



Queensland

# **Child Safety Legislation Amendment Act 2005**

**Act No. 40 of 2005**





Queensland

# Child Safety Legislation Amendment Act 2005

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Queensland

# **Child Safety Legislation Amendment Act 2005**

## **Act No. 40 of 2005**

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**An Act to amend the *Child Protection Act 1999* and for other purposes**

**[Assented to 1 September 2005]**

**The Parliament of Queensland enacts—**

## **Part 1                      Preliminary**

### **1            Short title**

This Act may be cited as the *Child Safety Legislation Amendment Act 2005*.

### **2            Commencement**

This Act, other than part 2 heading and sections 3, 30(1) to (4), 31 and 58, commences on a day to be fixed by proclamation.

## **Part 2                      Amendment of Child Protection Act 1999**

### **3            Act amended in pt 2**

This part amends the *Child Protection Act 1999*.

### **4            Amendment of s 5 (Principles for administration of Act)**

Section 5(2)(f)—

*insert—*

‘(iii) in deciding in whose care the child should be placed, the chief executive must give proper consideration to placing the child, as a first option, with kin;’.

## 5 Replacement of s 6 (Provisions about Aboriginal and Torres Strait Islander children)

Section 6—

*omit, insert—*

### ‘6 Provisions about Aboriginal and Torres Strait Islander children

- ‘(1) When making a significant decision about an Aboriginal or Torres Strait Islander child, the chief executive or an authorised officer must give an opportunity to a recognised entity for the child to participate in the decision-making process.
- ‘(2) When making a decision, other than a significant decision, about an Aboriginal or Torres Strait Islander child, the chief executive or an authorised officer must consult with a recognised entity for the child before making the decision.
- ‘(3) However, if compliance with subsection (1) or (2) is not practicable because a recognised entity for the child is not available or urgent action is required to protect the child, the chief executive or an authorised officer must consult with a recognised entity for the child as soon as practicable after making the decision.
- ‘(4) If the Childrens Court exercises a power under this Act in relation to an Aboriginal or Torres Strait Islander child, the court must have regard to—
  - (a) the views, about the child and about Aboriginal tradition and Island custom<sup>1</sup> relating to the child, of—
    - (i) a recognised entity for the child; or
    - (ii) if it is not practicable to obtain the views of a recognised entity for the child—members of the community to whom the child belongs; and
  - (b) the general principle that an Aboriginal or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community.

<sup>1</sup> The *Acts Interpretation Act 1954*, section 36, contains definitions of Aboriginal tradition and Island custom.

‘(5) As far as is reasonably practicable, the chief executive or an authorised officer must try to conduct consultations, negotiations, family group meetings and other proceedings involving an Aboriginal person or Torres Strait Islander (whether a child or not) in a way and in a place that is appropriate to Aboriginal tradition or Island custom.

‘(6) In this section—

*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—*

- 1 a decision made in the course of investigating an allegation of harm to the child
- 2 a decision about placing the child in care’.

## **6 Amendment of s 7 (Chief executive’s functions)**

(1) Section 7(1)(g), ‘foster’—

*omit.*

(2) Section 7(1)(h), ‘foster care’—

*omit, insert—*

‘the care of children under this Act’.

(3) Section 7(1)(h), ‘foster carers caring for children under this Act’—

*omit, insert—*

‘approved carers’.

(4) Section 7(1)(o), ‘recognised Aboriginal and Torres Strait Islander agencies’—

*omit, insert—*

‘recognised entities’.

(5) Section 7(2), definition *child in care*—

*omit, insert—*

*‘children in care means children in the chief executive’s custody or guardianship.’.*

**7 Amendment of s 12 (What is effect of custody)**

(1) Section 12(1)(b)—

*renumber* as section 12(1)(c).

(2) Section 12(1)—

*insert—*

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

**8 Amendment of s 14 (Chief executive may investigate alleged harm)**

Section 14(2), ‘commissioner of the police service’—

*omit, insert—*

*‘police commissioner’.*

**9 Amendment of s 51C (Children for whom case plans are required)**

Section 51C, note 1, ‘someone’s care by agreement with the child’s parents’—

*omit, insert—*

*‘care under a care agreement’.*

**10 Amendment of s 51D (How case planning must be carried out)**

Section 51D(1)(c)(iv), note, ‘Section 6(4)’—

*omit, insert—*

*‘Section 6(5)’.*

**11 Amendment of s 51L (Who should be involved)**

- (1) Section 51L(1)(d), example, ‘A foster carer’—

*omit, insert—*

‘An approved carer’.

