) In this section—

relevant person, for a licence, means—

(a) a director of the licensee; or

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(b) the nominee for the licence; or

(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.

140 Procedure for suspension or cancellation

(1) If the chief executive considers a ground exists to suspend or cancel an authority under section 139 (the ***proposed action***), the chief executive must give the holder written notice that states the following—

(a) the proposed action;

(b) the grounds for the proposed action;

(c) the facts and circumstances forming the basis for the grounds;

(d) if the proposed action is suspension of the authority, the proposed suspension period;

(e) that the holder may make, within a stated time of at least 28 days, written representations to show why the proposed action should not be taken.

(2) If, after considering all written representations made within the stated time, the chief executive still considers a ground to take the proposed action exists, the chief executive may—

(a) if the proposed action was to suspend the authority for a stated period—suspend the authority for not longer than the proposed suspension period; or

(b) if the proposed action was to cancel the authority—either cancel the authority or suspend it for a period.

(3) The chief executive must inform the holder of the decision by written notice.

(4) The notice must be given within 10 days after the chief executive makes the decision.

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(5) If the chief executive decides to suspend or cancel the authority, the notice must state—

(a) the reasons for the decision; and

(b) the holder may apply to the tribunal to have the decision reviewed; and

(c) how, and the time within which, the holder may apply to have the decision reviewed; and

(d) any right the holder has to have the operation of the decisions stayed.

(6) The chief executive must record particulars of the suspension or cancellation on the authority.

(7) This section does not apply to a provisional certificate.

140AA Procedure for suspension or cancellation of provisional certificate

(1) This section applies if the chief executive decides to suspend or cancel a certificate of approval as a provisionally approved carer.

(2) The chief executive must inform the holder of the decision by written notice, stating the reasons for the decision.

(3) The chief executive must record particulars of the suspension or cancellation on the authority.

(4) To remove any doubt, it is declared that the suspension or cancellation does not, of itself, affect the holder's application for a certificate of approval as an approved foster carer or approved kinship carer.

Subdivision 3 Immediate suspension or cancellation of particular authorities

140AB Definitions for sdiv 3

In this subdivision—

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apply for a review, of a decision under the *Working with Children Check Act 2000* to issue a negative notice, means apply to the tribunal under section 309(3) or 354 of that Act for a review of the decision.

approved carer does not include a provisionally approved carer.

prescribed provision means the *Working with Children Check Act 2000*, section 228 or 303.

prohibiting event, for a person, means—

(a) the person is issued with a negative notice other than—

(i) because the person's working with children authority was refused or cancelled under a prescribed provision; or

(ii) on cancellation of a working with children authority that is suspended; or

(b) the person's working with children authority is suspended; or

(c) the person's working with children check application is withdrawn.

relevant person—

(a) for an approved carer's certificate of approval—means a person who is a member of the carer's household; or

(b) for a licence—means the nominee for the licence or a director of the licensee.

140AC Immediate suspension

(1) Subsection (2) applies if a prohibiting event happens to—

(a) an approved carer, or a member of an approved carer's household; or

(b) the nominee for a licence, or a director of a licensee.

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(2) The chief executive must suspend the approved carer's certificate of approval or the licence as soon as practicable after becoming aware of the prohibiting event.

(3) Subsection (4) applies if a relevant person for an authority is issued with a negative notice under a prescribed provision.

(4) The chief executive must suspend the authority as soon as practicable after the day the negative notice is issued, unless the chief executive decides to cancel the authority under section 140AG(3) or 140AH(1).

(5) However, the chief executive must not suspend an authority because a prohibiting event happens to a relevant person for the authority, or the relevant person is issued with a negative notice under a prescribed provision, if the chief executive is satisfied the person is no longer a relevant person.

140AD Notice of suspension

(1) If a person's authority is suspended under this subdivision, the chief executive must immediately give written notice of the suspension to the person.

(2) The notice must state—

(a) that the authority is suspended under section 140AC; and

(b) the reason for the suspension.

(3) The suspension of the person's authority takes effect on the day the notice is given to the person.

140AE Period of suspension

The suspension of an authority remains in force until the earliest of the following to happen—

(a) the day on which the authority is due to expire under this Act;

(b) the suspension ends under section 140AF;

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(c) the authority is cancelled under section 140AG or 140AH.

140AF End of suspension

(1) The suspension of a person's authority ends if the person or relevant person is issued with a working with children authority.

(2) If an authority is suspended because a prohibiting event happens to a relevant person for the authority, or the relevant person is issued with a negative notice under a prescribed provision, the chief executive must end the suspension if satisfied the person is no longer a relevant person.

(3) If the chief executive ends the suspension of a person's authority under subsection (2)—

(a) the chief executive must give the person written notice that the suspension is ended; and

(b) the suspension ends on the day the notice is given to the person.

140AG Cancellation of certificate of approval

(1) If an approved carer is issued with a negative notice under a prescribed provision, the chief executive must cancel the carer's certificate of approval as soon as practicable after the day the notice is issued.

(2) If an approved carer's certificate of approval is suspended under this subdivision and the carer is issued with a negative notice, other than under a prescribed provision, the chief executive must cancel the certificate of approval as soon as practicable after—

(a) if the carer does not apply for a review of the decision to issue the notice—the end of the period in which the carer may apply for the review; or

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(b) if the carer applies for a review and the decision to issue the notice is upheld on the review—the day the decision is upheld.

(3) If a relevant person for an approved carer's certificate of approval is issued with a negative notice under a prescribed provision, the chief executive may cancel the certificate of approval after the day the notice is issued, whether or not the certificate has been suspended under this subdivision.

(4) If an approved carer's certificate of approval is suspended under this subdivision and a relevant person for the carer's certificate of approval is issued with a negative notice, other than under a prescribed provision, the chief executive may cancel the certificate of approval after—

(a) if the relevant person does not apply for a review of the decision to issue the notice—the end of the period in which the person may apply for the review; or

(b) if the relevant person applies for a review and the decision to issue the notice is upheld on the review—the day the decision is upheld.

(5) The chief executive must not cancel a certificate of approval under subsection (3) or (4) if satisfied the relevant person is no longer a member of the approved carer's household.

140AH Cancellation of licence

(1) If a relevant person for a licence is issued with a negative notice under a prescribed provision, the chief executive may cancel the licence after the day the notice is issued, whether or not the licence has been suspended under this subdivision.

(2) If a licence is suspended under this subdivision and a relevant person for the licence is issued with a negative notice, other than under a prescribed provision, the chief executive may cancel the licence after—

(a) if the relevant person does not apply for a review of the decision to issue the notice—the end of the period in which the person may apply for the review; or

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(b) if the relevant person applies for a review and the decision to issue the notice is upheld on the review—the day the decision is upheld.

(3) The chief executive must not cancel a licence under this section if satisfied the relevant person is no longer the nominee for the licence or a director of the licensee.

140AI Notice of cancellation

(1) If the chief executive cancels a person's authority under this subdivision, the chief executive must immediately give written notice of the cancellation to the person.

(2) The notice must state each of the following—

(a) that the authority is cancelled under section 140AG or 140AH;

(b) the reason for the cancellation;

(c) if the chief executive decides to cancel the authority under section 140AG(3) or (4) or 140AH—

(i) the person may apply to the tribunal to have the decision reviewed; and

(ii) how, and the time within which, the person may apply to have the decision reviewed; and

(iii) any right the person has to have the operation of the decisions stayed.

(3) The cancellation of the person's authority takes effect on the day the notice is given to the person.

Subdivision 4 Other matters about amendment, suspension or cancellation

140A Chief executive to give particular information to chief executive (employment screening)

(1) This section applies if the chief executive—

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(a) amends, suspends or cancels a person's certificate of approval under this division (a ***disciplinary action***); and

(b) reasonably believes the disciplinary action may be relevant to the functions or powers of the chief executive (employment screening) under the *Working with Children Check Act 2000*.

(2) The chief executive must give written notice of the disciplinary action to the chief executive (employment screening).

(3) A notice under subsection (2) must state the following—

(a) the person's name and address;

(b) the person's date and place of birth;

(c) that disciplinary action has been taken against the person, without stating anything further about the disciplinary action.

(4) Subsection (5) applies if the chief executive (employment screening)—

(a) requests further information about the disciplinary action; and

(b) notifies the chief executive that the person holds a working with children authority or has made a working with children check application.

(5) The chief executive must give the chief executive (employment screening) a written notice stating the following—

(a) the form of disciplinary action taken;

(b) when the conduct happened that constituted a ground for the disciplinary action;

(c) the nature of the conduct that constituted a ground for the disciplinary action;

(d) any other information about the disciplinary action the chief executive considers may be relevant to employment screening under the *Working with Children*

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Check Act 2000, chapter 8, including, for example, details about the nature of the disciplinary action.

(6) A notice given under subsection (2) or (5) must not contain information that identifies, or is likely to identify, a particular child.

(7) If the chief executive gives the chief executive (employment screening) information under subsection (5) about disciplinary action and the disciplinary action is set aside on review or appeal, the chief executive must notify the chief executive (employment screening) of the following—

(a) the disciplinary action has been set aside;

(b) the reasons given by the entity that set the disciplinary action aside for setting it aside.

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.

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141 Amendment, suspension and cancellation of other authorities

(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.

(2) The holder of the authority must, on receipt of written notice by the chief executive, give the authority to the chief executive within the period stated in the notice.

(3) The stated period must be—

(a) if the authority is a provisional certificate—not less than 2 days after the notice is given; or

(b) otherwise—not less than 7 days after the notice is given.

(4) If a suspended authority is returned to the chief executive, the chief executive must return it to the holder at the end of the suspension.

(5) A suspension or cancellation, other than under subdivision 3, takes effect on the later of—

(a) the day on which the notice is given; or

(b) if a later day is stated in the notice—the later day.

(6) If an authority is returned to the chief executive for amendment, the chief executive must—

(a) cancel the existing authority; and

(b) issue and give to the holder a new authority containing the amendment; and

(c) give the holder written notice stating—

(i) the old authority has been cancelled; and

(ii) the way in which the new authority is different from the old authority.

(7) The new authority—

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(a) takes effect on the later of—

(i) the day on which the notice is given to the holder; or

(ii) if a later day is stated in the notice—the later day; and

(b) has effect for the remainder of the term of the old authority.

(8) Subsection (7)(b) does not apply to an amendment of a certificate of approval to extend its expiry day under section 138A or 138B.

(9) In this section—

holder, of an authority, includes a former holder of an authority.

Subdivision 5 Surrender

141A Surrender of authorities

(1) The holder of an authority may surrender the authority by written notice given to the chief executive.

(2) The surrender takes effect—

(a) for a licence or certificate of approval as an approved foster carer—

(i) on the day that is 21 days after the notice is given to the chief executive; or

(ii) if a later day of effect is stated in the notice—on the later day; or

(b) for a certificate of approval as an approved kinship carer or provisionally approved carer—

(i) on the day the notice is given to the chief executive; or

(ii) if a later day of effect is stated in the notice—on the later day.

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(3) The holder must return the authority to the chief executive within 7 days after the day the surrender takes effect.

Division 5 Notification of changes relating to authority holders and associated persons

141B Meaning of *personal history*

(1) A person's ***personal history*** is—

(a) for the nominee for a licence or a person to whom section 141D applies—the person's domestic violence history and traffic history; or

(b) for an approved foster carer or kinship carer, or a member of the carer's household who holds a working with children authority—the person's domestic violence history and traffic history; or

(c) for a member of an approved foster carer's or kinship carer's household who does not hold a working with children authority—the person's criminal history, domestic violence history and traffic history; or

(d) for a provisionally approved carer or a member of the carer's household—the person's criminal history, domestic violence history and traffic history.

(2) A reference in this division to a change in a person's personal history includes, for a person who does not have a personal history, the acquisition of a personal history.

141C Personal history change—nominee

If there is a change in the personal history of the nominee for a licence, the nominee must immediately notify the chief executive, in the approved form, that the change has happened.

Maximum penalty—100 penalty units.

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141D Personal history change—other persons associated with a licence

(1) This section applies to each of the following persons in relation to a licensed care service—

(a) a person responsible for directly managing the service;

(b) a director of the licensee;

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

(2) If there is a change in the person's personal history, the person must immediately disclose to the nominee for the licence that there has been a change in the person's personal history.

Maximum penalty—100 penalty units.

(3) On receiving the disclosure, the nominee must immediately notify the chief executive, in the approved form, that there has been a change in the person's personal history.

Maximum penalty—100 penalty units.

(4) Subsection (2) does not apply if, immediately after the change, the person stops being a person mentioned in subsection (1).

(5) To remove any doubt, it is declared that it is not a requirement of subsection (2) that the person give the nominee any information about the change other than that a change has happened.

141E Personal history change—approved carer

If there is a change in an approved carer's personal history, the approved carer must immediately notify the chief executive, in the approved form, that the change has happened.

Maximum penalty—100 penalty units.

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141F Personal history change—other household members

(1) This section applies if an approved carer becomes aware of, or reasonably suspects there has been, a change in the personal history of a member of the carer's household.

(2) The approved carer must immediately notify the chief executive, in the approved form, that the change has happened or is suspected to have happened.

Maximum penalty—100 penalty units.

141G Approved carer must notify other changes

(1) This section applies to an approved carer if—

(a) a person becomes a member of the approved carer's household; or

(b) a person stops being a member of the approved carer's household; or

(c) a person becomes the approved carer's spouse; or

(d) a person stops being the approved carer's spouse.

(2) The approved carer must immediately give the chief executive notice of the matter in the approved form.

Maximum penalty—100 penalty units.

(3) The approved form must include provision for it to be signed by a person mentioned in subsection (1)(a) if the person is an adult.

(4) If an adult becomes a member of the approved carer's household, the approved carer does not commit an offence against subsection (2) only by giving a notice under subsection (2) that is not signed by the adult.

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Division 6 Notification of other information about licences and associated persons

141H Nominee for licence

(1) This section applies to the nominee for a licence if any of the following events happen—

(a) the nominee has made a working with children check application and the application is withdrawn;

(b) the nominee is charged with a disqualifying offence or convicted of a serious offence;

(c) the nominee must, under the *Working with Children Check Act 2000*, section 323, notify the chief executive (employment screening) of a change in police information under that Act;

(d) the nominee becomes aware a working with children check application made by a relevant person for the licence is withdrawn;

(e) the nominee becomes aware a relevant person for the licence—

(i) is charged with a disqualifying offence or convicted of a serious offence; or

(ii) is issued with a negative notice.

(2) The nominee must, immediately after the event happens, give the chief executive written notice of the event.

Maximum penalty—100 penalty units.

(3) For an event mentioned in subsection (1)(d) or (e), the notice must state—

(a) the relevant person's name and date of birth; and

(b) if the person holds a working with children authority—the registration number for the person's working with children card.

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(4) In this section—

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.

141I Director of licensee

(1) This section applies if any of the following events happen in relation to a director of a licensee—

(a) the director makes a working with children check application and the application is withdrawn;

(b) the director is charged with a disqualifying offence or convicted of a serious offence;

(c) the director must, under the *Working with Children Check Act 2000*, section 323, notify the chief executive (employment screening) of a change in police information under that Act.

(2) The director must immediately disclose to the nominee for the licence the fact that the event has happened.

Maximum penalty—100 penalty units.

(3) On receiving the disclosure, the nominee must immediately give the chief executive written notice of the event.

Maximum penalty—100 penalty units.

Division 7 Information sharing

142 Definition for division

In this division—

police information, about a person, means the following—

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(a) for an applicant for a certificate of approval who has, or to whom the chief executive proposes to issue, a provisional certificate—the person's criminal history and domestic violence history;

(b) for another applicant for a certificate of approval—the person's domestic violence history;

(c) for a holder of a foster carer or kinship carer certificate—the person's domestic violence history;

(d) for an adult member of the household of a person mentioned in paragraph (a)—the person's criminal history and domestic violence history;

(e) for an adult member of the household of a person mentioned in paragraph (b) or (c), other than an adult member to whom paragraph (f) or (g) applies—the person's domestic violence history;

(f) for a person who does not hold a working with children authority and becomes an adult member of the household of an applicant mentioned in paragraph (b) after the application is made—the person's criminal history and domestic violence history;

(g) for a person who does not hold a working with children authority and becomes an adult member of an approved foster carer's or kinship carer's household after the carer is issued with a certificate of approval—the person's criminal history and domestic violence history;

(h) for a person mentioned in section 142A(a)—the person's domestic violence history.

142A Persons whose suitability may be investigated

This division provides for the chief executive to obtain particular information to help in deciding, and monitoring, the suitability of—

(a) for a licence—

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(i) the person who will be or is responsible for directly managing a licensed care service operated under the licence; and

(ii) the directors of an applicant for the licence or the licensee; and

(iii) the nominee for the licence; and

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

(b) for a certificate of approval—

(i) an applicant for, or holder of, the certificate; and

(ii) another adult member of the household of an applicant for, or holder of, the certificate.

142B Obtaining traffic information

(1) The chief executive may ask the chief executive for transport for a written report about the traffic history of a person mentioned in section 142A.

(2) The chief executive for transport must comply with the request despite the *Transport Operations (Road Use Management) Act 1995*, section 77.

142C Obtaining police information from police commissioner

(1) The chief executive may ask the police commissioner for information, or for access to the police commissioner's records, to enable the chief executive to learn what police information exists, if any, in relation to a person mentioned in section 142A.

(2) If there is police information about the person, the chief executive may ask the police commissioner for a brief description of the circumstances of a conviction or charge mentioned in the police information.

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(3) The police commissioner must comply with a request under subsection (1) or (2).

(4) However, the duty imposed on the police commissioner to comply with a request for information applies only to information in the police commissioner's possession or to which the police commissioner has access.

142D Chief executive may enter into arrangement with police commissioner about giving and receiving information

(1) This section applies only to the extent that another provision under this Act allows the chief executive to give information to the police commissioner or the police commissioner to give information to the chief executive.

(2) The chief executive and the police commissioner may enter into a written arrangement by which the information is given or received.

(3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information, including on a daily basis.

(4) However, if information is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.

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—

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(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*.

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—

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(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).

Division 8 General

143 Effect of failure to decide application for, or for renewal of, authority

(1) If the chief executive fails to decide an application for an authority within 90 days after it is properly made—

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(a) the chief executive is taken to have decided to refuse the application; and

(b) the applicant is taken to have received notice of the decision at the end of the time.

(2) If an application is properly made for renewal of an authority, the authority is taken to continue to have effect from the day that it would, apart from this subsection, have ended until the application is decided.

(3) However, if the application is refused, the authority continues to have effect until notice of the decision is given to the applicant.

(4) Subsection (1) is subject to section 143A.

(5) Subsection (2) does not apply if the authority is earlier suspended or cancelled.

143A Further consideration of application for authority

(1) This section applies if the chief executive considers more time is needed to decide an application for an authority because of the nature of the matters that need to be considered in deciding it.

(2) The chief executive and the applicant may at any time before the end of 90 days after the application is properly made agree in writing to extend the period within which the application must be decided.

(3) The agreement must state the period of the extension.

