



Queensland

*Child Protection Act 1999*

# Child Protection Regulation 2000

Reprinted as in force on 21 November 2003

Reprint No. 2\*

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the Office of the Queensland Parliamentary Counsel  
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\* Minor differences in presentation between this reprint and another reprint with the same number are due to the conversion to new styles. The content has not changed.

## Information about this reprint

This regulation is reprinted as at 21 November 2003. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use standard punctuation consistent with current drafting practice (s 27)
- use aspects of format and printing style consistent with current drafting practice (s 35).

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

**Also see endnotes for information about—**

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

### **Dates shown on reprints**

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

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

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



Queensland

# Child Protection Regulation 2000

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	3
<b>Part 2</b>	<b>Licensing of care services</b>	
2	Independent evaluation of a care service . . . . .	3
3	Licensee must have policy about reporting matters of concern . .	4
4	Licensee to keep, and allow chief executive to inspect, records .	5
5	Return by licensee . . . . .	6
6	Suitability of methods for the selection, training and management of people engaged in providing care services—Act, s 126(d) . . . . .	6
<b>Part 3</b>	<b>Placing children in care</b>	
7	Agreement to provide care for a child—Act, s 84(2). . . . .	7
8	Matters to consider before telling parents about child placed in care—Act, ss 85(3) and 86(3) . . . . .	8
<b>Part 4</b>	<b>Suitable persons</b>	
9	Suitable person—Act, sch 3, definition suitable person . . . . .	9
<b>Part 5</b>	<b>Publication of information about children</b>	
10	Chief executive's approval—Act, s 189 . . . . .	11
<b>Part 6</b>	<b>Miscellaneous</b>	
11	Reporting harm to a child in residential care—Act, s 148(2) . . . .	12
12	Chief executive to keep records . . . . .	12
13	Information to be given to Children's Commissioner . . . . .	13
14	Child welfare laws—Act, s 203 . . . . .	13
15	Interstate laws and related matters—Act, s 204. . . . .	13
<b>Schedule 1</b>	<b>Child welfare laws</b> . . . . .	15
<b>Schedule 2</b>	<b>Interstate laws and related matters</b> . . . . .	16

**Endnotes**

1	Index to endnotes . . . . .	17
2	Date to which amendments incorporated . . . . .	17
3	Key . . . . .	17
4	Table of reprints . . . . .	18
5	List of legislation . . . . .	18
6	List of annotations . . . . .	18

# **Child Protection Regulation 2000**

[as amended by all amendments that commenced on or before 21 November 2003]

## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Child Protection Regulation 2000*.

## **Part 2 Licensing of care services**

### **2 Independent evaluation of a care service**

- (1) The purpose of this section is to require the chief executive to obtain certain information about a care service, from an independent source, to help the chief executive decide if the standard of care provided, or proposed to be provided, by the care service under a licence complies with the statement of standards.
- (2) Before granting an application for a licence or renewal of a licence, the chief executive must—
  - (a) obtain a written evaluation, from an independent person, of the care services provided, or proposed to be provided, under the licence; and
  - (b) give a copy of the evaluation to the applicant; and
  - (c) give the applicant a written invitation to give the chief executive, within a reasonable stated time of at least 14 days after the invitation, a submission about anything contained in the evaluation.
- (3) In this section—

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

### **3 Licensee must have policy about reporting matters of concern**

- (1) A licensee must prepare a policy under this section, keep the policy up-to-date, and ensure the licensee's staff members are aware of the policy.<sup>1</sup>
- (2) The policy required by subsection (1) is a policy that facilitates the reporting by the licensee's staff members of any matters of concern they may have.
- (3) The policy may, for example, include the following—
  - (a) a statement that the licensee supports the staff members in the reporting of matters of concern;
  - (b) for a licence relating to a licensed residential facility, provision for ensuring the staff members are aware of their obligations under section 148<sup>2</sup> of the Act;
  - (c) addresses, phone numbers or other contact details for reporting matters of concern.
- (4) In this section—