- (2) Section 51L(1)(f)—

*omit, insert—*

‘(f) if the child is an Aboriginal or Torres Strait Islander child—a recognised entity, or member of a recognised entity, for the child;’.

**12 Amendment of s 51T (Distributing and implementing the plan)**

Section 51T(c)(ii), examples, ‘a foster carer’—

*omit, insert—*

‘an approved carer’.

**13 Amendment of s 51W (Who may participate)**

- (1) Section 51W(1)(d), example, ‘A foster carer’—

*omit, insert—*

‘An approved carer’.

- (2) Section 51W(1)(f)—

*omit, insert—*

‘(f) if the child is an Aboriginal or Torres Strait Islander child—a recognised entity, or member of a recognised entity, for the child;’.

**14 Insertion of new ch 2, pt 3B**

Chapter 2, after part 3A—

*insert—*

## **‘Part 3B Intervention with parents’ agreement**

### **‘Division 1 Preliminary**

#### **‘51Z Application of pt 3B**

‘This part applies to a child if—

- (a) the chief executive is satisfied the child—
  - (i) is a child in need of protection; and
  - (ii) needs ongoing help under this Act; and
- (b) there is no child protection order in force granting custody or guardianship of the child to anyone.

#### **‘51ZA What is *intervention***

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

*Examples—*

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

‘The chief executive must give proper consideration to intervening with the parents’ agreement if—

- (a) 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; and
- (b) the child's view and wishes, if able to be ascertained, have been considered.

### **'51ZC Working with the child and parents**

'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—
  - (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.

## **'Division 3 Care agreements**

### **'51ZD What is a *care agreement***

'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.

### **'51ZE Entering an agreement**

- '(1) The chief executive may enter 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.
- ‘(2) The chief executive must obtain and have regard to the child’s views before entering 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.

### **‘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;
  - (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 an agreement**

‘While a 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) When a care agreement is entered into, the initial period of operation stated in it must not be more than 30 days.
- ‘(3) A 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 care agreement was in force for the child within the previous 12 months.
- ‘(4) Before a care agreement ends, it may be extended by agreement of the parties.
- ‘(5) A care agreement may be extended more than once.
- ‘(6) A 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;
  - (c) the period for which any other care agreement was in force for the child within the 12 months before the extension.
- ‘(7) 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) 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.’

### 15 Amendment of s 70 (Attendance of parties)

Section 70(4)—

*omit, insert—*

‘(4) If the child is an Aboriginal or Torres Strait Islander child, a recognised entity for the child or member of a recognised entity for the child may attend the conference.’

**16 Amendment of ch 2, pt 6, hdg (Obligations and rights under orders)**

Chapter 2, part 6, heading, after ‘orders’—

*insert—*

‘and care agreements’.

**17 Amendment of ch 2, pt 6, div 1, hdg (Chief executive’s obligations under child protection orders)**

Chapter 2, part 6, division 1, heading, after ‘orders’—

*insert—*

‘and care agreements’.

**18 Amendment of s 73 (Chief executive’s obligations about meeting child’s protection needs under certain orders)**

(1) Section 73, heading—

*omit, insert—*

**‘73 Chief executive’s obligations about meeting child’s protection and care needs under certain orders and agreements’.**

(2) Section 73(1)—

*omit, insert—*

‘(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.

‘(1A) 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) Section 73(2), ‘subsection (1)’—

*omit, insert—*

‘subsection (2)’.

- (4) Section 73(1A) and (2)—

*renumber* as section 73(2) and (3).

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

Section 74(1)—

*omit, insert—*

- ‘(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.’.