(4) If the chief executive does not decide the application within the period as extended under subsection (2)—

(a) the chief executive is taken to have decided to refuse the application; and

(b) the applicant is taken to have received notice of the decision at the end of the period.

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144 Offence to contravene condition of licence

A licensee must not contravene a condition of the licence.

Maximum penalty—50 penalty units.

145 Authorised officer may require production of licence, approval etc.

(1) An authorised officer may—

(a) require a licensee or approved carer to produce to the officer—

(i) the person's licence or certificate of approval; or

(ii) a document required to be kept by the person under this Act; and

(b) inspect, take extracts from, make copies of or keep a document produced to the officer under paragraph (a).

(2) An authorised officer—

(a) may keep a document under subsection (1)(b) only to take copies of it; and

(b) must, as soon as practicable after taking the copies, return it to the person who produced it.

146 Authorised officer may enter and inspect licensed premises

(1) An authorised officer may, at any reasonable time, enter and inspect licensed premises to ensure this Act is being complied with.

(2) The officer may be accompanied by a police officer and may talk to anyone involved in providing the care service.

147 Regular inspections of licensed residential facilities

The chief executive must regularly inspect each licensed residential facility to assess whether the care provided to

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children in the facility meets the standards of care in the statement of standards.

148A Chief executive to notify chief executive (employment screening) about particular persons

(1) This section applies if—

(a) for a person who has applied for a certificate of approval—

(i) the person stops being an applicant for the certificate; or

(ii) a person stops being an adult member of the person's household; or

(iii) the chief executive refuses the person's application for the certificate; or

(b) for a person who is an approved carer—the person stops being an approved carer; or

(c) for a person who is an adult member of an approved carer's household—

(i) the person stops being a member of the household; or

(ii) the approved carer stops being an approved carer.

(2) The chief executive must as soon as practicable give the chief executive (employment screening) written notice of the fact.

(3) The notice must include—

(a) the person's name, address and date of birth; and

(b) if the person holds a working with children authority—the registration number for the person's working with children card.

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148B Obtaining particular information from chief executive (employment screening)

(1) The chief executive may ask the chief executive (employment screening) for the following information—

(a) information about whether a relevant person—

(i) holds a working with children authority or negative notice; or

(ii) holds a working with children authority that is suspended under the *Working with Children Check Act 2000*; or

(iii) has made a working with children check application;

(b) if the relevant person holds a working with children authority—the expiry date for the authority;

(c) if the relevant person holds a negative notice—the date of issue of the notice.

(2) The chief executive (employment screening) must comply with a request under subsection (1).

(3) In this section—

relevant person means—

(a) an applicant for a certificate of approval or an adult member of the applicant's household; or

(b) the nominee for, or a director of an applicant for or holder of, a licence.

Part 2A Prescribed delegates for Aboriginal or Torres Strait Islander children

148BA Definitions for part

In this part—

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appropriate Aboriginal or Torres Strait Islander entity means an entity—

(a) that has a function of providing services to Aboriginal persons or Torres Strait Islanders; and

(b) whose members include individuals who have appropriate knowledge of, or expertise in, child protection.

prescribed delegate, for an Aboriginal or Torres Strait Islander child, means a person to whom the chief executive has delegated, under section 148BB, a function or power in relation to the child.

148BB Chief executive may delegate functions or powers

(1) The chief executive may delegate 1 or more of the chief executive's functions or powers under this Act in relation to an Aboriginal or Torres Strait Islander child who is—

(a) a child in need of protection; or

(b) likely to become a child in need of protection.

(2) The delegation must—

(a) despite the *Acts Interpretation Act 1954*, section 27A(1)(b), state the name of the person to whom the function or power is delegated; and

(b) state the child's name; and

(c) state each function or power the person may perform or exercise in relation to the child; and

(d) state any conditions of the delegation.

(3) The chief executive may delegate a function or power to a person in relation to a child under subsection (1) only if—

(a) the person—

(i) is an Aboriginal or Torres Strait Islander person; and

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(ii) is the chief executive officer, however named, of an appropriate Aboriginal or Torres Strait Islander entity; and

(iii) holds a working with children authority; and

(b) the chief executive is reasonably satisfied the person—

(i) is appropriately qualified to perform the function or exercise the power in relation to the child; and

(ii) is a suitable person to perform the function or exercise the power in relation to the child.

(4) Before delegating a function or power to a person under subsection (1), the chief executive must—

(a) to the extent it is safe, possible and practical to do so, seek the views of the child and the parents of the child; and

(b) have regard to any views obtained under paragraph (a).

(5) The delegation does not take effect until the person has given the chief executive written notice that the person accepts the delegation.

148BC Actions by chief executive prevail

(1) This section applies if—

(a) the chief executive performs a function or exercises a power under this Act in relation to a child; and

(b) a prescribed delegate for the child performs the function or exercises the power in relation to the child in a way that results in an outcome that is inconsistent with the outcome of the performance of the function or exercise of the power by the chief executive.

(2) Despite the *Acts Interpretation Act 1954*, section 27A, the performance of the function or exercise of the power by the chief executive prevails to the extent of the inconsistency.

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148BD Withdrawal by prescribed delegate

(1) A prescribed delegate for an Aboriginal or Torres Strait Islander child may, at any time, withdraw the person's acceptance of the delegation by giving the chief executive written notice of the withdrawal.

(2) If the prescribed delegate gives the chief executive notice under subsection (1), the delegation ends.

(3) The delegation ends under subsection (2) on the later of the following—

(a) the day the notice is given to the chief executive;

(b) a later day stated in the notice.

(4) The chief executive must record—

(a) the notice given under subsection (1); and

(b) the day on which the delegation ends.

148BE Automatic ending of delegation

(1) This section applies if a prescribed delegate for an Aboriginal or Torres Strait Islander child—

(a) stops being the chief executive officer, however named, of an appropriate Aboriginal or Torres Strait Islander entity; or

(b) stops holding a working with children authority.

(2) The person must, as soon as practicable, give the chief executive written notice of that fact and the day on which the person—

(a) stopped being the chief executive officer, however named, of the entity; or

(b) stopped holding a working with children authority.

(3) The delegation of a function or power to the person by the chief executive under section 148BB ends.

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148BF Chief executive may require information about child

(1) The chief executive may ask a person who is or was a prescribed delegate for an Aboriginal or Torres Strait Islander child, orally or in writing, to give the chief executive stated information about the child within a stated reasonable time.

(2) The person must comply with the request.

(3) A person who gives information requested under subsection (1) who would otherwise be required to maintain confidentiality about the information given under an Act, oath, rule of law or practice—

(a) does not contravene the Act, oath, rule of law or practice by giving the information; and

(b) is not liable to disciplinary action for giving the information.

(4) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

148BG Chief executive may require information about delegate or proposed delegate

(1) The chief executive may ask a person to whom the chief executive proposes to delegate, or has delegated, a function or power under section 148BB for stated information about a matter mentioned in 148BB(3)(a).

(2) The person must comply with the request.

(3) The chief executive must request information mentioned in subsection (1) by giving the person a notice stating—

(a) the information the chief executive requires; and

(b) the day by which the person must give the information to the chief executive.

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(4) The day mentioned in subsection (3)(b) must be at least 14 days after the notice is given.

148BH Obligation to notify chief executive of changed or new qualifying information

(1) This section applies if there is a change in the information mentioned in section 148BB(3)(a) for—

(a) a person who has given the information to the chief executive under section 148BG(2); or

(b) a prescribed delegate for an Aboriginal or Torres Strait Islander child.

(2) The person must, as soon as practicable, give the chief executive a notice of the changed or new information.

148BI Giving information to proposed prescribed delegate

Before delegating a function or power to a person under section 148BB, the chief executive must give the person any information the chief executive has about the child that the person reasonably requires to make an informed decision about whether to accept the delegation.

Part 3 Application of Working with Children Check Act 2000

148C Application to licensed care service

(1) This section applies for the application of the *Working with Children Check Act 2000*.

(2) If a corporation carries on the business of a licensed care service, each of the following persons is taken to be also carrying on the business—

(a) the nominee for the licence;

(b) the directors of the licensee.

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148D Pending working with children check application

(1) Subsection (2) applies if, when a person turns 18 years—

(a) the person is a member of the household of an approved carer or an applicant for a certificate of approval; and

(b) the person does not hold a working with children authority; and

(c) the person has made a working with children check application.

(2) The *Working with Children Check Act 2000*, sections 175 and 176A do not apply in relation to the person as an adult member of the household until the application is decided or withdrawn.

Note—

See the *Working with Children Check Act 2000*, schedule 1, section 14(2) in relation to an adult member of an approved carer's household being taken to be engaged in regulated employment for that Act.

(3) Subsection (4) applies if—

(a) a corporation holds a licence; and

(b) a person becomes the nominee for the licence or a director of the corporation; and

(c) the person does not hold a working with children authority; and

(d) the person is an applicant for a working with children check application.

(4) The *Working with Children Check Act 2000*, section 176B does not apply in relation to the person as the nominee for the licence or a director of the corporation until the application is decided or withdrawn.

Note—

See section 148C of this Act and the *Working with Children Check Act 2000*, section 14 and schedule 1, section 24 in relation to a nominee or director of a corporation carrying on the business of a licensed care service being taken to be carrying on a regulated business under the *Working with Children Check Act 2000*.

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Part 4 Support and training for approved carers

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.

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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.

Chapter 5 Administration

Part 1 Authorised officers

149 Appointment

(1) The chief executive may appoint any of the following persons to be an authorised officer—

(a) an officer or employee of the department;

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(b) a person included in a class of persons declared by regulation to be eligible for appointment as an authorised officer.

(2) However, the chief executive may appoint a person to be an authorised officer only if—

(a) in the chief executive's opinion, the person has the necessary expertise or experience to be an authorised officer; or

(b) the person has satisfactorily finished training approved by the chief executive.

150 Limitation of powers

(1) The powers of an authorised officer may be limited—

(a) under a regulation; or

(b) under a condition of appointment; or

(c) by written notice of the chief executive given to the officer.

(2) Notice under subsection (1)(c) may be given orally, but must be confirmed in writing as soon as practicable after it is given.

151 Conditions of appointment

(1) An authorised officer holds office on the conditions stated in the officer's instrument of appointment.

(2) An authorised officer—

(a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and

(b) may resign by signed notice of resignation given to the chief executive.

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152 Identity card

(1) The chief executive must give each authorised officer an identity card.

(2) The identity card must—

(a) contain a recent photograph of the officer; and

(b) be signed by the officer; and

(c) identify the person as an authorised officer under this Act; and

(d) include an expiry date.

(3) A person who ceases to be an authorised officer must return his or her identity card to the chief executive within 21 days after the person ceases to be an authorised officer, unless the person has a reasonable excuse for not returning it.

Maximum penalty—40 penalty units.

(4) This section does not prevent the giving of a single identity card to a person for this Act and other Acts.

153 Production of identity card

(1) An authorised officer may exercise a power under this Act in relation to someone else (the ***other person***) only if the officer first produces his or her identity card for the other person's inspection.

(2) If, for any reason, it is not practicable to comply with subsection (1), the officer must produce the identity card for the other person's inspection at the first reasonable opportunity.

154 Authorised officer to give notice of damage

(1) This section applies if an authorised officer damages property in the exercise of a power under this Act.

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(2) The authorised officer must immediately give written notice of the particulars of the damage to the person who appears to the authorised officer to be the property's owner.

(3) If the authorised officer believes the damage was caused by a latent defect in the property or other circumstances beyond the authorised officer's control, the authorised officer may state this in the notice.

(4) If, for any reason, it is not practicable to comply with subsection (2), the authorised officer must—

(a) leave the notice at the place where the damage happened; and

(b) ensure the notice is left in a reasonably secured way in a conspicuous position.

(5) This section does not apply to damage the authorised officer believes, on reasonable grounds, is trivial.

155 Compensation

(1) A person may claim from the State the cost of repairing or replacing property damaged in the exercise or purported exercise of a power under this Act.

(2) The cost may be claimed and ordered to be paid in a proceeding—

(a) brought in a court of competent jurisdiction for the recovery of the amount claimed; or

(b) for an offence against this Act brought against the person claiming the amount.

(3) A court may order an amount be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

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Part 1A Honorary officers

155A Function

The function of an honorary officer is to assist the chief executive in the administration of this Act.

155B Appointment

(1) The chief executive may appoint a person to be an honorary officer.

(2) However, the chief executive may appoint a person to be an honorary officer only if, in the chief executive's opinion, the person is appropriately qualified to be an honorary officer.

(3) An honorary officer, while performing the function of an honorary officer, is taken to be employed by the chief executive.

155C Term

(1) An honorary officer holds office for the term, of no more than 2 years, stated in the instrument of appointment.

(2) An honorary officer stops holding office if the officer—

(a) completes a term of office; or

(b) resigns office by signed notice given to the chief executive; or

(c) is removed from office by the chief executive by signed notice given to the officer.

155D Conditions of appointment

(1) An honorary officer holds office on the conditions stated in the officer's instrument of appointment.

(2) A condition of an honorary officer's appointment may—

(a) limit the officer's function; or

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(b) require the officer to satisfactorily complete stated training.

Part 2 General

156 Delegation by chief executive

The chief executive may delegate the chief executive's powers under this Act, other than a power under chapter 4, part 2A, to an appropriately qualified officer or employee of the department.

157 Approved forms

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

159 Payments for care and maintenance

(1) The chief executive may pay the allowance decided by the chief executive to a child's carer, long-term guardian or permanent guardian for the child's care and maintenance.

(2) Also, the chief executive may pay the amount decided by the chief executive towards expenses incurred in the care and maintenance of a person who has been a child in the custody or under the guardianship of the chief executive to the person or the person's carer to help the person with the transition from being a child in care to independence.

(3) A payment may be made to the person or the person's carer under subsection (2) whether the person is a child or an adult.

(4) Subsections (1) and (2) have effect subject to appropriation by Parliament of an amount for the purposes.

(5) For subsection (1), the amount of the allowance must be worked out under a written policy of the department about the payment of allowances to carers, long-term guardians or permanent guardians for a child's care and maintenance.

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Chapter 5A Service delivery coordination and information sharing

Part 1 Preliminary

159A Purpose

The purpose of this chapter is to provide for the chief executive, authorised officers, prescribed entities and service providers to appropriately and effectively meet the protection and care needs of children and promote their wellbeing by—

(a) coordinating the delivery of services to children and families; and

(b) sharing information, while protecting the confidentiality of the information.

159B Principles for coordinating service delivery and sharing information

The principles underlying this chapter are as follows—

(a) the State is responsible for ensuring that children in need of protection receive protection and care services that ensure their safety and promote their wellbeing;

(b) the State is responsible for ensuring that children and families receive the family support services that they need in order to decrease the likelihood of the children becoming in need of protection;

(c) the chief executive has the primary responsibility for investigating, assessing and responding to allegations of harm to children, including by making plans for their protection and care;

(d) the chief executive, authorised officers, prescribed entities and service providers should contribute, within

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each entity's own sphere of responsibility, to assessing and meeting the protection and care needs of children and supporting their families;

(e) children in need of protection, and children who may become in need of protection, and their families should receive coordinated services that meet their needs in a timely and effective way;

(f) the entities mentioned in paragraph (d) should work collaboratively and in a way that respects the functions and expertise of each of the entities;

(g) whenever safe, possible and practical, consent should be obtained before—

(i) providing, or planning to provide, a service, help or support to a child or a child's family to decrease the likelihood of the child becoming a child in need of protection; or

(ii) disclosing personal information about a person to someone else;

(h) because a child's safety, wellbeing and best interests are paramount, the child's protection and care needs take precedence over the protection of an individual's privacy and the principle mentioned in paragraph (g);

(i) before disclosing information about a person to someone else, an entity should consider whether disclosing the information is likely to adversely affect the safety, wellbeing and best interests of a child or the safety of another person.

159BA Who is a *relevant child*

In this chapter—

relevant child means—

(a) a child in need of protection; or

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(b) a child who may become a child in need of protection if preventative support is not given to the child or the child's family.

159C Chief executive must make guidelines

(1) The chief executive must make guidelines, consistent with this Act, for sharing and dealing with information under parts 4 and 5.

(2) The purposes of the guidelines are to ensure—

(a) information is shared under parts 4 and 5 only for proper purposes; and

(b) to the greatest extent possible, the privacy of individuals is respected when sharing information under parts 4 and 5, having regard to the principles stated in sections 5A and 159B; and

(c) information shared under parts 4 and 5 is properly used, stored, retained and disposed of.

(3) The chief executive must publish the guidelines on the department's website.

159E Reference to family services

A reference in this part to providing a service to families includes providing a service to pregnant women.

Part 2 Service delivery coordination

159F General responsibilities

The chief executive, authorised officers, prescribed entities and service providers must take reasonable steps to coordinate decision-making and the delivery of services to relevant children and their families in order to appropriately and effectively meet the protection and care needs of children and support their families.

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159G Chief executive's responsibilities

(1) The chief executive is responsible for—

(a) ensuring ways exist to coordinate the roles and responsibilities of the chief executive, authorised officers, prescribed entities and service providers in promoting the protection of children, child protection services and family support services; and

(b) establishing ways to coordinate the roles and responsibilities of the chief executive, authorised officers, prescribed entities and service providers relating to—

(i) investigating and assessing particular cases of harm to children; and

(ii) taking action to secure the protection of children and promote their wellbeing.

(2) One of the ways in which the chief executive is to fulfil the responsibility under subsection (1)(b) is by establishing and participating in the SCAN system under part 3.

159H Chief executive may ask particular entities to provide a service

(1) This section applies only to the following entities—

(a) a licensee;

(b) the chief executive of a department that is mainly responsible for any of the following matters—

(i) adult corrective services;

(ii) community services;

(iii) disability services;

(iv) education;

(v) housing services;

(vi) public health;

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(ba) the chief executive officer of the Mater Misericordiae Health Services Brisbane Ltd (ACN 096 708 922);

(baa) a health service chief executive within the meaning of the *Hospital and Health Boards Act 2011*;

(c) the police commissioner.

(2) The chief executive may ask an entity to provide a service—

(a) to a child in need of protection, or a member of the child's family, to help meet the child's protection and care needs and promote the child's wellbeing; or

(b) to an individual, before the birth of a child, to help meet the child's protection and care needs and promote the child's wellbeing after the child is born.

(3) The entity must take reasonable steps to comply with the request so far as the request—

(a) is consistent with the entity's functions; and

(b) does not unreasonably affect the discharge of the entity's functions in relation to other persons or matters.

(4) The chief executive must give the entity the information it needs to comply with the request.

Part 3 The SCAN system

159I Establishment of system

The chief executive must establish a SCAN system under this part.

Note—

SCAN stands for 'Suspected Child Abuse and Neglect'.

159J Purpose

(1) The purpose of the SCAN system is to enable a coordinated response to the protection needs of children.

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(2) The purpose is to be achieved by facilitating—

(a) the sharing of information under part 4 between members of the system; and

(b) the planning and coordinating of actions to assess and respond to children's protection needs; and

(c) a holistic and culturally responsive assessment of children's protection needs.