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

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

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

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

2 Section 148 (Obligation to report harm to children in residential care) of the Act

**4 Licensee to keep, and allow chief executive to inspect, records**

- (1) A licensee must keep records under this section.<sup>3</sup>
- (2) The records must include the following—
  - (a) the name, date of birth and sex of each child who receives care services from the licensee;
  - (b) the first and last days of each period during which the child received the services;
  - (c) the name and address of—
    - (i) the licensed residential facility in which the child is residing; or
    - (ii) the carer in whose care the child has been placed by the chief executive;
  - (d) details of—
    - (i) any written complaint, received by the licensee, in relation to the provision of the services to the child; and
    - (ii) any action taken by the licensee in relation to the complaint;
  - (e) details of—
    - (i) any written allegation of breach of the statement of standards, received by the licensee, in relation to the child's care by a licensed care service operated under the licence; and
    - (ii) any action taken by the licensee in relation to the allegation;
  - (f) if the child is residing in a licensed residential facility, details of any significant event relating to the child that happened during the residency.
- (3) The licensee must allow the chief executive to inspect the records during office hours on business days.<sup>3</sup>

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<sup>3</sup> Under section 139(1)(d) of the Act, the chief executive may suspend or cancel an authority on the ground that the holder has contravened a provision of the Act.

(4) In this section—

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

*Examples of a significant event relating to the child—*

- 1 Non-routine medical treatment received by the child.
- 2 Punishment received by the child at the facility.
- 3 Contact between the child and the child's family.
- 4 Receipt by the child of a schooling or sporting award.

## **5 Return by licensee**

- (1) The chief executive may, by written notice given to a licensee, require the licensee to give a return under this section.
- (2) The notice must state the time, not less than 30 days after the notice is given, for giving the return.
- (3) If a licensee is given a notice under subsection (1), the licensee must give a return as required by this section relating to the details in the records required to be kept by the licensee under section 4.<sup>4</sup>
- (4) The return must—
  - (a) be in the approved form; and
  - (b) be given to the chief executive within the time stated in the notice.

## **6 Suitability of methods for the selection, training and management of people engaged in providing care services—Act, s 126(d)**

In deciding, under section 126(d)<sup>5</sup> of the Act, the suitability of the methods for the selection, training and management of people engaged in providing care services, the chief executive

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

5 Section 126 (Restrictions on granting application) of the Act



must have regard to the standards for the management of a licensed care service published by the department.<sup>6</sup>

## **Part 3                                  Placing children in care**

### **7                                  Agreement to provide care for a child—Act, s 84(2)**

- (1) For section 84(2)<sup>7</sup> of the Act, the following are the terms—
- (a) the time for which the agreement is to have effect;
  - (b) the time for which it is intended that the foster carer will care for the child;
  - (c) information, from any case plan prepared by the chief executive for the child, about matters involving or affecting the foster carer;
  - (d) whether the chief executive has complied, or intends to comply, with the relevant notice provision and, if so, the information given, or intended to be given, to the child's parents under the notice provision;
  - (e) arrangements for contact between the child and the child's parents or other members of the child's family, including, for example, the child's transport arrangements;
  - (f) the responsibilities of the chief executive and of the foster carer in the provision of medical, therapeutic, schooling and other services to the child;
  - (g) information about any special needs of the child, including—
    - (i) information about any special health needs; and
    - (ii) information about any special behavioural management needs; and

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6 The standards are available for inspection, without charge, at the offices of the department during normal business hours.

7 Section 84 (Agreements to provide care for children) of the Act

- (iii) information about the resources needed to meet the special needs;
  - (h) the amounts to be paid to the foster carer for the child's care and maintenance.
- (2) In this section—
- notice provision* means section 85(2) or 86(2)<sup>8</sup> of the Act.

**8 Matters to consider before telling parents about child placed in care—Act, ss 85(3) and 86(3)**

- (1) This section states the matters that the chief executive must consider for sections 85(3) and 86(3) of the Act.
- (2) The chief executive must consider whether a parent of the child, a partner of a parent of the child, or another person closely associated with a parent of the child—
  - (a) has a history of violence relevant to the safety of the child or anyone else with whom the child is living; or
  - (b) has recently made a threat to harm the child or anyone else with whom the child is living; or
  - (c) is likely to behave in a way that is likely to intimidate or frighten the child or another child with whom the child is living; or
  - (d) is likely to attempt to intimidate or otherwise adversely influence the child in relation to future court proceedings; or
  - (e) is likely to attempt to remove the child from the chief executive's custody or guardianship; or
  - (f) has previously engaged in violent behaviour, harassment or other harmful behaviour in response to an action taken to protect a child.