## 20 Replacement of s 82 (Placing child in care)

Section 82—

*omit, insert—*

### ‘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.’.

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

- (1) Section 83(2) and (3)—  
*omit, insert—*
- ‘(2) The chief executive must ensure a recognised entity for the child is given an opportunity to participate in the process for making a decision about where or with whom the child will live.
- ‘(3) However, if because of urgent circumstances the chief executive makes the decision without the participation of a recognised entity for the child, the chief executive must consult with a recognised entity for the child as soon as practicable after making the decision.’.
- (2) Section 83(5)(a)—  
*omit, insert—*
- ‘(a) the views of a recognised entity for the child; and’.
- (3) Section 83—  
*insert—*
- ‘(6) If the chief executive decides there is no appropriate person mentioned in subsection (4)(a) to (d) in whose care the child may be placed, the chief executive must give proper consideration to placing the child, in order of priority, with—

- (a) a person who lives near the child's family; or
  - (b) a person who lives near the child's community or language group.
- (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.'

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

- (1) Section 83A(3), 'licensed care service'—  
*omit, insert—*  
'licensee'.
- (2) Section 83A(6), definition *carer*, paragraphs (a) and (b)—  
*omit, insert—*  
'(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.'

## 23 Amendment of s 84 (Agreements to provide care for children)

- (1) Section 84(1), 'approved foster carer'—  
*omit, insert—*

‘approved carer’.

(2) Section 84(1), ‘foster carer must’—

*omit, insert—*

‘approved carer must’.

**24 Amendment of s 85 (Chief executive to tell parents of placing child in care—assessment order)**

Section 85(1)—

*omit, insert—*

‘(1) This section applies if the child is in the chief executive’s custody under an assessment order.’.

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

Section 86(1)—

*omit, insert—*

‘(1) This section applies if the child is in the chief executive’s custody or guardianship under a child protection order.’.

**26 Insertion of new s 88**

After section 87—

*insert—*

**‘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.

‘(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.’.

**27 Amendment of s 90 (Notice of removal from care)**

(1) Section 90(1)—

*omit, insert—*

‘(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) Section 90(2)(b), ‘foster’—

*omit.*

(3) Section 90—

*insert—*

‘(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.’.

**28 Amendment of s 91 (Review of decision to remove child from carer’s care)**

Section 91(a) and (b)—

*omit, insert—*

‘(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.’.



**29 Amendment of s 95 (Report about person's criminal history etc.)**

- (1) Section 95(1)(b), 'a person, other than an approved foster carer'—

*omit, insert—*

'an individual, other than an approved carer'.

- (2) Section 95(2)(a), (3)(a), (4) and (7), 'commissioner of the police service'—

*omit, insert—*

'police commissioner'.

- (3) Section 95(5) and (8), 'commissioner's'—

*omit, insert—*

'police commissioner's'.

- (4) Section 95(5) and (8), 'commissioner'—

*omit, insert—*

'police commissioner'.

**30 Amendment of s 97 (Carrying out medical examinations or treatment)**

- (1) Section 97(1)(b)—

*renumber* as section 97(1)(c).

- (2) Section 97(1)—

*insert—*

'(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'.

- (3) Section 97(6), after '(1)(a)'—

*insert—*

'or (b)'.

- (4) Section 97(6), '(1)(b)'—

*omit, insert—*

‘(1)(c)’.

- (5) Section 97(6), ‘commissioner of the police service’—  
*omit, insert—*  
 ‘police commissioner’.

### 31 Insertion of new s 108A

After section 108—  
*insert—*

#### ‘108A Right of appearance of departmental co-ordinators

- ‘(1) A co-ordinator may appear in a proceeding.  
 ‘(2) In this section—  
*co-ordinator* means an officer or employee of the department who is authorised in writing by the chief executive to appear in proceedings under this Act.’.

### 32 Amendment of s 122 (Statement of standards)

Section 122(1), words before paragraph (a)—  
*omit, insert—*

- ‘(1) The chief executive must take reasonable steps to ensure a child placed in care under section 82 is cared for in a way that meets the following standards (the *statement of standards*)—’.

### 33 Amendment of ch 4, pt 2, hdg (Licensing of care services and approval of foster carers)

Chapter 4, part 2, heading, ‘foster’—  
*omit.*

**34 Amendment of s 125 (Application for, or renewal of, licence)**

Section 125(2), '142'—

*omit, insert—*

'142A(a)'.

**35 Amendment of ch 4, pt 2, div 3, hdg (Approval of foster carers)**

Chapter 4, part 2, division 3, heading, after 'carers'—

*insert—*

'and kinship carers'.