159K Members

The members of the SCAN system are—

(a) the following entities (the ***core members***)—

(i) the chief executive;

(ii) the chief executive of the department mainly responsible for public health;

(iii) the chief executive of the department mainly responsible for education;

(iv) the police commissioner; and

(b) from time to time, other prescribed entities or service providers contributing to the operation of the system by invitation of the core members.

159L Responsibilities of the core members

The responsibilities of the core members are as follows—

(a) to contribute to the operation of the SCAN system through representatives who have appropriate knowledge and experience in child protection;

(b) to use their best endeavours to agree on recommendations to give to the chief executive about assessing and responding to the protection needs of particular children and, for that purpose, to—

(i) share information about the children, their families and other persons; and

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(ii) identify relevant resources of members or other entities;

(c) to take the action required under the recommendations;

(d) to monitor the implementation of the recommendations and review their effectiveness;

(e) to invite and facilitate contributions from other prescribed entities or service providers with knowledge, experience or resources that would help achieve the purpose of the SCAN system.

Part 4 Information sharing

159M Definitions for part

In this part—

prescribed entity means each of the following entities—

(a) the chief executive of a department that is mainly responsible for any of the following matters—

(i) adult corrective services;

(ii) community services;

(iii) disability services;

(iv) education;

(v) housing services;

(vi) public health;

(b) the police commissioner;

(c) the chief executive officer of Mater Misericordiae Ltd (ACN 096 708 922);

(d) a health service chief executive within the meaning of the *Hospital and Health Boards Act 2011*;

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(e) the principal of an accredited school under the *Education (Accreditation of Non-State Schools) Act 2017*;

(f) a specialist service provider;

(g) the chief executive of another entity that—

(i) provides a service to children or families; and

(ii) is prescribed by regulation.

service provider means—

(a) a person providing a service to children or families; or

(b) a licensee; or

(c) an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child.

specialist service provider means a non-government entity, other than a licensee or an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child, funded by the State or the Commonwealth to provide a service to—

(a) a relevant child; or

(b) the family of a relevant child.

159MA Sharing information—reporting suspicion to chief executive

A prescribed entity or service provider (each a ***holder***) may give a prescribed entity or service provider (each a ***recipient***) information if the holder reasonably believes the information may help the recipient—

(a) decide whether information about suspected harm or risk of harm to a child should be given to the chief executive; or

(b) decide whether information about an unborn child who may need protection after birth should be given to the chief executive.

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159MB Sharing information—assessment or investigation

(1) A prescribed entity or service provider (each a ***holder***) may give the chief executive or an authorised officer (each a ***recipient***) information if the holder reasonably believes the information may help the recipient—

(a) investigate an allegation of harm or risk of harm to a child or assess a child's need for protection; or

(b) take action, or decide whether the recipient reasonably suspects a child is in need of protection, under section 14; or

(c) investigate or assess, before the birth of a child, the likelihood that the child will need protection after the child is born.

(2) The chief executive or an authorised officer (each also a ***holder***) may give a prescribed entity or a service provider information (each also a ***recipient***) if the holder reasonably believes giving the information may help the recipient decide whether to give the holder information under subsection (1).

159MC Sharing information—assessing care needs and planning services

(1) A prescribed entity or service provider (each a ***holder***) may give the chief executive or an authorised officer information if the holder reasonably believes the information may help the chief executive or authorised officer—

(a) develop, or assess the effectiveness of, a child's case plan; or

(b) assess or respond to the health, educational or care needs of a relevant child; or

(c) otherwise make plans or decisions relating to, or provide services to, a relevant child or the child's family; or

(d) offer help and support to a pregnant woman under section 22.

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(2) The chief executive, an authorised officer or a prescribed entity (each also a ***holder***) may give a prescribed entity or a service provider (each a ***recipient***) information if the holder reasonably believes the information may help the recipient—

(a) participate in case planning; or

(b) assess or respond to the health, educational or care needs of a child in need of protection; or

(c) otherwise make plans or decisions relating to, or provide services to, a child in need of protection or the child's family; or

(d) help the chief executive offer help and support to a pregnant woman under section 22.

(3) A service provider may give a prescribed entity information if the service provider reasonably believes the information may help the prescribed entity do a thing mentioned in subsection (2)(a) to (d).

159MD Sharing information—decreasing likelihood of child becoming in need of protection

(1) The chief executive, an authorised officer or a prescribed entity (each a ***holder***) may give a prescribed entity or a service provider (each a ***recipient***) information if the holder reasonably believes the information may help the recipient—

(a) assess or respond to the health, educational or care needs of a child to decrease the likelihood of the child becoming a child in need of protection; or

(b) otherwise make plans or decisions relating to, or provide or offer to provide services to, a child or the child's family to decrease the likelihood of the child becoming a child in need of protection.

(2) A service provider may give a prescribed entity information if the service provider reasonably believes the information may help the prescribed entity do a thing mentioned in subsection (1)(a) or (b).

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159ME Sharing information—facilitating participation of child or child's family

(1) The chief executive or an authorised officer (each a ***holder***) may give an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child information if the holder reasonably believes the information may help the independent Aboriginal or Torres Strait Islander entity—

(a) facilitate the participation of the child or the child's family in making plans or decisions relating to the child or the child's family; or

(b) provide, or offer to provide, services to the child or the child's family.

(2) An independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child may give the chief executive or an authorised officer (each a ***recipient***) information about the child if the independent Aboriginal or Torres Strait Islander entity reasonably believes the information may help—

(a) the child or the child's family participate in making plans or decisions relating to the child or the child's family; or

(b) the chief executive provide, or offer to provide, services to the child or the child's family.

159MF Facts or opinions may be shared

Information that may be given to an entity under this part may be comprised of facts or opinions.

159N Information requirement made by chief executive or authorised officer

(1) The chief executive or an authorised officer may ask any of the following entities for stated information, about a child or another person or an unborn child, in the entity's possession or control—

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(a) the public guardian;

(b) a prescribed entity;

(c) a licensee;

(d) the person in charge of a student hostel.

(1A) For subsection (1), the stated information must be information the chief executive or authorised officer reasonably considers relevant for the performance of a function or exercise of a power under this Act.

(2) The entity must comply with the request to the extent it relates to information in the entity's possession or control.

(2A) For subsection (2), information is not taken to be in the entity's control merely because of an agreement between the entity and another entity under which the other entity must give the information to the entity.

(3) Subsection (2) does not apply to information if the entity reasonably considers that—

(a) giving the information could reasonably be expected to—

(i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or

(ii) prejudice an investigation under the *Coroners Act 2003*; or

(iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or

(iv) endanger a person's life or physical safety; or

(v) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; and

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(b) it would not be in the public interest to give the information.

(4) A person does not commit an offence merely by failing to comply with subsection (2).

159NA Limits on information that may be shared

(1) Despite sections 159MA to 159N, information may not be shared under this part to the extent it relates to—

(a) a conviction included in a person's criminal history—

(i) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and

(ii) that is not revived as prescribed by section 11 of that Act; or

(b) an expunged conviction or expunged charge.

(2) In this section—

expunged charge see the *Criminal Law (Historical Homosexual Convictions Expungement) Act 2017*, schedule 1.

expunged conviction see the *Criminal Law (Historical Homosexual Convictions Expungement) Act 2017*, schedule 1.

Part 5 Release of health information or information relevant to coronial investigation

159O Release of information by a health services designated person

(1) A health services designated person may, for this Act, give a relevant person or the Childrens Court confidential information if—

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(a) for a relevant person or the Childrens Court—the information is relevant to the protection or wellbeing of a child; or

(b) for a relevant person who is the chief executive and without limiting paragraph (a)—the information is relevant to the chief executive's review under chapter 7A.

(2) Subsection (1)(a) includes the giving of information, before a child is born, that is relevant to the protection or wellbeing of the child after he or she is born.

(3) This section does not limit a power or obligation under this chapter to give information.

(4) In this section—

confidential information see the *Hospital and Health Boards Act 2011*, schedule 2.

designated person see the *Hospital and Health Boards Act 2011*, schedule 2.

health services designated person means a designated person.

relevant person means—

(a) the chief executive; or

(b) an authorised officer; or

(c) a police officer.

159P Release of information for reporting or investigating a death under the Coroners Act

(1) If a child dies, the chief executive may give the information mentioned in subsection (2) to—

(a) a police officer investigating the death; or

(b) a coroner investigating the death; or

(c) a police officer helping a coroner investigating the death.

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(2) The information that may be given is information about any of the following matters—

(a) whether, before the death, the child or a sibling of the child was a child in care;

(b) whether the chief executive became aware, before the death happened, of alleged harm or alleged risk of harm to the child or a sibling of the child and, if so—

(i) the identity of a notifier; and

(ii) other information about how or when the chief executive became aware;

(c) action taken by the chief executive, before the child's death, relating to the child or a sibling of the child.

(3) The coroner or police officer to whom the information is given and anyone else to whom the information is subsequently given under this subsection—

(a) must not use or disclose the information other than—

(i) for a purpose of the coroner's investigation; or

Example—

The coroner orders a doctor to perform an autopsy as part of the coroner's investigation of the child's death and, for that purpose, gives the information to the doctor. The doctor may include the information in the doctor's autopsy report under the *Coroners Act 2003*, section 25.

(ii) in the case of a police officer—

(A) assessing whether the death should be reported to a coroner; or

(B) reporting the death to a coroner; or

(C) giving the information to a coroner to whom the death is being, or has been, reported; or

(iii) as otherwise required or permitted under this or another Act; and

(b) if the information includes the identity of a notifier, must not disclose the identity to anyone unless—

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(i) for a disclosure by the coroner—the coroner is satisfied that disclosure of the identity is of critical importance for the investigation; or

(ii) for disclosure by anyone else—the disclosure is to a coroner or a coroner approves the disclosure on the basis mentioned in subparagraph (i).

(4) In this section—

child in care means a child mentioned in the *Coroners Act 2003*, section 9(1)(d).

notifier means a notifier under section 186 or the *Public Health Act 2005*, section 196.

sibling includes a half-sibling and a stepsibling.

Part 6 Protection from liability and interaction with other laws

159Q Protection from liability for giving information

(1) This section applies if a person, acting honestly, gives information in compliance with this chapter.

(2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.

(3) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

(4) Without limiting subsections (2) and (3)—

(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—

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(i) does not contravene the Act, oath or rule of law or practice by giving the information; and

(ii) is not liable to disciplinary action for giving the information.

159R Interaction with other laws

(1) This chapter does not limit a power or obligation under another Act or law to give information.

(2) This chapter applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.

Examples of other laws for subsection (2)—

- *Education (General Provisions) Act 2006*, section 426
- *Hospital and Health Boards Act 2011*, section 142(1)
- *Youth Justice Act 1992*, section 288
- *Police Service Administration Act 1990*, section 10.1

(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.

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Chapter 6 Enforcement and legal proceedings

Part 1 Offences

160 Obstruction of authorised officer etc.

(1) A person must not obstruct an authorised officer or police officer in the exercise of a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) However, a child does not commit an offence against subsection (1) merely because the child resists being taken into custody under this Act for the child's protection or being moved to a safe place under section 21.

161 Impersonation of authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty—40 penalty units.

162 Offence to remove child from carer

(1) This section applies if a child is in the chief executive's custody or guardianship under an assessment order, temporary custody order or child protection order or in the chief executive's custody under a care agreement.

(2) A person must not—

(a) unlawfully remove the child from the care of the child's carer; or

(b) if the child has been unlawfully removed from the care of the child's carer—keep the child; or

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(c) if the child has been lawfully removed from the care of the child's carer—keep the child beyond the period allowed for the removal.

Maximum penalty—150 penalty units or 18 months imprisonment.

(3) Subsection (2) applies whether the removal or keeping of the child is carried out within or outside Queensland.

(4) If the child is in the chief executive's custody under a care agreement, subsection (2) does not apply to a party to the agreement.

163 Offence to remove child from carer—order made in another State

(1) This section applies if an interstate officer for another State has responsibility for the custody or guardianship of a child, however that responsibility is described, under an order made under a child welfare law or interstate law of that State.

(2) A person must not, in Queensland—

(a) unlawfully remove the child from the care of the child's carer; or

(b) if the child has been unlawfully removed from the care of the child's carer—keep the child; or

(c) if the child has been lawfully removed from the care of the child's carer—keep the child beyond the period allowed for the removal.

Maximum penalty—150 penalty units or 18 months imprisonment.

(3) In this section—

carer, of a child, means the entity in whose care the child has been placed under the law of the other State.

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164 Offence to remove child from custody or guardianship

(1) This section applies if a child is in the custody or guardianship of a person (the ***first person***) under this Act.

(2) A person must not—

(a) unlawfully remove the child from the first person's custody or guardianship; or

(b) if the child has been unlawfully removed from the first person's custody or guardianship—keep the child; or

(c) if the child has been lawfully removed from the first person's custody or guardianship—keep the child beyond the period allowed for the removal.

Maximum penalty—150 penalty units or 18 months imprisonment.

(3) Subsection (2) applies whether the removal or keeping of the child is carried out within or outside Queensland.

165 Offence to remove child from custody or guardianship—order made in another State

(1) This section applies if a person (the ***first person***) has responsibility for the custody or guardianship of a child, however that responsibility is described, under an order made under a child welfare law or interstate law of another State.

(2) A person must not, in Queensland—

(a) unlawfully remove the child from the first person's custody or guardianship; or

(b) if the child has been unlawfully removed from the first person's custody or guardianship—keep the child; or

(c) if the child has been lawfully removed from the first person's custody or guardianship—keep the child beyond the period allowed for the removal.

Maximum penalty—150 penalty units or 18 months imprisonment.

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166 Offence to refuse contact with child in custody or guardianship

(1) This section applies if an authorised officer reasonably asks a person for permission to enter a place for the purpose of having contact with a child at the place to ensure the child's protection.

(2) The person must not refuse the officer's request unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(3) In this section—

child means a child in the chief executive's custody or guardianship under an assessment order, temporary custody order or child protection order.

167 Offence for person to take child out of State

A person who has the care of a child in the chief executive's custody or guardianship must not take or keep the child out of the State with the intention of obstructing, preventing or defeating the administration or enforcement of this Act.

Maximum penalty—150 penalty units or 18 months imprisonment.

168 Offence not to comply with certain orders

(1) A child's parent must not knowingly contravene a provision of an order directing the parent not to have contact (direct or indirect)—

(a) with the child; or

(b) with the child other than when a stated person or a person of a stated category is present.

Maximum penalty—100 penalty units or 1 year's imprisonment.

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(2) For subsection (1), a person who is in the Childrens Court when the order is made or is given notice of the order is taken to know the contents of the order.

Part 2 Prosecution of certain interstate offences

169 Consultation with chief executive before prosecution

(1) This section applies to—

(a) an offence against section 162 or 164 relating to the unlawful removal or keeping of a child in another State; or

(b) an offence against section 163 or 165.

(2) A person must consult with the chief executive before starting proceedings against a person for the offence.

(3) However, subsection (2) does not apply to a police officer starting proceedings against a person for the offence by arresting the person if the police officer believes, in the circumstances, it is reasonably necessary to arrest the person without first consulting with the chief executive.

(4) If a police officer starts proceedings under subsection (3) by arresting a person without first consulting with the chief executive, the officer must notify the chief executive as soon as practicable after the arrest.

(5) Failure to comply with subsection (2) or (4) in relation to proceedings does not affect the validity of the proceedings.

170 Person not to be prosecuted twice

If a person has been convicted, found guilty or acquitted of an offence against a child welfare law or interstate law of another State for an act or omission of the person, the person may not be prosecuted for an offence against this Act for the same act or omission.

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Part 3 Warrant for apprehension of child

171 Application for warrant for apprehension of child

(1) An authorised officer or police officer may apply to a magistrate for a warrant for apprehension of a child if—

(a) under an order, the chief executive has been granted custody or guardianship of the child but has not been able to take the child into custody; or

(b) the child has been unlawfully removed from a person's custody or guardianship under this Act.

(2) The officer must prepare a written application that states the grounds on which it is made.

(3) The written application must be sworn.

(4) The magistrate may refuse to consider the application until the applicant gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application be given by statutory declaration.

172 Issue of warrant

(1) A magistrate may issue a warrant for apprehension of the child if the magistrate is satisfied—

(a) the warrant is necessary to enable an authorised officer or police officer to take the child into the chief executive's custody; or

(b) the child has been unlawfully removed from a person's custody or guardianship under this Act; or

(c) the child has been lawfully removed from a person's custody or guardianship under this Act but kept beyond the period allowed for the removal.

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(2) The warrant authorises an authorised officer or police officer—

(a) to enter any 1 or more places the officer reasonably believes the child is; and

(b) to search the places to find the child; and

(c) to remain in the places for as long as the officer considers is reasonably necessary to find the child; and

(d) to take the child to a safe place.

(3) The warrant must state the day, within 14 days after the warrant's issue, when it ends.

(4) An authorised officer or police officer may exercise powers under the warrant with the help, and using the force, that is reasonable in the circumstances.

173 Application by particular forms of communication and duplicate warrant

(1) An application under section 171 may be made by phone, fax, radio or another form of communication if the authorised officer or police officer reasonably considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances (including, for example, the officer's remote location).

(2) The application—

(a) may not be made before the officer prepares the written application under section 171(2); but

(b) may be made before the written application is sworn.

(3) The magistrate may issue the warrant (the ***original warrant***) only if the magistrate is satisfied—

(a) it was necessary to make the application under subsection (1); and

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(b) the way the application was made under subsection (1) was appropriate.

(4) After the magistrate issues the original warrant—

(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the officer (for example, by sending a copy by fax), the magistrate must immediately give a copy of the warrant to the officer; or

(b) otherwise—

(i) the magistrate must tell the officer the date and time the warrant is issued and the other terms of the warrant; and

(ii) the officer must complete a form of warrant, including by writing on it—

(A) the magistrate's name; and

(B) the date and time the magistrate issued the warrant; and

(C) the other terms of the warrant.

(5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.

(6) The officer must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 171(2) and (3); and

(b) if the officer completed a form of warrant under subsection (4)(b)—the completed form of warrant.

(7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—

(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

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(8) Despite subsection (7), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

(b) the original warrant is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

174 Warrants—procedure before entry

(1) This section applies if an authorised officer or police officer is intending to enter a place under a warrant for apprehension of a child.

(2) Before entering the place, the officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place;

(b) give the person a copy of the warrant or, if the entry is authorised by a duplicate warrant under section 173(5), a copy of the duplicate warrant;

(c) tell the person the officer is permitted by the warrant to enter and search the place to find the child;

(d) give the person an opportunity to allow the officer immediate entry to the place without using force.

(3) For subsection (2)(a), an authorised officer must produce the officer's identity card to the person for inspection.

Note—

For a police officer, see the *Police Powers and Responsibilities Act 2000*, section 637.

(4) However, the officer need not comply with subsection (2) if the officer reasonably believes immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

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175 Interstate warrants—arrangements for apprehended child until magistrate is available

(1) This section applies if a police officer apprehends a child under a warrant issued in another State under a child welfare law of that State.