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<sup>8</sup> Section 85 (Chief executive to tell parents of placing child in care—assessment order) or 86 (Chief executive to notify parents of placing child in care—child protection order) of the Act

## Part 4                      Suitable persons

### 9            Suitable person—Act, sch 3, definition *suitable person*

- (1) A person is a suitable person for having the custody or guardianship of a child if the person—
  - (a) does not pose a risk to the child’s safety; and
  - (b) is willing and able to care for the child in a way that meets the standards of care in the statement of standards.
- (2) A person is a suitable person for having the daily care of a child if the person—
  - (a) does not pose a risk to the child’s safety; and
  - (b) for a person other than an approved foster carer, is willing and able to provide the care in a way that meets the standards of care in the statement of standards;<sup>9</sup> and
  - (c) understands, and is committed to, the principles for administering the Act;<sup>10</sup> and
  - (d) has completed any training reasonably required by the chief executive to ensure the person is able to properly provide the care; and
  - (e) understands the policies and procedures implemented by the chief executive to ensure the care meets the standards of care in the statement of standards.
- (3) A person is a suitable person for managing a licensed care service if the person—
  - (a) does not pose a risk to the safety of children who, under the Act, are in the care of the service; and
  - (b) is willing and able to manage the service in a way that—
    - (i) ensures the provision of care complies with the statement of standards; and

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9 For the requirement that an approved foster carer meet the standards of care in the statement of standards, see section 133(b) of the Act.

10 See section 5 (Principles for administration of Act) of the Act.

*Child Protection Regulation 2000*

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- (ii) implements the methods mentioned in section 126(d)<sup>11</sup> of the Act; and
  - (c) understands, and is committed to, the principles for administering the Act.
- (4) A person is a suitable person to be a director of an applicant for a licence or a director of a licensee for a licensed care service if the person—
  - (a) does not pose a risk to the safety of children who, under the Act, are in the care of the service; and
  - (b) is willing and able to manage the service, or ensure the service is managed, in a way that ensures the provision of care by the service complies with the statement of standards; and
  - (c) understands, and is committed to, the principles for administering the Act.
- (5) A person is a suitable person to be a nominee for a licence if the person—
  - (a) does not pose a risk to the safety of children who, under the Act, are in the care of the service operated under the licence; and
  - (b) is willing and able to fulfil the responsibilities of a nominee for a licence under section 130(1)<sup>12</sup> of the Act.
- (6) Subsection (7) applies to a person who is engaged in relation to the provision of care services by a licensed care service but who does not have the daily care of a child.
- (7) The person is suitable to be engaged in relation to the provision of care services by the licensed care service if the person does not pose a risk to the safety of children who, under the Act, are in the care of the service.
- (8) In deciding if a person is a suitable person under this section, the chief executive or a court may consider the person's employment history, physical or mental health and any other

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11 Section 126 (Restrictions on granting application) of the Act

12 Section 130 (Nominees) of the Act

relevant matter.<sup>13</sup>

(9) In this section—

***have the daily care of a child*** means—

- (a) have the daily care, as a carer, of a child; or
- (b) be engaged in the direct care of a child in a licensed care service.

## **Part 5                                          Publication of information about children**

### **10                          Chief executive’s approval—Act, s 189**

In deciding whether to give an approval under section 189<sup>14</sup> of the Act, the chief executive may have regard to the following—

- (a) if the child is able to form and express views about the issue, the views of the child, taking into account the child’s age or ability to understand;
- (b) the emotional support available to the child;
- (c) the likely effect on the child, at present or in the future, of the publication of the information;
- (d) whether the publication of the information would adversely affect the child’s relationship with members of the child’s family;
- (e) the way it is proposed to publish the information;
- (f) the estimated number of persons who will hear or see the information, as a result of its publication;
- (g) the views of the child’s parents;

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13 See also section 142 (Inquiries about certain persons’ suitability) of the Act.

14 Section 189 (Prohibition of publication of information leading to identity of children) of the Act



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

### **13 Information to be given to Children’s Commissioner**

- (1) The chief executive must, on a regular basis, give the Children’s Commissioner a written report about the information recorded under section 12.
- (2) If requested in writing by the Children’s Commissioner, the chief executive must give the Children’s Commissioner details of a particular matter mentioned in the records kept under section 12.