**36 Insertion of new s 130A**

Chapter 4, part 2, division 3, before section 131—

*insert—*

**'130A 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*).'.

**37 Amendment of s 131 (Only individuals may hold certificates of approval)**

- (1) Section 131, heading—

*omit, insert—*

**'131 Holding a certificate'.**

- (2) Section 131(1), 'certificate of approval as an approved foster carer'—

*omit, insert—*

'certificate'.

(3) Section 131—

*insert—*

‘(4) A person may hold more than 1 kinship carer certificate.’.

### **38 Replacement of ss 132–135**

Sections 132 to 135—

*omit, insert—*

#### **‘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—

(a) the applicant’s criminal history, domestic violence history and traffic history; and

(b) the membership of the applicant’s household; and

(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.

‘(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—
- (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.
- ‘(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 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—2 years from the day of issue; or
  - (b) for a kinship carer certificate—not more than 2 years from the day of issue.
- '(9) Subject to this Act, the certificate has effect until the expiry day.

**‘135 Restrictions on granting application**

‘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 is able to meet the standards of care in the statement of standards; and
  - (iv) 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 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 child’s protection.’.

**39 Renumbering of ss 130A and 131**

Sections 130A and 131—

*renumber* as sections 131 and 132.

**40 Amendment of s 136 (Refusal of application)**

Section 136(1), ‘the application’—

*omit, insert—*

‘an application for, or to renew, a certificate’.

**41 Insertion of new ch 4, pt 2, div 3A**

Chapter 4, part 2, after division 3—

*insert—*

**‘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.
- ‘(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—
  - (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
    - (ii) given written notice that the carer’s application for a foster carer certificate or kinship carer certificate for the child has been refused.’.

#### 42 **Amendment of s 137 (Amendment of authority on application of holder)**

- (1) Section 137(2) to (5)—  
*renumber* as section 137(3) to (7).
  - (2) Section 137—  
*insert*—
- ‘(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) Section 137—  
*insert*—
- ‘(8) Subsection (7)(c) and (d) do not apply to a provisional certificate.’.

**43 Amendment of s 138 (Amendment of authority by the chief executive)**

Section 138—

*insert—*

- ‘(8) 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.’

**44 Insertion of new ss 138A–138C**

After section 138—

*insert—*

**‘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 2 years after the day it is issued.
- ‘(4) In this section—
- expiry day* means the day on which the certificate is due to expire.

**‘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 considers the holder’s application for a certificate of approval as an approved foster carer or approved kinship carer is likely to be decided within the period of the proposed extension; and
  - (c) 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
  - (d) 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
  - (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.'

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

- (1) Section 139(1)(b), after 'approval'—  
*insert*—  
'as an approved foster carer'.
- (2) Section 139(1)(c) to (f)—  
*renumber* as section 139(1)(e) to (h).
- (3) Section 139(1)—  
*insert*—  
'(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;'.
- (4) Section 139(2)—  
*renumber* as section 139(5).
- (5) Section 139—  
*insert*—
- '(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.’.

**46 Amendment of s 140 (Procedure for suspension or cancellation)**

- (1) Section 140(1), ‘cancel the authority’—

*omit, insert—*

‘cancel an authority under section 139’.

- (2) Section 140—

*insert—*

- ‘(7) This section does not apply to a provisional certificate.’.

**47 Insertion of new s 140AA**

After section 140—

*insert—*

**‘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.’.

**48 Amendment of s 140A (Chief executive may notify Commissioner for Children and Young People and Child Guardian about particular information)**

Section 140A(1)—

*omit, insert—*

- ‘(1) This section applies if the chief executive amends, suspends or cancels a certificate of approval under this division (a *disciplinary action*).’.

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

- (1) Section 141(2), ‘, not less than 7 days,’—

*omit.*

- (2) Section 141—

*insert—*

- ‘(2A) 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.’.

- (3) Section 141—

*insert—*

- ‘(6A) Subsection (7)(b) does not apply to an amendment of a certificate of approval to extend its expiry day under section 138A or 138B.’.

- (4) Section 141(2A) to (7)—

*renumber* as section 141(3) to (9).