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

Example—

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

Part 4 General powers of authorised officers and police officers

Division 1 Preliminary

176 Application of pt 4

This part applies if an authorised officer or police officer—

(a) lawfully enters a place in the course of performing a function or exercising a power under chapter 2, including, for example—

(i) under section 16 or 18 in investigating an allegation of harm, or risk of harm, to a child; or

(ii) under an assessment order in investigating whether a child is a child in need of protection; or

(b) enters a place under a warrant for apprehension of a child who, under section 164, has been unlawfully removed from a person's custody or guardianship.

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Note—

A warrant for apprehension of a child may be issued under part 3.

Division 2 Power of seizure

177 Power of seizure

The officer may seize a thing at the place if the officer reasonably believes—

(a) the thing—

(i) may be received in evidence in a proceeding on an application for an order for the child; or

(ii) is evidence of an offence in relation to the child or the child's unlawful removal from custody or guardianship; and

(b) the seizure is necessary to prevent the thing being—

(i) hidden, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

178 Procedure after seizure of thing

(1) As soon as practicable after seizing the thing, the officer must give a receipt for it to the person from whom it was seized.

(2) If, for any reason, it is not practicable to comply with subsection (1), the officer must—

(a) leave the receipt at the place of seizure; and

(b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.

(3) The receipt must describe generally the seized thing and its condition.

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(4) The officer must allow a person who would be entitled to the seized thing if it were not in the officer's possession, at any reasonable time—

(a) to inspect it; or

(b) if it is a document—to copy it.

(5) The officer must return the seized thing to the person—

(a) at the end of 1 year; or

(b) if a prosecution for an offence involving it is started within 1 year—at the end of the prosecution and any appeal from the prosecution.

(6) Despite subsection (5), the officer must return the seized thing to the person if the officer is satisfied its retention as evidence is no longer necessary.

179 Forfeiture of seized thing on conviction

(1) On the conviction of a person of an offence involving the seized thing, the court may order its forfeiture to the State.

(2) The court may make any order to enforce the forfeiture it considers appropriate.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

180 Dealing with forfeited things etc.

(1) On forfeiture, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

(2) Without limiting subsection (1), the chief executive may destroy the thing.

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Division 3 Other powers on entry

181 Power to photograph

The officer may photograph or film the place, or anyone or anything in or on the place.

Part 5 Evidence and legal proceedings

182 Evidentiary provisions

(1) This section applies to a proceeding under or in relation to this Act.

(2) Unless a party, by reasonable notice, requires proof of—

(a) the appointment of an authorised officer or honorary officer under this Act; or

(b) the authority of an authorised officer or honorary officer to do an act under this Act;

the appointment or authority must be presumed.

(3) A signature purporting to be the signature of the chief executive or an authorised officer is evidence of the signature it purports to be.

(4) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

(a) a stated document is a copy of a licence, certificate of approval, notice, declaration or decision made, issued or given under this Act;

(b) on a stated day, or during a stated period, a stated person was or was not the holder of a licence or certificate of approval;

(c) a licence or certificate of approval—

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(i) was or was not issued or given for a stated term; or

(ii) was or was not in force on a stated day or during a stated period; or

(iii) was or was not subject to a stated condition;

(d) on a stated day, a licence or certificate of approval was suspended for a stated period or cancelled;

(e) on a stated day, a stated person was given a stated notice under this Act;

(f) the whereabouts of a child's parents could not be ascertained after stated reasonable inquiries;

(g) on a stated day, a family group meeting or conference was held;

(h) a stated entity is an independent Aboriginal or Torres Strait Islander entity for a particular Aboriginal or Torres Strait Islander child;

(i) another matter prescribed under a regulation.

(5) A document purporting to be the consent of an interstate officer or a delegate of an interstate officer, or purporting to be a copy of the consent of an interstate officer or a delegate of an interstate officer, is evidence of the consent.

183 Proceeding for offences

A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.

184 When proceeding may start

A proceeding for an offence against this Act may be started within—

(a) 1 year after the offence is committed; or

(b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

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Part 6 Confidentiality and disclosure

Division 1 Preliminary

185 Definitions for pt 6

In this part—

publish, for information, means to publish it to the public by way of television, newspaper, radio or other form of communication.

this Act includes the *Children's Services Act 1965*.

Note—

See section 250.

Division 2 Confidentiality in relation to administration of Act

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

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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

(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.

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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

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(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.

(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—

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(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

187 Confidentiality of information obtained by persons involved in administration of Act

(1) This section applies to a person who—

(a) is or has been—

(i) a public service employee, a person engaged by the chief executive, or a police officer, performing functions under or in relation to the administration of this Act; or

(ii) a licensee or the executive officer of a corporation that is a licensee; or

(iii) a person employed or engaged by a licensee to perform functions under or in relation to the administration of this Act; or

(iv) an approved carer or other person in whose care a child has been placed under this Act; or

(v) a member of, or person employed or engaged by, a recognised Aboriginal or Torres Strait Islander agency; or

(vi) a recognised entity or member of a recognised entity; or

(vii) a person attending a case planning meeting or participating in another way in the development of a child's case plan; or

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(viii) a person participating in the revision of a child's case plan; or

(ix) a member of the SCAN system, or a representative of a member, performing functions under or in relation to chapter 5A, part 3; or

(x) a prescribed entity, or person engaged by a prescribed entity, performing functions under or in relation to chapter 5A, part 4; or

(xi) an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child, or a member of the entity; or

(xii) a service provider, or person engaged by a service provider, performing functions under or in relation to chapter 5A, part 4; or

(xiii) a prescribed delegate for an Aboriginal or Torres Strait Islander child; or

(xiv) a person given information about a child by the chief executive under section 148BI; or

(xv) a person allowed to view a document or information under section 113; and

(b) in that capacity acquired information about another person's affairs or has access to, or custody of, a document about another person's affairs.

(2) The person must not use or disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) However, the person may, subject to subdivision 1, use or disclose the information or give access to the document to someone else—

(a) to the extent necessary to perform the person's functions under or in relation to this Act; or

(b) if the use, disclosure or giving of access is for purposes related to a child's protection or wellbeing; or

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Example—

An approved carer in whose care a child has been placed under this Act may disclose relevant information about the child to a person, including, for example, a school teacher or member of the carer's immediate family, to help the person understand and meet the child's needs.

(c) if the use, disclosure or giving of access—

(i) relates to the chief executive's function of cooperating with government entities that have a function relating to the protection of children or that provide services to children in need of protection or their families; or

(ii) is for the performance by the chief executive (adoptions) of his or her functions under the *Adoption Act 2009*; or

(iii) is otherwise required or permitted under this Act (including, for example, this division or chapter 5A, part 4) or another law; or

(d) to the extent necessary to protect a person from a serious and imminent risk to the person's safety or health; or

(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.

(4) Also, the person may disclose the information or give access to the document—

(a) to another person, to the extent that the information or document is about the other person; or

(b) to the chief executive or an authorised officer, to enable the proper administration of chapter 4.

Note—

For the disclosure of information that is about the person and a third party, see section 188C.

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(5) To remove any doubt, it is declared that a person participating in the development, implementation or revision of a child's case plan under this Act is performing a function under this Act.

(6) In this section—

recognised entity means a recognised entity under this Act before the commencement of the *Child Protection Reform Amendment Act 2017*, section 78.

188 Confidentiality of information given by persons involved in administration of Act to other persons

(1) This section applies if the chief executive, an authorised officer, a prescribed entity, a police officer or anyone else in the course of performing functions under or in relation to the administration of this Act, gives a person (the ***receiver***) information or a document about another person's affairs.

(2) The receiver must not use or disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) However, the receiver may, subject to subdivision 1, use or disclose the information or give access to the document to someone else to the extent that the use, disclosure or giving of access is—

(a) authorised by the chief executive under section 188C, 188D or 189B; or

(b) for purposes directly related to a child's protection or wellbeing; or

(c) necessary to protect a person from a serious and imminent risk to the person's safety or health; or

(d) for purposes directly related to obtaining information requested by the head of a relevant agency under section 245T; or

(e) otherwise required or permitted by law.

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188A Police use of confidential information

(1) This section applies if a police officer acquires information as provided for in section 187(1).

(2) The officer, and any other police officer to whom the information is disclosed under this section, may use the information to the extent necessary to perform his or her functions as a police officer.

(3) A police officer must not use the information under this section for an investigation or for a proceeding for an offence unless the officer, or another police officer, has consulted with the following entities about the proposed use—

(a) the chief executive;

(b) if the information was acquired under chapter 5A, part 3, from a member of the SCAN system—the member;

(c) if the information was acquired from a prescribed entity under chapter 5A, part 4—the prescribed entity.

(4) The purpose of a consultation under subsection (3) is to consider whether the proposed use of the information for the investigation or proceeding would be in the best interests of any child.

(5) Subsection (3) does not apply—

(a) if the information concerns an offence committed against a child; or

(b) to the extent that the police officer needs to use the information immediately to perform the officer's functions as a police officer.

(6) This section applies subject to subdivision 1.

(7) In this section—

information includes a document.

use—

(a) in relation to information, includes disclose; and

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(b) in relation to a document, includes give access to.

Note—

Section 248B also requires a police officer to consult with the chief executive about particular investigations and proceedings.

188B Disclosure of information to a child's family group

(1) The chief executive or an authorised officer may disclose information about a child to a member of the child's family group if satisfied the disclosure would be in the child's best interests.

(2) Before disclosing information under this section, the chief executive or officer must—

(a) obtain and have regard to the child's views, if the child is able to form and express views, taking into account the child's age and ability to understand; and

(b) consider whether the disclosure is likely to adversely affect the child's relationship with members of the child's family group; and

(c) consider whether the disclosure is likely to have adverse effects for anyone else, including a risk to anyone's safety; and

(d) have regard to—

(i) any views expressed by the child's parents; and

(ii) the relationship between the child and the person to whom it is proposed to disclose the information, and any views expressed by that person; and

(iii) the child's case plan.

(3) This section applies subject to subdivision 1.

188C Chief executive may give information about third parties

(1) This section applies to information, in the chief executive's possession or control, that is—

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(a) about a relevant person; and

(b) also about someone else.

(2) Subject to subdivision 1, the chief executive may disclose the information to the relevant person.

Note—

For the disclosure of information that is only about the relevant person, see section 187(4).

(3) However, the chief executive must not disclose the information to the relevant person if—

(a) the chief executive reasonably believes the disclosure of the information is likely to adversely affect the safety or psychological or emotional wellbeing of any person; or

(b) the information—

(i) is the subject of legal professional privilege; or

(ii) identifies, or is likely to identify, its source and the identification of the source is likely to prejudice the achievement of the purposes of this Act; or

(iii) is a record of confidential therapeutic counselling, and the person to whom it relates does not consent to its disclosure; or

(c) the disclosure of the information could reasonably be expected to—

(i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or

(ii) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or

(iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained.

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(4) The chief executive may authorise the relevant person to use or disclose the information, or give access to the information, to someone else.

Note—

Under section 188, the person must not use, disclose or give access to the information unless it is authorised by the chief executive under this section.

(5) The chief executive may disclose the information subject to any other conditions the chief executive considers appropriate.

(6) In this section—

relevant person means—

(a) a child in care; or

(b) a person who was in care under this Act or the repealed *Children's Services Act 1965*; or

(c) a person who was a State child under the repealed *State Children Act 1911*.

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.

(3) However, the chief executive must not disclose the information if—

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(a) the chief executive reasonably believes the disclosure of the information is likely to adversely affect the safety or psychological or emotional wellbeing of any person; or

(b) the information—

(i) is the subject of legal professional privilege; or

(ii) identifies, or is likely to identify, its source and the identification of the source is likely to prejudice the achievement of the purposes of this Act; or

(iii) is a record of confidential therapeutic counselling, and the person to whom it relates does not consent to its disclosure; or

(c) the disclosure of the information could reasonably be expected to—

(i) prejudice the investigation of a contravention or possible contravention of a law in a particular case; or

(ii) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; or

(iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained.

(4) The chief executive may authorise the person to whom the information is disclosed to use or disclose the information, or give access to the information, to someone else.

Note—

Under section 188, the person to whom the information is disclosed must not use, disclose or give access to the information unless it is authorised by the chief executive under this section.

(5) The chief executive may disclose the information subject to any other conditions the chief executive considers appropriate.

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188E Chief executive must give police commissioner information about deceased child

(1) This section applies if—

(a) an investigation in relation to the death of a child is being carried out by a police officer; and

(b) the police commissioner, by written notice, asks the chief executive to give the police commissioner stated information about the child.

(2) The chief executive must comply with the request.

(3) The chief executive's obligation to comply with the request applies only to information in the chief executive's possession.

(4) The giving of the information is authorised despite any Act or law, including a law imposing an obligation to maintain confidentiality about the information.

(5) However, if the information includes notifier details the chief executive must notify the police commissioner of that fact when complying with the request.

(6) In this section—

notifier details means information about the identity of a person mentioned in section 186 who notifies the chief executive, an authorised officer or a police officer that the person suspects a matter mentioned in section 186(a) or (b).

189 Prohibition of publication of information leading to identity of children

(1) A person must not, without the chief executive's written approval, publish information that identifies, or is likely to lead to the identification of, a child as—

(a) a child who is or has been the subject of an investigation under this Act of an allegation of harm or risk of harm; or

(b) a child in the chief executive's custody or guardianship under this Act; or

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(c) a child for whom an order is in force.

Maximum penalty—

(a) for an individual—100 penalty units or 2 years imprisonment; or

(b) for a corporation—1,000 penalty units.

(2) A person must not, without the chief executive's written approval, publish information that identifies, or is likely to lead to the identification of, a child living in Queensland as a child who—

(a) has been harmed or allegedly harmed by a parent or step-parent of the child or another member of the child's family; or

(b) is, or allegedly is, at risk of harm being caused by a parent or step-parent of the child or another member of the child's family.

Maximum penalty for subsection (2)—

(a) for an individual—100 penalty units or 2 years imprisonment; or

(b) for a corporation—1,000 penalty units.

189A Making information available for Youth Justice Act 1992

(1) The chief executive may, under arrangements made with the chief executive (youth justice), make information about a person's affairs, acquired in the administration of this Act, available to officers of the department (youth justice) for the purposes of the *Youth Justice Act 1992*.

(2) However, subsection (1) does not apply to information about the identity of a person mentioned in section 186 who notifies the chief executive, an authorised officer or a police officer that the person suspects a matter mentioned in section 186(a) or (b).

(3) This section is not limited by, and does not limit, chapter 5A.

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(4) Section 188 does not apply to information made available under subsection (1).

(5) In this section—

chief executive (youth justice) means the chief executive of the department (youth justice).

department (youth justice) means the department in which the *Youth Justice Act 1992* is administered.

Note—

The *Youth Justice Act 1992*, part 9, restricts the use, recording and disclosure of stated information.

189AA Making information available for Public Guardian Act 2014

(1) The chief executive may, under arrangements made with the public guardian, make information about a person's affairs, acquired in the administration of this Act, available to the public guardian for the purposes of the *Public Guardian Act 2014*.

(2) However, subsection (1) does not apply to information about the identity of a person mentioned in section 186 who notifies the chief executive, an authorised officer or a police officer that the person suspects a matter mentioned in section 186(a) or (b).

(3) Without limiting subsection (1), the arrangement may provide for the electronic transfer of information, including on a daily basis.

(4) This section is not limited by, and does not limit, chapter 5A.

(5) Section 188 does not apply to information made available under subsection (1).

Note—

The *Public Guardian Act 2014*, chapter 6, part 4, restricts the recording, use and disclosure of stated information.

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189AB Giving information to corresponding child welfare authorities

(1) The chief executive may, under arrangements made with a corresponding chief executive of another State or New Zealand, give the corresponding chief executive relevant information if the chief executive reasonably believes the corresponding chief executive requires the information for the purposes of performing a function under a child welfare law of the other State or New Zealand.

(2) However, subsection (1) does not apply to information about the identity of a person mentioned in section 186 who notifies the chief executive, an authorised officer or a police officer that the person suspects a matter mentioned in section 186(a) or (b).

(3) Section 188 does not apply to information given under subsection (1).

(4) In this section—

corresponding chief executive, of another State or New Zealand, means the chief executive of the department of the State or New Zealand administering a child welfare law of the State or New Zealand.

relevant information means information about a person or an unborn child acquired in the administration of this Act.

189B Access to information for prescribed research

(1) For the purpose of allowing a person to carry out prescribed research, the chief executive may authorise the person to have access to information relating to, or acquired in, the administration of this Act, including information from an officer of the department or a client.

(2) The chief executive may authorise the person to have access to the information only if the chief executive is satisfied—

(a) the information is reasonably necessary for the prescribed research; and

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(b) the information will not be published in a way that could reasonably be expected to result in the identification of any of the individuals it relates to.

Example of details that could reasonably be expected to identify individuals—

Publishing the name of a small town or community in which a high profile case occurred could reasonably be expected to lead to identification of the individuals involved, even if the individuals' names are not published.

(3) The chief executive may contact, or authorise the person to contact, a client to ask if they would like to participate in the research being carried out by the person.

(4) The chief executive may authorise the person to use or disclose the information, or give access to the information, to someone else.

Note—

Under section 188, the person must not use, disclose or give access to the information unless it is authorised by the chief executive under this section.

(5) The chief executive may impose any other conditions on the authorisation the chief executive considers appropriate.

(6) The person must comply with any condition imposed by the chief executive unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(7) In this section—

client means any of the following persons—

(a) a child to whom this Act applies;

(b) a person who was a child to whom this Act applied;

(c) a member of the family of a person mentioned in paragraph (a) or (b);

(d) an approved carer;

(e) a person who was an approved carer.

prescribed research means research carried out for any of the following purposes—

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(a) a purpose the chief executive is satisfied is consistent with a function of the chief executive under section 7;

(b) evaluating interventions and services, or designing or projecting current and future interventions and services, in relation to children who are, or who have been, in need of protection or who may become in need of protection;

(c) deciding whether a department should make a payment under a funding arrangement that requires outcomes to be monitored, verified or evaluated.

Division 3 Confidentiality and disclosure in relation to proceedings

189C Litigation director's duty of disclosure

(1) This section applies in relation to a proceeding for a child protection order.

(2) The litigation director has a duty to disclose, to each other party, all documents in the litigation director's possession or control that are relevant to the proceeding.

(3) The duty continues until the proceeding is decided.

(4) The duty applies subject to section 191.

(5) If the litigation director does not disclose a document to a party on a ground mentioned in section 191(2), the litigation director must give the party a written notice stating—

(a) the ground for the non-disclosure; and

(b) that the litigation director is not required to disclose the document to the party other than as required under section 191; and

(c) that the party may apply to the court for an order under section 191 that it be disclosed.

(6) Nothing in this section—

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(a) requires disclosure that is unlawful under this or another law; or

(b) affects a person's right to anything under another law.

(7) For this section, a reference to a document in the litigation director's possession or control is taken to include a document in the chief executive's possession or control.

Note—

The *Director of Child Protection Litigation Act 2016* requires the chief executive to give relevant documents to the litigation director.

(8) The rules of court may make provision about disclosure under this section, including the time by which a document must be disclosed.

189D Consequences of non-disclosure

(1) Failure to comply with section 189C in a proceeding does not affect the validity of the proceeding.