### **14 Child welfare laws—Act, s 203**

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

### **15 Interstate laws and related matters—Act, s 204**

It is declared that—

*Child Protection Regulation 2000*

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



**Schedule 1      Child welfare laws**

section 14

<b>State</b>	<b>Child welfare law</b>
Australian Capital Territory	<i>Children and Young People Act 1999</i> (ACT) other than chapters 6, 8, 9 and 10
New Zealand	<i>Children, Young Persons and Their Families Act 1989</i> (NZ) other than parts 3A, 4 and 9
Northern Territory	<i>Community Welfare Act</i> (NT) other than part VI, division 4 and part VIIA
South Australia	<i>Children's Protection Act 1993</i> (SA) other than part 8
Tasmania	<i>Children, Young Persons and Their Families Act 1997</i> (Tas) other than parts 8 and 9
Victoria	<i>Children and Young Persons Act 1989</i> (Vic), parts 1, 2, 3 and 5
Western Australia	<i>Child Welfare Act 1947</i> (WA), part IV

## Schedule 2      Interstate laws and related matters

section 15

<b>Participating State</b>	<b>Interstate law</b>	<b>Interstate officer</b>
Australian Capital Territory	<i>Children and Young People Act 1999 (ACT)</i> , chapter 8	Chief Executive of the Department of Education and Community Services
New Zealand	<i>Children, Young Persons and Their Families Act 1989 (NZ)</i> , part 3A	Chief Executive of the Department of Child, Youth and Family Services
Northern Territory	<i>Community Welfare Act (NT)</i> , part VI, division 4 and part VIIA	Chief Executive Officer of the Department of Health and Community Services
South Australia	<i>Children's Protection Act 1993 (SA)</i> , part 8	Chief Executive Officer of the Department of Human Services
Tasmania	<i>Children, Young Persons and Their Families Act 1997 (Tas)</i> , part 8	Secretary of the Department of Health and Human Services
Victoria	<i>Children and Young Persons Act 1989 (Vic)</i> , schedule 2	Secretary to the Department of Human Services
Western Australia	<i>Child Welfare Act 1947 (WA)</i> , part VIIIA	Director General of the Department for Community Development

## Endnotes

### 1 Index to endnotes

	Page
2 Date to which amendments incorporated . . . . .	17
3 Key . . . . .	17
4 Table of reprints . . . . .	18
5 List of legislation . . . . .	18
6 List of annotations . . . . .	18

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 21 November 2003. Future amendments of the Child Protection Regulation 2000 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

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

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

## 4 Table of reprints

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

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

Reprint No.	Amendments to	Effective	Reprint date
1	none	15 December 2000	17 January 2001
1A	2001 SL No. 106	6 July 2001	20 July 2001

  

Reprint No.	Amendments included	Effective	Notes
1B	2003 SL No. 43	21 March 2003	
1C	2003 SL No. 289	21 November 2003	R1C withdrawn, see R2
2	—	21 November 2003	

## 5 List of legislation

### **Child Protection Regulation 2000 SL No. 346**

made by the Governor in Council on 14 December 2000  
 notfd gaz 15 December 2000 pp 1478–83  
 commenced on date of notification  
exp 1 September 2011 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

### **Child Protection Amendment Regulation (No. 1) 2001 SL No. 106**

notfd gaz 6 July 2001 pp 927–8  
 commenced on date of notification

### **Child Protection Amendment Regulation (No. 1) 2003 SL No. 43**

notfd gaz 21 March 2003 pp 1058–9  
 commenced on date of notification

### **Child Protection Amendment Regulation (No. 2) 2003 SL No. 289**

notfd gaz 21 November 2003 pp 963–4  
 commenced on date of notification

## 6 List of annotations

### **Suitable person—Act, sch 3, definition “suitable person”**

s 9 amd 2003 SL No. 289 s 3

### **Child welfare laws—Act, s 203**

s 14 ins 2001 SL No. 106 s 3

**Interstate laws and related matters—Act, s 204**  
**s 15** ins 2001 SL No. 106 s 3

**SCHEDULE 1—CHILD WELFARE LAWS**  
ins 2001 SL No. 106 s 3  
amd 2003 SL No. 43 s 3

**SCHEDULE 2—INTERSTATE LAWS AND RELATED MATTERS**  
ins 2001 SL No. 106 s 3  
amd 2003 SL No. 43 s 4