**50 Amendment of s 141A (Surrender of authorities)**

Section 141A(2)—

*omit, insert—*

- ‘(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.’.

## 51 Replacement of ch 4, pt 2, div 5, hdg and s 142

Chapter 4, part 2, division 5, heading and section 142—  
omit, insert—

### ‘Division 5 Notification of changes relating to authority holders and associated persons

#### ‘141B Personal history

- ‘(1) A person’s *personal history* is 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.

**‘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 engaged in relation to the provision of care services by 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.

**‘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.

## ‘Division 6 Investigative information

### ‘141H Police commissioner may decide that information about a person is investigative information

- ‘(1) The police commissioner may decide under this section that information about a person (the *investigated person*) is investigative information if—
- (a) there is or was evidence of acts or omissions that, at the time of the acts or omissions, constituted a serious child-related sexual offence (the *alleged offence*) by the

- 
- investigated person against a child or a person who was a child at the time of the offence (each of whom is a **complainant**); and
- (b) the police investigated the alleged offence and the investigated person was formally notified about the investigation, including—
- (i) by participating in an interview, or by being asked to participate in an interview, about the alleged offence; or
- (ii) by otherwise being given an opportunity to answer allegations about the alleged offence; and
- (c) there was sufficient evidence available that was capable of establishing each element of the alleged offence but a decision was made not to charge the investigated person because—
- (i) the complainant died before the charge was brought; or
- (ii) either or both of the following applied—
- (A) the complainant was unwilling to proceed;
- (B) an adult who, at the relevant time, was the complainant's parent or guardian decided that, in the interests of the complainant, the matter should not proceed.
- ‘(2) Evidence of acts or omissions includes information from a third party if the complainant did not make a formal complaint at or about the time of the investigation.
- ‘(3) Despite the *Police Service Administration Act 1990*, section 4.10, the police commissioner may not delegate the police commissioner's powers under this section.
- ‘(4) In this section—
- serious child-related sexual offence** see the *Commission for Children and Young People and Child Guardian Act 2000*, section 99D.

**‘141I Appeal from decision that information is investigative information**

- ‘(1) This section applies if the police commissioner decides that information about the investigated person is investigative information and gives the information to the chief executive under section 142C.
- ‘(2) The police commissioner must give notice, in the approved form, to the investigated person that—
  - (a) the police commissioner has decided that information about the person is investigative information; and
  - (b) investigative information has been given to the chief executive.
- ‘(3) Within 28 days after being given the notice, the investigated person may appeal to a Magistrates Court about the decision that the information is investigative information.
- ‘(4) The chief executive and police commissioner must be given a copy of the notice of appeal.
- ‘(5) The tribunal does not have jurisdiction to review a decision of the police commissioner that information about a person is investigative information or that information that is investigative information may be given to the chief executive.

**‘141J Court to decide matters afresh**

- ‘(1) A Magistrates Court hearing an appeal under section 141I is to decide afresh whether the information given to the chief executive as investigative information about the investigated person is investigative information.
- ‘(2) A person who is the relevant complainant under section 141H must not be asked or called on by the investigated person to give evidence in person before the court.
- ‘(3) Subsection (2) does not prevent documentary evidence being tendered and received in evidence by the court.
- ‘(4) After hearing the appeal, the court may confirm or set aside the decision.

- ‘(5) For subsection (4), the court must have regard to the matters the police commissioner was required to have regard to under this Act when the police commissioner made the decision.
- ‘(6) The clerk of the court must give notice of the decision to the investigated person, the police commissioner and the chief executive.

### ‘141K Consequence of successful appeal

- ‘(1) This section applies if, on appeal, a Magistrates Court sets aside the police commissioner’s decision under section 141H that information given to the chief executive about the investigated person (the *relevant information*) is investigative information.
- ‘(2) If the chief executive has made an authority decision, the chief executive must set aside that decision.
- ‘(3) In making an authority decision, the chief executive must not have regard to the relevant information.
- ‘(4) In this section—
 

*authority decision* means a decision, after receiving the relevant information, to—

  - (a) refuse an application for an authority; or
  - (b) refuse to renew an authority; or
  - (c) amend, suspend or cancel an authority.