(2) If the litigation director does not disclose a document under section 189C, the litigation director must not tender the document, or adduce evidence comprising information contained in the document, in the proceeding without the court's leave.

189E Disclosure or use of documents or information disclosed in a proceeding

(1) This section applies to a document, or information contained in a document, disclosed by the litigation director under section 189C to a party to a proceeding.

(2) A person must not, directly or indirectly, disclose or make use of the document or information other than for a purpose connected with the proceeding.

Maximum penalty—100 penalty units or 2 years imprisonment.

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190 Production of department's records

(1) This section applies if a party to a proceeding in a court or tribunal requires, under applicable rules—

(a) the chief executive to produce to the court, tribunal or party a document in the department's records under this Act in relation to a child or a child's carer; or

(b) a government entity to produce to the court, tribunal or party a document mentioned in paragraph (a) that has been given to the entity under section 187.

(2) The requirement must describe the document to be produced—

(a) by reference to the person or persons to whom it relates; and

(b) by general reference to the circumstances to which it relates; and

(c) by stating the period to which the requirement relates.

(3) For subsection (2)(b), the requirement must show the circumstances to be relevant to the proceeding.

(4) A person must not, directly or indirectly, disclose or make use of information obtained under the requirement other than for a purpose connected with the proceeding.

Maximum penalty—100 penalty units or 2 years imprisonment.

(5) Despite any Act to the contrary, if a document in the department's records under this Act in relation to a child or a child's carer is produced in a proceeding in a court, an officer of the court must not make the document available for inspection to any person other than a party to the proceeding or a lawyer representing a party to the proceeding.

Maximum penalty for subsection (5)—50 penalty units or 1 year's imprisonment.

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191 Refusal to disclose particular documents or information

(1) Subsection (2) states the grounds on which—

(a) the litigation director may refuse to disclose a document to a party to a proceeding under section 189C; or

(b) another person who is or was engaged in the administration of this Act may refuse to disclose to a court or tribunal in a proceeding, or to a party to a proceeding, information obtained under or in relation to the administration of this Act.

(2) The litigation director or other person may refuse to disclose the document or information if—

(a) it is the subject of legal professional privilege; or

(b) it is a communication between—

(i) a public service employee employed in the department; and

(ii) the litigation director, a member of the litigation director's staff or a lawyer engaged under the *Director of Child Protection Litigation Act 2016*, section 11; or

(c) its disclosure would be likely to endanger a person's safety or psychological health; or

(d) it identifies or is likely to identify its source and identification of the source is likely to prejudice the achievement of the purposes of this Act; or

(e) it is a record of confidential therapeutic counselling and the person to whom it relates does not consent to its disclosure; or

(f) its disclosure could reasonably be expected to—

(i) prejudice the investigation of a contravention or possible contravention of the law in a particular case; or

(ii) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating

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or dealing with a contravention or possible contravention of the law; or

(iii) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or

(g) the litigation director or other person reasonably believes—

(i) it is or contains personal information that is not materially relevant to the proceeding; or

(ii) its disclosure would be contrary to the public interest; or

(iii) there is other good reason for not disclosing it, having regard to the best interests of a child who is a subject of the proceeding; or

(h) the party already has the document, or a copy of the document, or the information.

(3) The litigation director or other person must refuse to disclose a record mentioned in subsection (2)(e) unless the litigation director or other person considers disclosure is necessary to prevent or lessen a risk of harm to a child or serious risk to the health or safety of anyone else.

(4) Despite subsections (2) and (3), on the application of a party to the proceeding, the court or tribunal may order the disclosure of the document or information if satisfied—

(a) it is materially relevant to the proceeding; and

(b) its disclosure is, on balance, in the public interest.

(5) The court or tribunal may order the disclosure on the conditions it considers appropriate, including conditions to ensure the best interests of a child who is a subject of the proceeding and the privacy and safety of any individual.

(6) To enable the court or tribunal to make a decision about the disclosure of the document or information, the litigation

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director or other person must disclose it to the judicial officers of the court or tribunal.

(7) In deciding whether or not the document or information should be disclosed, the judicial officers must deal with it in a way that ensures it is not disclosed to anyone else.

(8) If the court or tribunal refuses to order disclosure of the document or information, the judicial officers must return anything produced to them under subsection (6).

(9) The rules of court may make provision about a matter under this section.

(10) In this section—

judicial officers, of a court or tribunal, means the person or persons constituting the court or tribunal.

192 Prohibition of publication of certain information for proceedings

A person must not publish—

(a) information given in evidence in a proceeding under this Act in the Childrens Court, or other Childrens Court records, without the court's approval; or

(b) information that identifies, or is likely to lead to the identification of, a person as a party to a proceeding under this Act.

Maximum penalty—

(a) for an individual—100 penalty units or 2 years imprisonment; or

(b) for a corporation—1,000 penalty units.

193 Restrictions on reporting certain court proceedings

(1) If a child is, or is reasonably likely to be, a witness in a proceeding before a court or justice for an offence of a sexual nature or an offence of a violent nature, a person must not, in a report of the proceeding or a related proceeding, knowingly

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disclose identifying information about the child unless a court or justice orders that the person may disclose the information.

(2) If a child is, or is reasonably likely to be, a witness in a proceeding before a court or justice for an offence other than an offence of a sexual nature or an offence of a violent nature, the court or justice may order that a report of the proceeding or a related proceeding must not disclose identifying information about the child other than information stated in the order.

(3) A report of a proceeding for an offence of a sexual nature to which subsection (1) relates, or a related proceeding, must not disclose the name of an authorised officer or police officer involved in the proceeding unless the court or justice orders the officer's name to be included in the report.

(3A) A court or justice may order that a report of any of the following proceedings must not disclose the name of an authorised officer or police officer involved in the proceeding—

(a) a proceeding for an offence of a violent nature to which subsection (1) relates;

(b) a proceeding to which subsection (2) relates;

(c) a related proceeding for a proceeding mentioned in paragraph (a) or (b).

(3B) For subsection (1), a person knowingly discloses identifying information about the child in a report of the proceeding if, when the person discloses the identifying information about the child, the person knows, or ought reasonably to know, that the child is, or is likely to be, a witness in the proceeding.

(4) A person who makes or publishes a report of a proceeding in contravention of subsection (1), (2) or (3) commits an offence, unless the person has a reasonable excuse.

Maximum penalty—

(a) for an individual—100 penalty units or 2 years imprisonment; or

(b) for a corporation—1,000 penalty units.

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(5) However, subsections (1), (2) and (3) do not apply to—

(a) a record of evidence of the proceeding made under the *Recording of Evidence Act 1962*; or

(b) a report made for the department or Queensland Police Service.

(5A) A court or justice may make an order under subsection (1), (3) or (3A)—

(a) on its own initiative; or

(b) on application of a person.

(6) In this section—

film includes a slide, videotape, videodisc or other form of recording from which a visual image can be produced.

identifying information, about a child—

(a) means information that identifies, or is likely to lead to the identification of, him or her as a witness in a proceeding for an offence or a person in relation to whom an offence was committed or is alleged to have been committed; and

(b) includes—

(i) the child's name, age, address, school or place of employment; and

(ii) a photograph or film of the child or of someone else that is likely to lead to the child's identification.

offence of a sexual nature means an offence defined in the Criminal Code, chapter 22, 22A or 32.

offence of a violent nature means an offence against any of the following provisions of the Criminal Code—

(a) a provision of chapter 28 or 28A;

(b) a provision of chapter 29, other than section 317A, 318, 319, 321, 321A, 327, 329, 330, 333 or 334;

(c) section 335, 339, 340, 354, 354A or 355;

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(d) a provision of chapter 33A;

(e) section 363, 363A or 364.

related proceeding, for a proceeding on a charge of an offence, includes the following proceedings related to the charge of the offence, whether or not the child is, or is likely to be, a witness in the related proceeding—

(a) a bail proceeding;

(b) a committal proceeding.

report, of a proceeding, includes a report of part of the proceeding.

Division 4 Other prohibition on publication

194 Publication of information identifying child victim

(1) A person must not publish identifying information about a relevant person.

Maximum penalty—

(a) for an individual—100 penalty units or 2 years imprisonment; or

(b) for a corporation—1,000 penalty units.

(2) Subsection (1) does not apply to a publication if—

(a) the publication is made by the relevant person; or

(b) the relevant person is an adult and he or she gives consent to the publication after being told—

(i) the information to be published; and

(ii) to whom it is to be published; and

(iii) the reason for the publication; or

(c) the publication is—

(i) a record of evidence of the proceeding made under the *Recording of Evidence Act 1962*; or

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(ii) a report made for the department or Queensland Police Service.

(d) the publication is—

(i) for the purpose of an investigation into a complaint made by or on behalf of the relevant person about a relevant offence; and

(ii) made by—

(A) the police commissioner or, if the investigation is carried out by a public sector unit other than the police service, the chief executive of the public sector unit; or

(B) a person authorised to make the publication by a person mentioned in sub-subparagraph (A); or

Note—

Also, see section 188A about the use of confidential information by police.

(e) the publication is made for the purpose of preparing for or conducting any of the following in relation to a relevant offence—

(i) an examination of witnesses;

(ii) a trial;

(iii) a proceeding on appeal arising from a trial; or

Example for paragraph (e)—

publication for the purpose of issuing a summons or subpoena in the preparation of a defence for a relevant offence

(f) the publication is permitted by a direction under section 194A or 194B.

(3) A purpose mentioned in subsection (2)(e) does not include a purpose for which publication may be permitted by a direction under section 194A or 194B.

(4) In this section—

identifying information, about a relevant person—

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(a) means information that identifies, or is likely to lead to the identification of, him or her as a relevant person; and

(b) includes—

(i) the person's name, address, school or place of employment; and

(ii) a photograph or film of the person or of someone else that is likely to lead to the relevant person's identification.

relevant offence, in relation to a relevant person, means an offence committed or alleged to have been committed in relation to the relevant person.

relevant person means a person who is or was a child in relation to whom an offence was committed or is alleged to have been committed.

194A Court direction allowing publication before examination of witnesses or trial

(1) Before the start of an examination of witnesses or a trial, a defendant may apply to the court for a direction that section 194(1) does not apply in relation to a stated relevant person and stated offence.

(2) The court may give the direction if satisfied—

(a) the direction is required for the purpose of inducing persons to come forward who are likely to be needed as witnesses at the examination or trial; and

(b) the conduct of the applicant's defence at the examination or trial is likely to be substantially prejudiced if the direction is not given; and

(c) it would be appropriate to give the direction, having regard to the effect that publication may have on the relevant person.

(3) The court may state in the direction—

(a) the identifying information that may be published; or

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(b) the extent to which, or way in which, the information may be published.

Example—

A direction may allow publication only by newspaper advertisement.

194B Court direction allowing publication before appeal

(1) This section applies to a person convicted of an offence who has—

(a) given a notice of appeal against the conviction to the Court of Appeal, the Supreme Court, the District Court, a Magistrates Court or the Childrens Court; or

(b) applied for leave to appeal against the conviction to the Court of Appeal.

(2) The person may apply to the relevant court for a direction that section 194(1) does not apply in relation to a stated relevant person and stated offence.

(3) The court may give the direction if satisfied—

(a) the direction is required for the purpose of obtaining evidence in support of the appeal; and

(b) the person is likely to suffer substantial injustice if the direction is not given; and

(c) it would be appropriate to give the direction, having regard to the effect that publication may have on the relevant person.

(4) The court may state in the direction—

(a) the identifying information that may be published; or

(b) the extent to which, or way in which, the information may be published.

Example—

A direction may allow publication only by newspaper advertisement.

(5) In this section—

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relevant court means—

(a) if subsection (1)(a) applies—the court to which the notice of appeal has been given; or

(b) if subsection (1)(b) applies—the Court of Appeal or the Supreme Court.

Part 7 General

195 Compliance with provisions about explaining and giving documents

(1) This section applies if, under a provision of this Act, the chief executive or an authorised officer or police officer is authorised or required to explain the terms and effects of an order or declaration, or give information or a notice to—

(a) a child; or

(b) a child's parents, each of a child's parents or at least 1 of a child's parents; or

(c) a child's carer.

(2) Also, this section applies if, under a provision of chapter 7, the chief executive is required to obtain the consent of a parent.

(3) The chief executive or officer need only comply with the provision to the extent that is reasonably practicable in the circumstances.

(4) Without limiting subsection (3), it is not, for example, reasonably practicable to comply with the provision in relation to a child's parents if, after reasonable inquiries, the parents or their whereabouts can not be ascertained or, if ascertained, can not be contacted.

(5) Also, so far as compliance relates to telling the child about a matter, the chief executive or officer need only comply with the provision to the extent that the chief executive or officer reasonably considers is appropriate in the circumstances

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having regard to the child's age or ability to understand the matter.

(6) However, if under the provision an authorised officer is required to give the child's parents a copy of a document or information in writing, the officer must also give the child the information in writing the officer considers is appropriate in the circumstances having regard to the child's age or ability to understand the information.

(7) In this section—

parent includes a long-term guardian of the child.

196 Exercise of powers and compliance with obligations by others

If, under a provision of this Act, an authorised officer or police officer is authorised or required to exercise a power or perform a function—

(a) the power may be exercised or the function performed by another authorised officer or police officer who could exercise or perform a power or function of the same type; and

(b) the officer is taken to have complied with the provision.

197 Protection from liability for officials

(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

(3) In this section—

official means—

(a) the chief executive; or

(b) an authorised officer or police officer; or

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(c) a person acting under the direction of a person mentioned in paragraph (a) or (b); or

(d) a member of the SCAN system or a representative of a member; or

(e) a member of a review panel.

197A Protection from liability for giving information about alleged harm or risk of harm

(1) This section applies if a person, acting honestly and reasonably—

(a) gives information to the chief executive under chapter 2, part 1AA; or

(b) otherwise notifies the chief executive or another public service employee employed in the department that the person suspects—

(i) a child has suffered harm, is suffering harm or is at risk of suffering harm; or

(ii) an unborn child may be at risk of harm after he or she is born; or

(c) otherwise gives the chief executive, an authorised officer or a police officer—

(i) information about alleged harm or alleged risk of harm to a child; or

(ii) information, relating to an unborn child, about a suspected risk of harm to the child after he or she is born; or

(d) gives information to a relevant person or colleague of a relevant person under section 13H.

(2) The person is not liable, civilly, criminally or under an administrative process, for giving the notification or information.

(3) Also, merely because the person gives the notification or information, the person can not be held to have—

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(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

(4) Without limiting subsections (2) and (3)—

(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—

(i) does not contravene the Act, oath or rule of law or practice by giving the information; and

(ii) is not liable to disciplinary action for giving the information.

Chapter 7 Interstate transfers of child protection orders and proceedings

Part 1 Preliminary

Division 1 Explanation, purpose and guiding principles

198 Explanation and purpose

(1) Chapter 2 provides for the making of child protection orders and the conduct of child protection proceedings in the Childrens Court.

(2) Laws of other States and New Zealand provide for similar orders and proceedings.

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(3) The purpose of this chapter is to provide for the transfer of the orders and proceedings between Queensland and other States, and between Queensland and New Zealand—

(a) so that children in need of protection may be protected if they move from one jurisdiction to another; and

(b) so that proceedings relating to the protection of a child may be decided, in a timely and expeditious way, in a court in the most appropriate jurisdiction.

(4) The transfer of an order from one jurisdiction to another enables the law of the receiving jurisdiction to provide for the administration and enforcement of the order as if it were made in the receiving jurisdiction.

(5) Similarly, the transfer of a proceeding from one jurisdiction to another enables the law of the receiving jurisdiction to provide for the proceeding to be heard and decided as if it had been started there.

199 Further guiding principle

(1) This chapter must be administered under the principle that it is desirable for an order relating to the protection of a child to have effect, and to be enforced, in the State in which the child resides.

(2) In exercising its jurisdiction or powers under this chapter, the Childrens Court must observe the principle mentioned in subsection (1).

(3) This section does not limit the application of chapter 1, part 2, division 1 or section 104.

Division 2 Interpretation provisions about child protection orders

200 References to Queensland orders

If a child protection order is in force under this Act—

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(a) the order as in force in Queensland is referred to in this chapter as the ***home order***; and

(b) the order in the form in which it is proposed to be transferred to another State under this chapter is referred to in this chapter as the ***proposed interstate order***.

201 Reference to *child protection order* includes certain orders of other States

(1) This chapter uses the term 'child protection order' to refer not only to orders made under this Act, but also to certain orders made under the laws of other States.

(2) Specifically, an order made under a child welfare law, or interstate law, of a participating State is a ***child protection order*** for this chapter if—

(a) the order provides—

(i) for the guardianship, custody or supervision of a child; or

(ii) for contact with a child; or

(iii) that a parent of the child must do or refrain from doing something directly related to the child's protection; and

(b) the order is made in favour of, or gives responsibility to, any of the following entities of the participating State—

(i) a government department or statutory authority;

(ii) a person who is head of, is employed in, or otherwise holds an office or other position in, a government department or statutory authority;

(iii) an organisation or the chief executive of an organisation, whether or not the person's position is given the name of chief executive;

(iv) a Minister; and

(c) the order is not made on an interim basis or for the purpose of assessing a child's protective needs.

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(3) A reference in this chapter to a child protection order, if the order is made under a law of another State—

(a) is a reference to the order in the form in which it is transferred, or proposed to be transferred, to Queensland; and

(b) includes a reference to a document, prepared under the law of the other State, stating the conditions applying to the order on its transfer to Queensland.

Division 3 Corresponding laws of other States

202 Meaning of *law* for div 3

(1) In this division—

law includes part of a law.

(2) Also, for the application of the *Acts Interpretation Act 1954*, section 14H to a regulation made under this division, the definition *law* for that section includes a law of New Zealand.

203 Child welfare laws

A regulation may declare a law of another State about the protection of children to be a child welfare law of that State.

204 Interstate laws

(1) If the Minister is satisfied a law of another State substantially corresponds to this chapter, the Minister may recommend that the Governor in Council—

(a) declare the law to be an interstate law of that State; and

(b) declare that State to be a participating State; and

(c) declare the holder (from time to time) of a stated office to be the interstate officer for that State.

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

Part 2 Transfer of an order to another State

Division 1 Orders that may be transferred

206 Orders that may be transferred

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

(a) an interim order under section 67; or

(b) a long-term guardianship order granting long-term guardianship of a child to someone other than the chief executive; or

(c) a permanent care order.

Division 2 Administrative transfers

207 Chief executive may transfer order

(1) The chief executive may transfer a child protection order to a participating State if—

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

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

(c) the home order is not the subject of an application under section 65; and

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

(e) each person whose consent to the transfer is required under section 209 has consented; and

(f) the chief executive has given the notices required under section 210.

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

208 Provisions of proposed interstate order

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

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

Example—

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

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

(3) The proposed interstate order—

(a) must be of the same or a similar effect as the home order; and

(b) may only include provisions that could be included in an order of that type under a child welfare law of the participating State.

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

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

(a) the time for which the home order would have effect if it were not transferred to that State; and

(b) the maximum time for which an order of that type, made under a child welfare law of that State, could be given effect.

209 Persons whose consent is required

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

(a) the child's parents;

(b) if the child is at least 12 years, the child;

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

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

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

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

210 Notice of decision

(1) If the chief executive decides to transfer the order, the chief executive must give a written notice of the decision and a copy of the proposed interstate order to each of the following persons—

(a) the child;

(b) each person whose consent to the transfer is required;

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(c) anyone else who the chief executive considers ought to be notified of the decision.

(2) The notice must be given within 3 business days after the day the decision is made (the ***decision day***).

(3) The notice must—

(a) state the decision day; and

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

211 Limited time for applying for judicial review

(1) Despite the *Judicial Review Act 1991*, sections 26 and 46, a person may only make a judicial review application in relation to the decision to transfer the order within 28 days after the decision day.

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

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

(4) The application stays the operation of the chief executive's decision.

Division 3 Judicial transfers

212 Application for transfer

The litigation director may apply to the Childrens Court for an order transferring a child protection order to a participating State.

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213 Procedural matters

The following provisions apply to the application as if any reference in the provisions to a child protection order were a reference to an order transferring a child protection order to a participating State—

- section 54(2)
- sections 55 to 58
- chapter 2, part 5
- chapter 3, parts 1 to 3.

214 Court may transfer order

On receiving the application, the Childrens Court may order the transfer of the child protection order to the participating State if—

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

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

(ba) an appropriate case plan has been prepared under chapter 2, part 3A; and

(c) a family group meeting has been held or reasonable attempts to hold a family group meeting have been made; and

(d) if the application is contested, a conference between the parties has been held or reasonable attempts to hold a conference have been made; and

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

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215 Provisions of proposed interstate order

(1) If the Childrens Court decides to order the transfer of the child protection order to the participating State, it must decide the provisions of the proposed interstate order.

(2) The court must be satisfied—

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

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

(c) the proposed interstate order—

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

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

(3) In deciding the provisions of the proposed interstate order, the court must—

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

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

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

(5) In deciding whether the proposed interstate order is of the same or a similar effect as the home order, the court must not take into account the time for which the proposed interstate order is to have effect in the participating State.

216 Notice of decision

(1) This section applies if the court decides the application by ordering the transfer of the child protection order.

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(2) As soon as practicable after the court makes the decision, the chief executive must give to each party to the proceeding for the application—

(a) a copy of the court's order; and

(b) a written notice—

(i) explaining the terms and effect of the court's order; and

(ii) stating that the party may appeal against the decision within 10 business days after the party receives the notice; and

(iii) stating how to appeal.

Division 4 Effect of transfer and registration

217 Application of div 4

This division applies if a child protection order is transferred to a participating State under this part and registered under an interstate law of that State.

218 Order ceases to have effect under this Act

The order ceases to have effect under this Act.

219 Order may be revived under this Act

(1) If the registration of the order is revoked under an interstate law of the participating State before its original expiry day, the home order resumes having effect under this Act until its original expiry day.

(2) The home order does not resume having effect under this Act if—

(a) the transferred order (rather than its registration) is revoked under a child welfare law of that State; or

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(b) the transferred order expires.

(3) In this section—

original expiry day, of an order, means the day the order would cease to have effect under this Act if it were not transferred under this part.

Part 3 Transfer of an order to Queensland

220 Application of pt 3

This part applies to the transfer of a child protection order to Queensland, from a participating State, under an interstate law of that State.

221 Chief executive's consent to transfer

(1) The order may not be transferred to Queensland unless the chief executive gives written consent to the transfer and to the provisions of the order.

(2) The chief executive must give the required consent, if asked by the interstate officer for the participating State, unless the chief executive is satisfied—

(a) the order includes a provision that may not be included in an order made under chapter 2, part 4; or

(b) the transfer or the provisions of the order would not be in the child's best interests.

222 Filing and registration of order

(1) This section applies if—

(a) the chief executive gives written consent to the transfer and to the provisions of the order; and

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(b) the chief executive is satisfied that, under the interstate law—

(i) the period for appealing, or applying for review of, the interstate transfer decision relating to the transfer has expired; and

(ii) the decision is not the subject of an appeal or application for review; and

(iii) the decision is not stayed.

(2) As soon as practicable after receiving a copy of the order, the chief executive must file the copy in the Childrens Court.

(3) On the filing of the copy, the registrar of the court must register the order.

(4) Immediately after registering the order, the registrar must notify the interstate officer for the participating State and the registrar of the Childrens Court in that State.

223 Effect of registration

(1) The order is taken to be a child protection order of the Childrens Court in Queensland made on the day of its registration, except for the purposes of an appeal against the order.

(2) Without limiting subsection (1), the order may be enforced, varied, revoked, or extended in operation, as if it had been made under chapter 2, part 4.

224 Revocation of registration

(1) Any of the following persons may apply to the Childrens Court to revoke the registration of the order—

(a) the chief executive;

(b) the child the subject of the order;

(c) a parent of the child;

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(d) a party to a proceeding in which the interstate transfer decision was made.

(2) The registrar must immediately give a copy of the application to—

(a) the interstate officer for the participating State; and

(b) each person mentioned in subsection (1).

(3) The court may grant the application and revoke the registration only if it is satisfied that, when the order was registered—

(a) the period for appealing, or applying for review of, the interstate transfer decision had not expired; or

(b) the decision was the subject of an appeal or application for review; or

(c) the decision was stayed.

(4) Immediately after the registration of the order is revoked, the registrar must—

(a) notify the interstate officer for the participating State and the registrar of the Childrens Court in that State; and

(b) return the copy of the order that was filed in the court under section 222.

(5) Revocation of the registration of the order does not prevent a re-registration of the order.

Part 4 Transfer of proceedings to another State

225 Application for transfer

(1) If there is a child protection proceeding pending in the Childrens Court, an application may be made to the court transferring the proceeding to the Childrens Court in a participating State.

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Note—

Only the litigation director may make the application—see the *Director of Child Protection Litigation Act 2016*, section 10.

(2) The application must—

(a) state the grounds on which it is made; and

(b) state the nature of the order sought; and

(c) comply with applicable rules of court; and

(d) be filed in the court.

226 Registrar to fix time and place for hearing

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

227 Notice of application

(1) As soon as practicable after the application is filed, the chief executive must—

(a) personally serve a copy of it on each of the child's parents; and

(b) tell the child about the application.

Note—

Section 195 deals with compliance with provisions about giving information.

(2) However, if it is not practicable to serve the copy personally, a copy of the application may be served on a parent by leaving it at, or by sending it by post to, the parent's residential address last known to the chief executive.

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

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

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(b) that the application may be heard and decided even though the parent does not appear in court.

228 Court may transfer proceeding

On receiving the application, the court may order the transfer of the proceeding to the participating State if the interstate officer for that State has given written consent to the transfer.

229 Considerations for Childrens Court

(1) In deciding whether to order the transfer, the court must have regard to the following matters—

(a) whether there are any child protection orders for the child in force in the participating State;

(b) whether any other proceedings relating to the child are pending, or have been heard and decided, under a child welfare law in the participating State;

(c) where the matters giving rise to the proceedings happened;

(d) the place of residence, and likely future place of residence, of the child, the child's parents and other persons significant to the child.

(2) This section does not limit sections 104 and 199.

230 Court may make interim order

(1) If the Childrens Court orders the transfer of the proceeding to the participating State, it may also make an interim order—

(a) granting custody of the child to any person; or

(b) giving responsibility for the child's supervision to the interstate officer for that State or another person in that State to whom the responsibility may be given under a child welfare law of that State.

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(2) The interim order must state the time, not more than 30 days, for which it has effect.

231 Notice of decision to transfer

(1) This section applies if the court decides the application by ordering the transfer of the proceeding.

(2) As soon as practicable after the court makes the decision, the chief executive must give to each party to the proceeding for the application—

(a) a copy of the court's order; and

(b) a written notice—

(i) explaining the terms and effect of the court's order; and

(ii) stating that the party may appeal against the decision within 10 business days after the party receives the notice; and

(iii) stating how to appeal.

232 Effect of registration of order

If the court's order transferring the proceeding to the participating State is registered in that State's Childrens Court under its interstate law—

(a) the proceeding is discontinued in the Childrens Court in Queensland; and

(b) any interim order made by the Childrens Court in Queensland on ordering the transfer ceases to have effect under this Act.

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Part 5 Transfer of proceedings to Queensland

233 Application of pt 5

This part applies to the transfer of a child protection proceeding to Queensland, from a participating State, under an interstate law of that State.

234 Chief executive's consent to transfer

(1) The proceeding may not be transferred to Queensland unless the chief executive gives written consent to the transfer.

(2) The chief executive must give the consent, if asked by the interstate officer for the participating State, unless the chief executive is satisfied the transfer would not be in the child's best interests.

235 Filing and registration of interstate transfer decision

(1) This section applies if—

(a) the chief executive gives written consent to the transfer; and

(b) the chief executive is satisfied—

(i) the period for appealing, or applying for review of, the interstate transfer decision relating to the transfer has expired; and

(ii) the decision is not the subject of an appeal or application for review; and

(iii) the decision is not stayed.

(2) As soon as practicable after receiving a copy of the decision, the chief executive must file the copy in the Childrens Court.

(3) Also, if an interstate government officer of the participating State is a party to the proceeding, the chief executive must file in the Childrens Court a notice stating that the litigation

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director is a party to the proceeding in place of the interstate government officer.

(4) If there is an associated interim order in force, the chief executive must also file a copy of the associated interim order in the Childrens Court as soon as practicable after receiving the copy.

(5) On the filing of a copy of an interstate transfer decision or associated interim order under this section, the registrar of the court must register the decision or order.

(6) Immediately after registering the decision or order, the registrar must notify the interstate officer for the participating State and the registrar of the Childrens Court in that State.

(7) In this section—

interstate government officer, of a participating State, means the interstate officer for that State or another officer of a department of government of that State.

236 Effect of registration of interstate transfer decision

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

(2) The litigation director is a party to the proceeding in place of the interstate government officer for the participating State.

(3) The court—

(a) is not bound by any finding of fact made by the Childrens Court in the participating State; and

(b) may inform itself on a matter using a transcript of the proceeding in that court or evidence tendered in the proceeding.

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237 Effect of registration of associated interim order

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

(2) The order may be enforced as if it had been made by the court under section 67, even if it includes provisions that could not otherwise be included in an order under that section.

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

(4) This section does not limit the court's powers to revoke the order or make another order under section 67.

238 Revocation of registration

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

(a) the chief executive;

(b) the litigation director;

(c) the child the subject of the proceeding;

(d) a parent of the child;

(e) a party to the proceeding;

(f) a person entitled under the interstate law of the participating State to receive notice of the proceeding.

(2) The registrar must immediately give a copy of the application to—

(a) the interstate officer for the participating State; and

(b) each person mentioned in subsection (1).

(3) The court may grant the application and revoke the registration only if it is satisfied that, when the interstate transfer decision or associated interim order was registered—

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(a) the period for appealing, or applying for review of, the decision or order had not expired; or

(b) the decision or order was the subject of an appeal or application for review; or

(c) the decision or order was stayed.

(4) Immediately after the registration of the decision or order is revoked, the registrar must—

(a) notify the interstate officer for the participating State and the registrar of the Childrens Court in that State; and

(b) return the documents relating to the decision or order that were filed in the court under section 235.

(5) To remove doubt, it is declared that revocation of the registration of the interstate transfer decision or associated interim order does not prevent a re-registration of the decision or order.

Part 6 Miscellaneous

Division 1 Appeals

239 Appeal against decision of Childrens Court

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

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

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

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

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(a) if the original decision is to order the transfer of a child protection order—within 10 business days after receiving the notice under section 216;

(b) if the original decision is to order the transfer of a child protection proceeding—within 10 business days after receiving the notice under section 231;

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

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

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

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

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

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

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

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

(a) confirm the original decision; or

(b) vary the original decision; or

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

240 Interim orders

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

(2) If an interim order is in force under section 230—

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

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(b) the appellate court may—

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

(ii) vary or revoke the interim order; or

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

(3) Also, the appellate court may make any interim order that could be made by the Childrens Court under section 230.

Division 2 Court files

241 Transfer of court file

(1) This section applies if—

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

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

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

(2) The registrar of the court must give the court file for the child protection order or proceeding to the registrar of the Childrens Court of the participating State.

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Chapter 7A Internal agency reviews following child deaths or injuries

Part 1 Preliminary

245 Overview of chapter and purpose of reviews

(1) This chapter provides for a system under which, if a child dies or suffers serious physical injury after a relevant agency has been involved with the child, the agency's head must carry out a review of its involvement.

(2) The system also provides for a review of the office of the litigation director's involvement in a matter concerning the child if the litigation director has performed a litigation function.

(3) The purpose of the reviews is to promote the safety and wellbeing of children who come into contact with the child protection system by—

(a) facilitating ongoing learning and improvement in the provision of services by the agencies and the litigation director; and

(b) promoting the accountability of the agencies and the litigation director; and

(c) supporting collaboration and joint learning by the agencies.

(4) In the case of child deaths, review reports are given to an independent board under the *Family and Child Commission Act 2014*, part 3A, which carries out further reviews of relevant systems.

245A Principles underlying chapter

The principles underlying this chapter are—

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(a) relevant agencies should work collaboratively, and in a way that respects each others' functions and expertise, to achieve the purpose of internal agency reviews; and

(b) if a relevant agency is carrying out an internal agency review, other relevant agencies should share information with the reviewing agency in a timely way, and to the extent that is appropriate, having regard to—

(i) the relevance of the information to the review; and

(ii) the extent to which sharing the information would advance the purpose of the review; and

(iii) the effect of sharing the information on the safety, wellbeing and best interests of children; and

(c) a relevant agency that has carried out, or is carrying out, an internal agency review should share the outcomes of the review with other relevant agencies in a timely way, and to the extent that is appropriate, having regard to—

(i) the relevance of the outcomes to the other agencies' functions; and

(ii) the extent to which sharing the outcomes would advance the purpose of the review; and

(iii) the effect of sharing the outcomes on the safety, wellbeing and best interests of children.

245B Definitions for chapter

In this chapter—

agency head means the head of a relevant agency.

head, of a relevant agency, means—

(a) for a department—the chief executive of the department; or

(b) for a Hospital and Health Service—its health service chief executive; or

(c) for the Queensland Police Service—the commissioner of the police service.

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internal agency review means a review, carried out by the head of a relevant agency, of the agency's involvement with a child.

Minister, for a relevant agency, means—

(a) for a department—the Minister administering the department; or

(b) for a Hospital and Health Service—the Minister administering the *Hospital and Health Boards Act 2011*; or

(c) for the Queensland Police Service—the Minister administering the *Police Service Administration Act 1990*.

outcomes, of an internal agency review, includes—

(a) findings and recommendations; and

(b) information considered in forming findings and recommendations.

policies include guidelines, procedures, protocols, standards and systems.

relevant agency means any of the following entities—

(a) the department in which this Act is administered;

(b) the department mainly responsible for education;

(c) the department mainly responsible for public health;

(d) the department mainly responsible for youth justice services;

(e) a Hospital and Health Service;

(f) the Queensland Police Service.

review report see section 245N(1)(c).

triggering event, for an internal agency review, see section 245M.

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245C References to providing a service to a child

A reference in this chapter to providing a service to a child includes a reference to interacting with a child, or a member of a child's family, in relation to a matter relevant to the child's safety and wellbeing.

Part 2 When reviews must be carried out

245D Application of part

This part applies if a child dies or suffers serious physical injury.

245E Department review following involvement with child

The chief executive must carry out a review about the department's involvement with the child if—

(a) at the time of the child's death or serious physical injury, the child was in the chief executive's custody or guardianship; or

(b) within 1 year before the child's death or serious physical injury, the chief executive became aware of alleged harm or an alleged risk of harm to the child in the course of performing functions under this Act; or

(c) within 1 year before the child's death or serious physical injury, the chief executive took action under this Act in relation to the child; or

(d) the child was less than 1 year old at the time of death or serious physical injury and, before the child was born, the chief executive reasonably suspected the child might be in need of protection after the child was born.

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245F Department review at Minister's request

(1) The chief executive must carry out a review about the department's involvement with the child if the Minister requests a review under this section.

(2) The Minister may ask the chief executive to carry out a review if the Minister considers the circumstances of the child's death or serious physical injury may be relevant to the chief executive's functions under this Act, having regard to the purpose of reviews stated in section 245(3).

245G Notification about department review

(1) This section applies if, under section 245E or 245F, the chief executive is required to carry out a review about the department's involvement with the child.

(2) As soon as the chief executive becomes aware of the requirement to carry out the review, the chief executive must give a written notice to—

(a) the head of each other relevant agency other than a Hospital and Health Service; and

(b) if the litigation director is performing or has performed a litigation function in relation to the child—the litigation director.

(3) The notice given to the head of a relevant agency must—

(a) state that—

(i) the child has died or suffered serious physical injury; and

(ii) the chief executive is required to carry out a review under this chapter; and

(iii) the agency head may also be required to carry out a review under this chapter; and

(b) include any of the following information held by the chief executive—

(i) the child's name and date of birth;

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(ii) the date of the child's death or injury;

(iii) any other information the chief executive considers may be relevant to a determination about whether the agency head is required under section 245H to carry out a review.

(4) As soon as practicable after receiving a notice under subsection (2)(a), the chief executive (health) must—

(a) determine whether a Hospital and Health Service may have provided a service to the child within 1 year before the child's death or serious physical injury; and

(b) if so, give a copy of the notice to the head of the Hospital and Health Service.

(5) In this section—

chief executive (health) means the chief executive of the department mainly responsible for public health.

245H Other relevant agency review following involvement with child

(1) This section applies in relation to a relevant agency other than the department.

(2) As soon as practicable after receiving a notice under section 245G, the agency head must—

(a) determine whether the agency provided a service to the child within 1 year before the child's death or serious physical injury; and

(b) if so, carry out a review about the agency's involvement with the child.

(3) On request by the agency head, the chief executive or the head of another relevant agency may give information to the agency head for use in determining whether a review is required under subsection (2).

Examples of information that may be requested—

- the child's address during the year before the child's death or serious physical injury

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- the names of the child's parents and their contact details

245I Other relevant agency review at Minister's request

(1) This section applies in relation to a relevant agency other than the department.

(2) The agency head must carry out a review about the agency's involvement with the child if the agency's Minister requests a review under this section.

(3) In exceptional circumstances, the agency's Minister may ask the agency head to review the agency's involvement with the child even though no notice under section 245G has been given to the agency head or no review is required under section 245H.

(4) The agency's Minister may make the request if the Minister considers it would be appropriate, having regard to the circumstances of the child's death or serious physical injury and the purpose of reviews stated in section 245(3).

(5) The agency head may notify the head of another relevant agency that a review is being carried out under this section.

245J Office of litigation director review

The litigation director must carry out a review about the involvement of the office of the litigation director in a matter concerning the child if—

(a) the chief executive gives notice to the litigation director under section 245G(2)(b); and

(b) any of the following applies—

(i) at the time of the child's death or serious physical injury, the litigation director was performing a litigation function in relation to the child;

(ii) within 1 year before the child's death or serious physical injury, the litigation director performed a litigation function in relation to the child;

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(iii) the chief executive requests the review in writing.