## ‘Division 7 Obtaining criminal histories and other information to decide persons’ suitability

### ‘142 Meaning of *police information*

‘In this division—

*police information*, about a person, means the following—

- (a) the person’s criminal history;

- (b) investigative information about the person;
- (c) 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—
  - (i) the person who will be or is responsible for directly managing the service 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, engaged in relation to the provision of care services by the service; 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.<sup>2</sup>

### ‘142C Obtaining police information

- ‘(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, or of investigative information, mentioned in the police information.
- ‘(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.
- ‘(5) The police commissioner need not give investigative information, or give access to a record containing investigative information, about the person to the chief executive under this section if the police commissioner is reasonably satisfied that giving the information or access may do any of the following—
- (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
  - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
  - (c) endanger a person’s life or physical safety;

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2 *Transport Operations (Road Use Management) Act 1995*, section 77 (Restricted release of Queensland driver licence and traffic history information)



- (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law.

#### **‘142D Notice of change in police information**

- ‘(1) This section applies if a person’s police information changes and the police commissioner reasonably suspects the person is a person mentioned in section 142A.
- ‘(2) The police commissioner may give the chief executive a notice stating—
  - (a) the person’s name and any other name that the police commissioner believes the person may use or may have used; and
  - (b) the person’s gender; and
  - (c) the person’s date and place of birth; and
  - (d) details of the change, including a brief description of the circumstances of a conviction or charge, or of investigative information, to which the change relates.
- ‘(3) The chief executive may confirm the police commissioner’s suspicions under subsection (1).
- ‘(4) A reference in this section to a person’s police information changing includes, for a person for whom there is no police information, the person becoming the subject of police information.

#### **‘142E 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.

## ‘Division 8            General’.

### 52        **Amendment of s 143 (Effect of failure to decide application for, or for renewal of, authority)**

Section 143(1), after ‘application for’—  
*insert—*  
‘, or to renew,’.

### 53        **Amendment of s 148 (Obligation to report harm to children in residential care)**

- (1) Section 148, heading, ‘residential care’—  
*omit, insert—*  
‘departmental and licensed care services’.
- (2) Section 148(1), ‘child in residential care’—  
*omit, insert—*  
‘child placed in the care of an entity conducting a departmental care service or a licensee’.
- (3) Section 148(6), definition *child in residential care*—  
*omit.*
- (4) Section 148(6), definition *responsible person*, paragraph (c), before ‘licensed care service’—  
*insert—*  
‘departmental care service or’.

**54 Amendment of s 159D (Other definitions for ch 5A)**

Section 159D, definition *prescribed entity*, paragraph (e)—

*omit, insert—*

‘(e) the police commissioner.’.

**55 Amendment of s 159H (Chief executive may ask particular prescribed entities to provide a service)**

Section 159H(1)(c)—

*omit, insert—*

‘(c) the police commissioner.’.

**56 Amendment of s 159K (Members)**

Section 159K(a)—

*omit, insert—*

‘(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;
- (v) in relation to the protection needs of an Aboriginal or Torres Strait Islander child—a recognised entity for the child; and’.

**57 Amendment of s 159M (Particular prescribed entities giving and receiving relevant information)**

Section 159M(1)(d)—

*omit, insert—*

‘(d) the police commissioner.’.

**58 Amendment of s 159P (Release of information for an investigation under the Coroners Act)**

(1) Section 159P, heading—

*omit, insert—*

**‘159P Release of information for reporting or investigating a death under the Coroners Act’.**

(2) Section 159P(1)—

*omit, insert—*

‘(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.’.

(3) Section 159P(2), words before paragraph (a)—

*omit, insert—*

‘(2) The information that may be given is information about any of the following matters—’.

(4) Section 159P(3)(a)(i), before ‘investigation’—

*insert—*

‘coroner’s’.

(5) Section 159P(3)(a)(ii)—

*renumber* as section 159P(3)(a)(iii).

(6) Section 159P(3)(a)—

*insert—*

‘(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’.

- (7) Section 159P(3)(b)(ii), ‘the coroner approves’—  
*omit, insert—*  
 ‘the disclosure is to a coroner or a coroner approves’.
- (8) Section 159P(4), definition *child in care*, ‘or (e)’—  
*omit.*

**59 Amendment of s 162 (Offence to remove child from carer)**

- (1) Section 162(1), after ‘protection order’—  
*insert—*  
 ‘or in the chief executive’s custody under a care agreement’.
- (2) Section 162—  
*insert—*
- ‘(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.’.