Part 3 Scope of reviews

245K Scope of relevant agency review

(1) This section applies to a review about a relevant agency's involvement with a child.

(2) The agency head must decide the extent of, and terms of reference for, the review.

(3) Without limiting subsection (2), the terms of reference may include any of the following matters so far as they are relevant to the purpose of reviews stated in section 245(3)—

(a) finding out whether the agency's involvement with the child complied with legislative requirements and the agency's policies;

(b) considering the adequacy and appropriateness of the agency's involvement with the child;

(c) commenting on the adequacy of the agency's involvement with other entities in the provision of services to the child;

(d) commenting on the adequacy of legislative requirements and the agency's policies relating to the child;

(e) making recommendations relating to matters mentioned in paragraphs (a) to (d) and suggesting strategies to put into effect the recommendations.

(4) The terms of reference must not include considering whether disciplinary action should be taken against an employee of the agency.

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245L Scope of litigation director review

(1) This section applies to a review about the involvement of the office of the litigation director in a matter concerning the child.

(2) The litigation director must decide the extent of, and terms of reference for, the review.

(3) Without limiting subsection (2), the terms of reference may include any of the following—

(a) considering whether the office of the litigation director complied with—

(i) legislative requirements; and

(ii) guidelines made by the director under the *Director of Child Protection Litigation Act 2016*, section 39; and

(iii) any policies relevant to the performance of a litigation function in relation to the child;

(b) commenting on the adequacy of the legislative requirements, guidelines and policies mentioned in paragraph (a) for performing litigation functions;

(c) commenting on whether sufficient evidence was made available to the office of the litigation director for the purposes of making decisions under the *Director of Child Protection Litigation Act 2016*;

(d) making recommendations relating to matters mentioned in paragraphs (a) to (c) and suggesting strategies to put into effect the recommendations.

(4) The terms of reference must not include considering whether disciplinary action should be taken against an employee of the office of the litigation director.

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Part 4 Conduct of reviews and reporting

245M *Triggering event* for review

(1) The ***triggering event*** for an internal agency review is—

(a) for a review by the chief executive under section 245E—the chief executive becoming aware of the child's death or serious physical injury; or

(b) for a review by the chief executive under section 245F—the chief executive receiving the Minister's written request; or

(c) for a review by the head of a relevant agency other than the department under section 245H—the agency head determining under that section that a review is required; or

(d) for a review by the head of a relevant agency other than the department under section 245I—the agency head receiving the agency's Minister's written request.

(2) The ***triggering event*** for a review by the litigation director is—

(a) for a review under section 245J(b)(i) or (ii)—the director receiving notice from the chief executive under section 245G(2)(b); or

(b) for a review under section 245J(b)(iii)—the director receiving the chief executive's written request.

245N Review to be completed and report prepared

(1) As soon as practicable, and not more than 6 months, after the triggering event for a review, the agency head or litigation director must—

(a) decide the extent of, and terms of reference for, the review; and

(b) complete the review; and

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(c) prepare a report about the review (the ***review report***); and

(d) give the review report to the entities required under sections 245O to 245Q.

(2) In carrying out an internal agency review, an agency head must seek to—

(a) work with other relevant agencies to coordinate the reviews and other processes carried out in that agency and other relevant agencies; and

(b) avoid unnecessary duplication of the reviews and other processes carried out in that agency and other relevant agencies.

245O Giving report to child death review board

(1) This section applies in relation to a review following the death of a child.

(2) The agency head or litigation director who carries out the review must give the child death review board—

(a) a copy of the review report; and

(b) copies of any documents obtained by the agency head or litigation director and used for the review.

245P Giving report to State Coroner

(1) This section applies in relation to a review following the death of a child that is a reportable death under the *Coroners Act 2003*.

(2) The agency head or litigation director who carries out the review must give a copy of the review report to the State Coroner for use by the coroner to help in an investigation under the *Coroners Act 2003*.

(3) If the report does not identify the child, the copy given to the State Coroner must be accompanied by a document stating—

(a) the child's name and date of birth; and

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(b) the date of the child's death.

245Q Giving report to department or litigation director

If the litigation director and the chief executive are both required to carry out a review for the same child, each of them must give a copy of their review report to the other.

245R Giving report to relevant agency or litigation director

(1) If the litigation director and the head of a relevant agency other than the department are both required to carry out a review for the same child, each of them may give a copy of their review report to the other.

(2) If 2 or more agency heads are each required to carry out a review for the same child, any of them may give a copy of their review report to any of the other agency heads.

(3) Before giving a copy of a review report under subsection (1) or (2), the litigation director or agency head who prepared the report must redact it to ensure it does not include any information that may identify an individual other than a child to whom the review relates.

(4) In this section—

review report includes part of a review report.

Part 5 Information sharing and protection from liability

245S Purpose

The purpose of this part is to enable the sharing of information, while protecting its confidentiality, so that relevant agencies can effectively carry out internal agency reviews and share the outcomes.

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245T Confidential information may be given to relevant agencies

(1) The head of a relevant agency who is carrying out an internal agency review may ask another entity for stated information that may be relevant to the review.

(2) Any entity may give confidential information to the head of a relevant agency for the purpose of an internal agency review.

(3) The head of a relevant agency may give confidential information to the head of another relevant agency for the purpose of sharing the outcomes of an internal agency review.

(4) Information may be given to the head of a relevant agency under subsection (2) or (3) whether or not the agency head requested the information.

(5) Subsections (2) to (4) do not apply to information about the identity of a notifier under section 186.

(6) Section 186(2)(a) does not apply to a disclosure of the identity of a notifier, in the course of performing functions under this part, to or by the head of a relevant agency other than the department.

Note—

Chapter 6, part 6 provides for the confidentiality of information obtained under this part. See, in particular, the offences under sections 186 to 188 for disclosing particular information other than as authorised under those sections.

245U Interaction with other laws

(1) This chapter does not limit a power or obligation under another Act or law to give information.

(2) This part applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.

(3) However, if a person may claim privilege in relation to information under another Act or law, the privilege is not affected only because the information may be, or is, disclosed under this part.

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245V Protection from liability for giving information

(1) This section applies if a person, acting honestly, gives information under this chapter.

(2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.

(3) Also, merely because the person gives the information, the person cannot be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

(4) Without limiting subsections (2) and (3)—

(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—

(i) does not contravene the Act, oath or rule of law or practice by giving the information; and

(ii) is not liable to disciplinary action for giving the information.

245W No liability for defamation if report made in good faith

It is a lawful excuse for the publication of a defamatory statement made in a report under this chapter that the publication is made in good faith and is, or purports to be, made for this Act.

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Chapter 8 Miscellaneous

247 Reviews of reviewable decisions

An aggrieved person for a reviewable decision may apply, as provided under the QCAT Act, to the tribunal to have the decision reviewed.

Note—

Aggrieved persons and reviewable decisions are in schedule 2.

248B Consultation about investigations and prosecutions

(1) This section applies to an offence committed against a child who a police officer knows or suspects is a child in need of protection.

(2) When investigating the offence, the officer must consult with the chief executive for the purpose of planning the most appropriate way of conducting the investigation.

(3) Before starting a proceeding for the offence, the officer must consult with the chief executive for the purpose of considering whether the proceeding would be in the best interests of the child.

(4) Subsections (2) and (3) do not apply to the officer—

(a) to the extent that the consultation would be impracticable in all the circumstances, including any need to take urgent action; or

(b) if the officer is aware the consultation has already been carried out by another police officer.

249 Regulation-making powers

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made for or about the following—

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(a) the suitability of persons involved in, and the use of premises for, providing care services;

(b) fees;

(c) the records to be kept and returns to be made by persons and the inspection of records;

(d) the conduct of family group meetings;

(e) the SCAN system.

(3) A regulation may impose a penalty of not more than 20 penalty units for contravention of a provision of a regulation.

Chapter 9 Repeals, savings and transitional provisions

Part 1 Repeals

250 Repeal of Children's Services Act 1965

The Children's Services Act 1965 is repealed.

251 References to repealed Act

In an Act or document, a reference to the *Children's Services Act 1965* may, if the context permits, be taken to be a reference to this Act.

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Part 2 Savings and transitional provisions for Act No. 10 of 1999

252 Definitions for pt 2

In this part—

commencing day means the day this chapter commences.

director means the director under the repealed Act.

existing care and protection order, for a child, means an order in force immediately before the commencing day—

(a) under section 49(4)(a)(iii) of the repealed Act admitting the child to the director's care and protection; or

(b) under section 61(4)(a)(iii) of the repealed Act admitting the child to the director's care and control.

existing section 47 declaration, for a child, means a declaration in force immediately before the commencing day under section 47 of the repealed Act admitting the child to the director's care and protection.

existing section 134 declaration, for a child, means a declaration in force immediately before the commencing day under section 134(4) of the repealed Act admitting the child to the director's care and protection.

existing supervision order, for a child, means an order in force immediately before the commencing day—

(a) under section 49(4)(a)(ii) of the repealed Act ordering that the director have protective supervision over and in relation to the child; or

(b) under section 61(4)(a)(ii) of the repealed Act ordering the director to exercise supervision over and in relation to the child.

repealed Act means the *Children's Services Act 1965*.

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253 Existing section 47 declarations and care and protection orders

(1) An existing section 47 declaration or existing care and protection order continues in force under this Act as if it were a child protection order granting the chief executive guardianship of the child.

(2) An existing section 47 declaration, or existing care and protection order made under section 49(4)(a)(iii) of the repealed Act, and continued in force under subsection (1) ends—

(a) if, immediately before the commencing day, the declaration or order had been in force for more than 3 years—when the child turns 18 years; or

(b) if, immediately before the commencing day, the declaration or order had been in force for 1 or more years but not more than 3 years—3 years after it was originally made or, if the child earlier turns 18 years, when the child turns 18 years; or

(c) if, immediately before the commencing day, the declaration or order had been in force for less than 1 year—2 years after it was originally made or, if the child earlier turns 18 years, when the child turns 18 years.

(3) An existing care and protection order made under section 61(4)(a)(iii) of the repealed Act and continued in force under subsection (1) ends 1 year after the commencing day or, if the child earlier turns 18 years, when the child turns 18 years.

254 Existing supervision orders

(1) An existing supervision order continues in force under this Act as if it were a child protection order requiring the chief executive to supervise the child's protection in relation to the matters stated in the order.

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(2) An existing supervision order continued in force under subsection (1) ends 1 year after the commencing day or, if the child earlier turns 18 years, when the child turns 18 years.

255 Existing section 134 declarations

(1) On the day of the commencing day, the chief executive must, by written declaration, assume guardianship of each child the subject of an existing section 134 declaration.

(2) The declaration may assume guardianship of the child for—

(a) if the interstate order for the child states it ends after a stated period—the lesser of—

(i) the remainder of the stated period; or

(ii) 2 years; or

(b) if the interstate order for the child states it ends when the child turns 18 years—not more than 2 years or, if the child earlier turns 18 years, until the child turns 18 years.

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

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

(5) To remove any doubt, it is declared that the declaration may be made even if the interstate order has ended before the commencing day.

(6) The declaration is taken—

(a) to be a declaration under section 243; and

(b) to have had effect from the commencing day.

(7) In this section—

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

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256 Licensed institutions under repealed Act

(1) A licence issued by the Minister under part 4 of the repealed Act for an institution, and in force immediately before the commencing day, continues in force as if it were a licence to provide care services under this Act.

(2) For this Act, the governing authority of the institution is taken to be the licensee and the person in charge of the institution is taken to be the nominee.

(3) A licence continued in force under subsection (1) ends on the anniversary of its issue in the third year after the commencing day.

257 Approved foster parents

(1) The holder of an approval to act as a foster parent under part 10 of the repealed Act, and in force immediately before the commencing day, continues in force as if it were a certificate of approval as an approved foster carer under this Act.

(2) An approval continued in force under subsection (1) ends on the anniversary of its issue in the second year after the commencing day.

258 Existing applications and proceedings for care and protection orders and care and control orders

(1) This section applies to—

(a) an application under the repealed Act for an order that a child be—

(i) admitted to the chief executive's care and protection; or

(ii) committed to the chief executive's care and control; and

(b) a proceeding in the Childrens Court for an application mentioned in paragraph (a).

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(2) If the application or proceeding is not finally dealt with at the commencement of this section, it may be continued and dealt with under this Act as if it were an application, or a proceeding for an application, for a child protection order granting short-term guardianship of the child to the chief executive.

259 Applications to revoke or substitute certain orders under repealed Act

(1) In this section—

existing section 49 order, for a child, means an order in force immediately before the commencing day under section 49(4)(a)(ii) or (iii) of the repealed Act—

(a) ordering the director have protective supervision over and in relation to the child; or

(b) admitting the child to the director's care and protection.

(2) An application under the repealed Act to revoke or substitute an existing section 49 order for a child not finally dealt with at the commencing day may be continued and dealt with under this Act as if it were an application to vary or revoke a child protection order for the child.

259A Appointment of guardian by deed under s 90 of repealed Act

(1) This section applies to a deed, made under section 90 of the repealed Act, appointing a person as guardian of a child, if the deed was in force immediately before the commencing day.

(2) The deed has effect to the same extent as if the repealed Act had not been repealed.

(3) Subsection (2) does not limit the *Acts Interpretation Act 1954*, section 20.

(4) This section has effect from 23 March 2000.

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260 Exemption from expiry of Children's Services Regulation 1966

Despite the *Statutory Instruments Act 1992*, part 7, the *Children's Services Regulation 1966* does not expire at the end of 30 June 1999 but remains in force until the earliest of the following, when it ceases to have effect—

(a) the commencement of section 250;

(b) the end of 31 December 1999;

(c) the repeal or expiry of the regulation, other than under the part or as mentioned in paragraph (a) or (b).

Part 2A Savings provision for Child Protection Amendment Act 2000

260A Declaration under repealed s 243 (Transfer from a non-participating State)

A child protection order made by declaration under section 243 before the repeal of that section, and in force immediately before the repeal, is not affected by the repeal.

Part 3 Savings and transitional provision for Child Safety Legislation Amendment Act 2004

261 First reports under s 248(1)

The first reports prepared under section 248(1) are due by 31 October 2005 and must relate to the period starting on the day section 248 commences and ending on 30 June 2005.

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Part 4 Transitional provision for Child Safety Legislation Amendment Act (No. 2) 2004

262 Transitional—case planning

(1) If, on the commencement day, a child is a child mentioned in section 51C and has a case plan that was prepared before the commencement day, the plan is taken to have been developed under chapter 2, part 3A.

(2) A family meeting held under the Act before the commencement day is taken to be a family group meeting.

(3) In this section—

commencement day means the day chapter 2, part 3A, commences.

Part 5 Savings and transitional provisions for Child Safety Legislation Amendment Act 2005

263 Administrative approvals as carers

(1) An administrative approval of a person as a relative carer, in force immediately before the commencement day, continues in force as an approval of the person as an approved kinship carer.

(2) Subject to this Act, an approval under subsection (1) continues in force until—

(a) if the administrative approval was given before 31 July 2004—the anniversary of the day of its issue first happening after 31 July 2006; or

(b) otherwise—the second anniversary of the day of its issue.

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(3) An administrative approval of a person as a limited approval carer, in force immediately before the commencement day, continues in force as an approval of the person as a provisionally approved carer.

(4) Subject to this Act, an approval under subsection (3) continues in force until the day stated in the administrative approval.

(5) In this section—

administrative approval means an approval given by the chief executive, before the commencement day, under an administrative scheme for approving persons as carers for this Act.

commencement day means the day the *Child Safety Legislation Amendment Act 2005*, section 38, commences.

264 Current applications relating to foster carer certificates

(1) This section applies to an application made under repealed section 132 that, immediately before the commencement day, had not been decided.

(2) If the application is for a certificate of approval, it is taken to have been made under section 133.

(3) If the application is to renew a certificate of approval, it is taken to have been made under section 134.

(4) In this section—

commencement day means the day the *Child Safety Legislation Amendment Act 2005*, section 38, commences.

repealed section 132 means section 132 as in force before the commencement day.

265 Recognised entities

(1) This section applies if, on the commencement day, there is no list under section 246I.

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(2) Until a list is established, an entity that, immediately before the commencement day, was a recognised Aboriginal or Torres Strait Islander agency for a particular child continues as a recognised entity for the child.

(3) In this section—

commencement day means the day the *Child Safety Legislation Amendment Act 2005*, section 65, commences.

Part 6 Transitional provisions for Child Safety (Carers) Amendment Act 2006

266 Definitions for pt 6

In this part—

commencement means the day on which the provision in which the term is used commences.

post-amended Act means this Act as in force after the commencement.

267 Application for licence

(1) This section applies to an application made under section 125 that, immediately before the commencement, had not been decided.

(2) Sections 125(1)(d) and 126(c) and (d) of the post-amended Act do not apply to the application.

268 Application for particular certificate of approval

(1) This section applies to an application for, or renewal of, a certificate of approval as an approved foster carer that, immediately before the commencement, had not been decided.

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(2) Section 135(1)(a)(iii) of the post-amended Act does not apply to the application.

Part 7 Transitional provision for Criminal History Screening Legislation Amendment Act 2010

269 Giving information about disciplinary action to children's commissioner

(1) This section applies if—

(a) before the commencement, the chief executive amended, suspended or cancelled a certificate of approval under chapter 4, part 2, division 4 (the ***disciplinary action***); and

(b) at the commencement, the chief executive has neither given nor decided not to give the children's commissioner written notice about the disciplinary action as provided under previous section 140A.

(2) Section 140A as in force immediately after the commencement applies in relation to the disciplinary action.

(3) In this section—

commencement means the commencement of this section.

previous section 140A means section 140A as in force from time to time before the commencement.

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Part 8 Transitional provision for Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014

270 Honorary officers appointed under repealed Act

A person who, immediately before the commencement of this section, held office as an honorary officer under the repealed *Family Services Act 1987* for a purpose related to this Act is taken to be an honorary officer under this Act until the person stops holding office under section 155C.

Part 9 Transitional provision for Child Protection Reform Amendment Act 2014

271 Uncompleted child death case reviews

(1) This section applies to a review started by the chief executive under chapter 7A before the commencement day if, immediately before the commencement day—

(a) the chief executive had not yet given a copy of a report about the review to the CDCRC under previous section 246D(2); or

(b) the chief executive had given a copy of a report about the review to the CDCRC under previous section 246D(2) but the CDCRC had not completed its review of the chief executive's review and given a copy of its report about its review to the chief executive under previous section 135 of the *Commission for Children and Young People and Child Guardian Act 2000*.

(2) The chief executive must give the report about the review and other documents required under section 246D to a review

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panel established or nominated by the Minister to conduct a review of the chief executive's review.

(3) In this section—

commencement day means the day this section commences.

previous means as in force before the commencement day.

Part 10 Transitional provisions for Child Protection Reform Amendment Act 2016

272 Suspension of current tribunal proceedings dealing with contact matter

Section 99MA does not apply in relation to a review proceeding mentioned in that section started before the commencement.

273 Duty of disclosure in current proceedings

Section 189C applies in relation to a proceeding for a child protection order even if the proceeding started before the commencement.