**60 Amendment of s 163 (Offence to remove child from carer—order made in another State)**

- Section 163—  
*insert—*
- ‘(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.’.

**61 Amendment of s 175 (Interstate warrants—arrangements for apprehended child until magistrate is available)**

- Section 175(2), example, ‘foster’—  
*omit.*

**62 Amendment of s 182 (Evidentiary provisions)**

- Section 182(4)(h), ‘recognised Aboriginal or Torres Strait Islander agency’—

*omit, insert—*

‘recognised entity’.

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

(1) Section 187(1)(a)(iv), ‘approved foster carer or other carer’—

*omit, insert—*

‘approved carer or other person’.

(2) Section 187(1)(a)(vi) to (ix)—

*renumber* as section 187(1)(a)(vii) to (x).

(3) Section 187(1)(a)—

*insert—*

‘(vi) a recognised entity or member of a recognised entity; or’.

(4) Section 187(3)(b), ‘directly’—

*omit.*

(5) Section 187(3)(b), example, ‘foster’—

*omit.*

(6) Section 187(3)(c)(ii), ‘by law’—

*omit, insert—*

‘under this division or another law’.

(7) Section 187(4) and (5)—

*omit, insert—*

‘(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.<sup>3</sup>’.

(8) Section 187(6)—

*renumber* as section 187(5).

(9) Section 187—

*insert*—

‘(6) In this section—

*recognised Aboriginal or Torres Strait Islander agency* means a recognised Aboriginal or Torres Strait Islander agency under this Act before the commencement of the *Child Safety Legislation Amendment Act 2005*, section 64.’

## 64 Insertion of new s 188B

After section 188A—

*insert*—

### ‘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 section 186.

'(4) In this section—

*family group* see section 51E.'

## 65 Insertion of new s 246I

Chapter 8, before section 247—

*insert—*

### '246I Recognised entities

'(1) The chief executive must keep a list of entities with whom to consult about issues relating to the protection and care of Aboriginal or Torres Strait Islander children.

'(2) The chief executive must not include an entity on the list unless the entity is—

(a) an individual—

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

(ii) who has appropriate knowledge of, or expertise in, child protection; and

(iii) who is not an officer or employee of the department; or

(b) an entity—

(i) whose members include individuals mentioned in paragraph (a); and

(ii) that has a function of providing services to Aboriginal persons or Torres Strait Islanders.

'(3) The chief executive must make the list available for public inspection.'

## 66 Insertion of new ch 9, pt 5

Chapter 9, after part 4—

*insert—*



**‘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 more than 2 years before the commencement day—the anniversary of the day of its issue first happening after the commencement day; or
  - (b) otherwise—the second anniversary of the day of its issue.
- ‘(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 246L.
- ‘(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.’.

## **67 Replacement of sch 2 (Reviewable decisions and aggrieved persons)**

Schedule 2—

*omit, insert*—

## ‘Schedule 2      Reviewable decisions and aggravated persons

section 247 and schedule 3, definitions *aggravated person* and  
*reviewable decision*

### Reviewable decision

Directing a parent in relation to a supervision matter stated in a child protection order (section 78)

Deciding in whose care to place a child under a child protection order granting the chief executive custody or guardianship (section 86(2))

Not informing a child’s parents of the person in whose care the child is and where the child is living (section 86(4))

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))

Removing a child from the care of the child’s carer (section 89)

Refusing an application for, or to renew, a licence (section 129)

Refusing application for, or to renew, a certificate of approval as an approved foster carer or an approved kinship carer (section 136)

Refusing an application to amend an authority other than a provisional certificate (section 137)

### Aggravated person

The parent given the direction

The child’s parents or the child

A parent given the notice or the child

A person affected by the decision

A carer entitled to apply to have a 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)

The applicant or licensee

The applicant or certificate holder

The authority holder

**Reviewable decision**

Amending an authority other than a provisional certificate (section 138)

Suspending or cancelling an authority other than a provisional certificate (section 140)

Arranging for an interstate welfare authority to assume custody or guardianship of a child (section 245)

**Aggrieved person**

The authority holder

The authority holder

A person to whom notice of the decision must be given under section 245(6)'.