Part 11 Transitional provisions for Child Protection Reform Amendment Act 2017

274 Applications for temporary custody orders

(1) This section applies to an application for a temporary custody order made, but not decided, before the commencement.

(2) For deciding the application, previous sections 51AB and 51AE apply in relation to the application.

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(3) In this section—

previous, in relation to a section, means the section as in force from time to time before the commencement.

275 Existing case plans and reviews

(1) This section applies to a case plan for a child that is in effect immediately before the commencement.

(2) Section 51B(2) and (3) does not apply to the case plan until the first review of the plan under section 51V that starts after the commencement.

Part 12 Transitional provisions for Child Death Review Legislation Amendment Act 2020

276 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.

original review documents means original review documents under former section 246D(2).

277 Current reviews by chief executive or litigation director

(1) This section applies if—

(a) the chief executive or litigation director was required to carry out a review under former chapter 7A, part 1, division 2; and

(b) immediately before the commencement, the chief executive or litigation director had not yet completed

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the review and given the original review documents to a review panel under former section 246D.

(2) Despite their repeal, former sections 245 to 246D and former sections 246E, 246F and 246H continue to apply in relation to the review.

(3) However, a reference in former section 246D or 246E to a review panel is taken to be a reference to the child death review board.

278 Dissolution of review panels and pool of members

On the commencement—

(a) the appointment of a person to a pool under former section 246HA ends; and

(b) each review panel established under former section 246HE is dissolved; and

(c) all documents that were held by a review panel under former chapter 7A become documents of the child death review board.

279 Child death review board may obtain documents for reviews under former provisions

(1) This section applies to an original review document or other document held by the chief executive that relates to a review started before the commencement under former chapter 7A.

(2) On request by the child death review board, the chief executive must give the document, or a copy of it, to the board.

280 Annual report about review panels

Despite its repeal, former section 246HL applies to the chief executive in relation to the financial year starting on 1 July 2019.

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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—

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(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) Subsection (4) to (6) apply if the holder of the kinship carer certificate makes an application, under section 133, for a foster carer certificate.

(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.

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(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.

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Schedule 1 Charter of rights for a child in care

schedule 3, definition *charter of rights*

Because—

The Parliament recognises the State has responsibilities for a child in need of protection who is in the custody or under the guardianship of the chief executive under this Act,

this Act establishes the following rights for the child—

(a) to be provided with a safe and stable living environment;

(b) to be treated fairly and with respect;

(c) to be placed in care that best meets the child's needs and is most culturally appropriate;

(d) to maintain relationships with the child's family and community;

(e) to develop, maintain and enjoy a connection to the child's culture of origin;

(f) for an Aboriginal child—to develop, maintain and enjoy a connection to Aboriginal tradition;

(g) for a Torres Strait Islander child—to develop, maintain and enjoy a connection to Island custom;

(h) to develop, maintain and enjoy the child's identity, including, for example, the child's sexual orientation or gender identity;

(i) to choose and practise 1 or more languages;

(j) to choose and practise 1 or more religions;

(k) to be consulted about, and to take part in making, decisions affecting the child's life (having regard to the child's age or ability to understand), particularly

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decisions about where the child is living, contact with the child's family and the child's health and schooling;

(l) to be given information about decisions and plans concerning the child's future and personal history, having regard to the child's age or ability to understand;

(m) to keep, and have a safe space to store, personal belongings;

(n) to engage in play, and other recreational activities, appropriate for the child;

(o) to privacy, including, for example, in relation to the child's personal information;

(p) if the child is under the long-term guardianship of the chief executive, to regular review of the child's care arrangements;

(q) to make a complaint to the chief executive if the child considers that the charter of rights is not being complied with in relation to the child;

(r) to have access to dental, medical and therapeutic services, necessary to meet the child's needs;

(s) to have access to education appropriate to the child's age and development;

(t) to have access to job training opportunities and help in finding appropriate employment;

(u) to receive appropriate help with the transition from being a child in care to independence, including, for example, help about housing, access to income support and training and education.

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Schedule 2 Reviewable decisions and aggrieved persons

section 247 and schedule 3, definitions *aggrieved person* and *reviewable decision*

	Column 1 Reviewable decision	Column 2 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

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	Column 1 Reviewable decision	Column 2 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

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	Column 1 Reviewable decision	Column 2 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

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Schedule 3 Dictionary

section 3

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

agency head, for chapter 7A, see section 245B.

aggrieved person, for a reviewable decision, means a person stated opposite the decision in schedule 2.

appellate court means—

(a) for a decision on an application for a court assessment order or child protection order, or for an order transferring a child protection order or child protection proceeding to a participating State—

(i) if the decision was made by the Childrens Court constituted by a judge—the Court of Appeal; or

(ii) if the decision was made by the Childrens Court constituted in another way—the Childrens Court constituted by a judge; or

(b) for a decision on an application for a temporary assessment order or temporary custody order—the Childrens Court constituted by a judge.

apply for a review, for chapter 4, part 2, division 4, subdivision 3, see section 140AB.

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

appropriate Aboriginal or Torres Strait Islander entity, for chapter 4, part 2A, see section 148BA.

approved carer—

(a) generally, means—

(i) an approved foster carer; or

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(ii) an approved kinship carer; or

(iii) a provisionally approved carer; or

(b) for chapter 4, part 2, division 4, subdivision 3—see section 140AB.

approved form means a form approved under section 157.

approved foster carer means a person who holds a certificate of approval as an approved foster carer.

approved kinship carer, for a child, means a person who holds a certificate of approval as an approved kinship carer for the child.

assessment care agreement see section 51ZD(2).

assessment order means a temporary or court assessment order.

associated interim order, in relation to a proceeding transferred to Queensland by a court under an interstate law, means an interim order made by the court when ordering the transfer of the proceeding.

authorised officer means a person holding office as an authorised officer under an appointment under this Act.

authority means a licence or certificate of approval.

care agreement see section 51ZD(1).

carer, of a child, means the entity in whose care the child has been placed under section 82(1).

case plan see section 51B.

case planning see section 51A.

case planning meeting see section 51H(2).

certificate of approval means a certificate of approval issued under chapter 4, part 2.

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

(a) a charge on an arrest;

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(b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;

(c) a complaint under the *Justices Act 1886*;

(d) a charge by a court under the *Justices Act 1886*, section 42(1A), or another provision of an Act;

(e) an indictment.

charter of rights means the charter of rights for a child in care in schedule 1.

chief executive (adoptions) means the chief executive of the department in which the *Adoption Act 2009* is administered.

chief executive (employment screening) means the chief executive of the department in which the *Working with Children Check Act 2000* is administered.

chief executive for transport means the chief executive of the department in which the *Transport Operations (Road Use Management) Act 1995* is administered.

child see section 8.

child death review board means the board established by the *Family and Child Commission Act 2014*, section 29C.

child in need of protection see section 10.

child protection care agreement see section 51ZD(3).

child protection order—

(a) means a child protection order under chapter 2, part 4, including—

(i) an order extending, varying or revoking a child protection order; and

(ii) an interim order under section 67 in relation to a proceeding for a child protection order; and

(b) for chapter 7, includes an order mentioned in section 201.

child protection proceeding means—

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(a) a proceeding under this Act for the making, extension, amendment or revocation of a child protection order; or

(b) a proceeding under a child welfare law of a participating State for—

(i) the making, extension, amendment or revocation of a child protection order or interim order; or

(ii) if, under that law, the making of a particular finding is a prerequisite to the making of a child protection order—the making of the finding.

Childrens Court, of another State, means the court in that State that may hear and decide a child protection proceeding at first instance.

child welfare law, of another State, means a law declared under section 203 to be a child welfare law of that State.

commencement, for chapter 9, part 6, see section 266.

commission, of an offence, includes attempted commission of the offence.

contact, with a child, includes to see and talk to the child.

contact arrangements, for a child, means arrangements for the child's contact with members of the child's family group or other persons with whom the child is connected.

convicted means found guilty, or having a plea of guilty accepted, by a court whether or not a conviction is recorded.

court assessment order means an order under chapter 2, part 3, and includes—

(a) an order extending, varying or revoking a court assessment order; and

(b) an interim order under section 67 in relation to a proceeding for a court assessment order.

criminal history, of a person, means all of the following—

(a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this definition, including spent convictions;

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(b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this definition;

(c) every disqualification order made under the *Working with Children Check Act 2000* in relation to the person, whether before or after the commencement of this definition;

(d) every disqualification order and offender prohibition order made under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004* in relation to the person, whether before or after the commencement of this definition.

departmental care service means a care service established by the chief executive to accommodate children in the chief executive's custody or guardianship or other children in need of protection.

director, of an applicant for a licence or a licensee, means—

(a) if the applicant or licensee is a company under the Corporations Act—a person appointed as a director of the applicant or licensee; or

(b) otherwise—a person who is, or is a member of, the executive or management entity, by whatever name called, of the applicant or licensee.

direct representative means a lawyer mentioned in section 108(1)(a)(i).

disqualifying offence means a disqualifying offence under the *Working with Children Check Act 2000*.

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

endorse, a case plan, means record an endorsement on the plan.

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's

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management, whether or not the person is a director or the person's position is given the name of executive officer.

family group, of a child, includes—

(a) members of the child's extended family; and

(b) if the child belongs to a clan, tribe or similar group—members of that group; and

(c) anyone else recognised by persons mentioned in paragraph (a) or (b) as belonging to the child's family.

family group meeting means a family group meeting under chapter 2, part 3A.

finalised, for a case plan, means recorded in the approved form and endorsed by the chief executive.

foster carer certificate see section 131(a).

government entity means a government entity under the *Public Sector Act 2022*, section 276, and includes the Queensland Police Service to the extent it is not a government entity under that section.

harm see section 9.

head, of a relevant agency, for chapter 7A, see section 245B.

health practitioner means—

(a) a person registered under the Health Practitioner Regulation National Law to practise, other than as a student, in any of the following—

(i) the dental profession as any of the following—

(A) dentist;

(B) dental therapist;

(C) dental hygienist;

(D) oral health therapist;

(ii) the nursing profession;

(iii) the medical profession;

(iv) the occupational therapy profession;

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(v) the optometry profession;

(vi) the physiotherapy profession;

(vii) the psychology profession; or

(b) a person who is eligible for practising membership of The Speech Pathology Association of Australia Limited ACN 008 393 440; or

(c) a person who is eligible for membership of the Australian Association of Social Workers.

holder, of an authority, means—

(a) for a licence—the licensee; or

(b) for a certificate of approval—the holder of the certificate.

home order see section 200(a).

honorary officer means a person appointed as an honorary officer under section 155B.

Hospital and Health Service means a Hospital and Health Service established under the *Hospital and Health Boards Act 2011*.

independent Aboriginal or Torres Strait Islander entity, for an Aboriginal or Torres Strait Islander child, see section 11A(1).

internal agency review, for chapter 7A, see section 245B.

interstate government officer see section 235(7).

interstate law, of another State, means a law declared under section 204 to be an interstate law of that State.

interstate officer, for another State, means the officer declared to be the interstate officer for that State under section 204.

interstate transfer decision means—

(a) an order of a court in a participating State, made under an interstate law of that State, transferring a child protection order or child protection proceeding from that State to Queensland; or

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(b) a decision of the interstate officer of a participating State, made under an interstate law of that State, to transfer a child protection order from that State to Queensland.

intervention see section 51ZA.

judge means a Childrens Court judge.

judicial review application means an application for a statutory order of review, or an application for review, under the *Judicial Review Act 1991*.

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.

kinship carer certificate see section 131(b).

legally qualified member see the QCAT Act, schedule 3.

licence means a licence to provide care services.

licensed care service means a service, operated under a licence, to provide care for children in the chief executive's custody or guardianship.

licensed premises means premises noted on a licence.

licensed residential facility means licensed premises in which children reside.

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litigation director means the Director of Child Protection Litigation under the *Director of Child Protection Litigation Act 2016*.

litigation function, of the litigation director, means the following—

(a) a function that is or relates to dealing with a child protection matter under the *Director of Child Protection Litigation Act 2016*;

(b) a function mentioned in section 9(1) of that Act.

living arrangements, for a child, means arrangements about where or with whom the child will live.

long-term guardian, of a child, means a person, other than the chief executive, who is granted long-term guardianship of the child under a long-term guardianship order.

Note—

See section 61(f)(i) and (ii).

long-term guardianship, of a child under a child protection order, means guardianship until the child turns 18 years.

long-term guardianship order see section 61(f).

medical examination means a physical, psychiatric, psychological or dental examination, assessment or procedure, and includes forensic examination and an examination or assessment normally carried out by a health practitioner.

member—

1 *Member*, of a person's household—

(a) includes—

(i) someone who lives in the person's home; and

(ii) an adult who, because of the nature of their contact with the child in need of protection and the context in which that contact happens, may create an unacceptable level of risk to the child; but

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(b) does not include a parent of the child living in the person's home if the child was placed in the care of the person under section 82(1).

2 *Member*, of an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child, includes a person employed or engaged by the entity.

Minister, for a relevant agency, for chapter 7A, see section 245B.

negative notice see the *Working with Children Check Act 2000*, section 18C.

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

obstruct includes hinder, resist and attempt to obstruct.

office of the litigation director means the Office of the Director of Child Protection Litigation under the *Director of Child Protection Litigation Act 2016*.

order means an assessment order, temporary custody order or child protection order.

outcomes, of an internal agency review, for chapter 7A, see section 245B.

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

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(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.

participating State means a State declared to be a participating State under section 204.

party, to a proceeding on an application for an order for a child, means the child, the applicant or a respondent to the application, and includes the chief executive if the application is for a court assessment order made by a police officer.

permanency, for a child, see section 5BA(3).

permanent care order see section 61(g).

permanent guardian, of a child, means a person who is granted long-term guardianship of the child under a permanent care order.

Note—

See section 61(g).

personal history see section 141B.

place includes—

(a) land or premises; and

(b) a vehicle, boat or aircraft.

police information, for chapter 4, part 2, division 7, see section 142.

policies, for chapter 7A, see section 245B.

post-amended Act, for chapter 9, part 6, see section 266.

premises includes—

(a) a building or structure, or part of a building or structure; and

(b) land on which a building or structure is situated.

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prescribed delegate, for an Aboriginal or Torres Strait Islander child, for chapter 4, part 2A, see section 148BA.

prescribed entity see section 159M.

prescribed provision, for chapter 4, part 2, division 4, subdivision 3, see section 140AB.

private convenor see section 51I(1).

prohibiting event, for chapter 4, part 2, division 4, subdivision 3, see section 140AB.

proposed interstate order see section 200(b).

protection, of a child, includes care of the child.

provisional certificate means a certificate of approval as a provisionally approved carer.

provisionally approved carer, for a child, means a person who holds a certificate of approval as a provisionally approved carer for the child.

public guardian means the public guardian under the *Public Guardian Act 2014*.

publish, for chapter 6, part 6, see section 185.

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

registered nurse means a person registered under the Health Practitioner Regulation National Law—

(a) to practise in the nursing profession, other than as a student; and

(b) in the registered nurses division of that profession.

registrar—

(a) for chapter 2A—see section 99B; or

(b) of the Childrens Court held at a place, includes the clerk of the Magistrates Court at the place.

relevant agency, for chapter 7A, see section 245B.

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relevant child, for chapter 5A, see section 159BA.

relevant person, for chapter 4, part 2, division 4, subdivision 3, see section 140AB.

reportable suspicion, for chapter 2, part 1AA, see section 13E(2) or 13F(2), whichever is relevant.

reviewable decision means—

(a) for chapter 2A—see section 99B; or

(b) otherwise—a decision stated in schedule 2.

review application, for chapter 2A, see section 99B.

review report, for chapter 7A, see section 245B.

revised case plan means a case plan prepared under chapter 2, part 3A, division 5.

risk-assessed role see section 123A.

rules of court, means rules of court made under the *Childrens Court Act 1992*.

SCAN stands for 'Suspected Child Abuse and Neglect'.

school means—

(a) a State school under the *Education (General Provisions) Act 2006*; or

(b) an accredited school under the *Education (Accreditation of Non-State Schools) Act 2017*.

separate representative, for a child—

(a) for chapter 2A—see section 99Q(3); or

(b) for chapter 3—see section 110(1)(a).

serious offence means a serious offence under the *Working with Children Check Act 2000*.

serious physical injury means—

(a) the loss of a distinct part or an organ of the body; or

(b) serious disfigurement; or

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(c) any bodily injury of a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health.

service provider see section 159M.

short-term guardianship, of a child under a child protection order, means guardianship of the child for not more than 2 years.

significant decision, about an Aboriginal or Torres Strait Islander child, means a decision likely to have a significant impact on the child's life.

Examples of decisions relating to an Aboriginal or Torres Strait Islander child that may be significant decisions—

- a decision made in the course of investigating an allegation of harm to the child
- a decision about placing the child in care
- a decision by the litigation director about whether or not to apply for a child protection order for the child

specialist service provider, for chapter 5A, part 4, see section 159M.

State includes New Zealand.

statement of standards see section 122.

student hostel means—

(a) a student hostel established under the *Education (General Provisions) Act 2006*, section 15(b); or

(b) a student hostel operated with an allowance paid under the *Education (General Provisions) Act 2006*, section 368(1)(e).

suitable person means—

(a) for having the custody or guardianship of a child—a person who is a suitable person under a regulation and agrees to accept the custody or guardianship of the child; or

(b) for having the daily care of a child—a person who is a suitable person under a regulation; or

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(c) for managing a licensed care service—a person who is a suitable person under a regulation; or

(d) for a director of an applicant for a licence or a licensee—a person who is a suitable person under a regulation; or

(e) for a nominee for a licence—a person who is a suitable person under a regulation; or

(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

(g) for an approved foster carer—a person who is a suitable person under a regulation; or

(h) for an approved kinship carer—a person who is a suitable person under a regulation; or

(i) for a provisionally approved carer—a person who is a suitable person under a regulation; or

(j) for associating on a daily basis with children or a particular child—a person who is a suitable person under a regulation; or

(k) for being an independent Aboriginal or Torres Strait Islander entity for an Aboriginal or Torres Strait Islander child—a person who is a suitable person under a regulation.

support person, for chapter 2A, see section 99B.

teacher means an approved teacher under the *Education (Queensland College of Teachers) Act 2005* employed at a school.

temporary assessment order means an order under chapter 2, part 2, and includes an order extending a temporary assessment order.

temporary custody order means an order under chapter 2, part 3AA.

this Act, for chapter 6, part 6, see section 185.

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traffic history, of a person, means the history of the person's contraventions of the following provisions—

(a) the *Transport Operations (Road Use Management) Act 1995*, section 79;

Editor's note—

Transport Operations (Road Use Management) Act 1995, section 79 (Vehicle offences involving liquor or other drugs)

(b) the Criminal Code, section 328A.

Editor's note—

Criminal Code, section 328A (Dangerous operation of a vehicle)

transition order see section 65A(2).

tribunal means QCAT.

triggering event, for an internal agency review, for chapter 7A, see section 245M.

woman includes any female.

working with children authority see the *Working with Children Check Act 2000*, section 18.

working with children check application see the *Working with Children Check Act 2000*, schedule 7.

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