**68 Amendment of sch 3 (Dictionary)**

(1) Schedule 3, definitions *carer* and *recognised Aboriginal or Torres Strait Islander agency*—  
*omit.*

(2) Schedule 3—  
*insert—*

**'approved carer** means—

- (a) an approved foster carer; or
- (b) an approved kinship carer; or
- (c) a provisionally approved carer.

**approved kinship carer**, for a child, means a person who holds a certificate of approval as an approved kinship carer for the child.

**care agreement** see section 51ZD.

**carer**, of a child, means the entity in whose care the child has been placed under section 82.

**foster carer certificate** see section 131(a).

**intervention** see section 51ZA.

**investigated person**, for chapter 4, part 2, division 6, see section 141H.

**investigative information** means information decided under section 141H to be investigative information.

**kin**, in relation to a child, means—

- (a) any of the child's relatives who are persons of significance to the child; and
- (a) anyone else who is a person of significance to the child.

**kinship carer certificate** see section 131(b).

**member**, of a recognised entity, includes a person employed or engaged by the entity.

**personal history** see section 141B.

**police commissioner** means the commissioner of the Queensland Police Service.

**police information**, for chapter 4, part 2, division 7, see section 142.

**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.

**recognised entity**—

- (a) in relation to Aboriginal or Torres Strait Islander children generally, means an entity on the list kept under section 246I; and
  - (b) for a particular Aboriginal or Torres Strait Islander child, means an entity on the list kept under section 246I that the chief executive is satisfied is an appropriate entity to consult about the child's protection.'
- (3) Schedule 3, definition *certificate of approval*, 'granted under section 134'—

*omit, insert*—

'issued under chapter 4, part 2'.

- (4) Schedule 3, definition *suitable person*—

*insert*—

'(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.’.

## **Part 3                      Consequential amendments**

### **69            Consequential amendments**

The schedule amends the Acts it mentions.

## Schedule                      Consequential amendments

section 69

### Child Care Act 2002

- 1        **Section 5(1)(f), ‘foster’—**  
*omit.*

### Children Services Tribunal Act 2000

- 1        **Section 30(3)(a), ‘foster carer, under’—**  
*omit, insert—*  
‘carer under’.
- 2        **Section 30(3)(a), ‘foster carer under’—**  
*omit, insert—*  
‘carer under’.

### Commission for Children and Young People and Child Guardian Act 2000

- 1        **Section 64(b), ‘foster’—**  
*omit.*

## Schedule (continued)

- 2 Section 64(c), ‘an agreement entered into by the chief executive (child safety) and a parent of the child’—**  
*omit, insert—*  
‘a care agreement under the *Child Protection Act 1999*’.
- 3 Section 81(5)(d), ‘foster’—**  
*omit.*
- 4 Section 140A(1), definition *reviewable decision*, paragraph (c), from ‘who’ to ‘departmental care service’—**  
*omit, insert—*  
‘placed in care under the *Child Protection Act 1999*, section 82,’.
- 5 Section 140A(1), definition *reviewable decision*, paragraph (d)(iii), ‘or 140’—**  
*omit, insert—*  
‘, 138C, 140 or 140AA’.
- 6 Schedule 4—**  
*insert—*  
‘*approved carer* means an approved carer under the *Child Protection Act 1999*.’.
- 7 Schedule 4, definition *child accommodation service*, paragraph (a), ‘foster’—**  
*omit.*



## Schedule (continued)

**Coroners Act 2003**

- 1      **Section 9(1)(d), from ‘the care’ to ‘other person’—**  
*omit, insert—*  
‘care’.
- 2      **Section 9(1)(e)—**  
*omit.*
- 3      **Section 47(3), definition *relevant Act*, paragraph (a)(vii)—**  
*omit.*
- 4      **Part 6, after division 2—**  
*insert—*

**‘Division 3                      Transitional provision for the Child  
Safety Legislation Amendment Act  
2005**

**‘108    Death in care**

‘For section 9, a person’s death is a *death in care* if, when the person died, the person was a child—

- (a) about whom an authorised officer was investigating, or had investigated, alleged harm or alleged risk of harm under the *Child Protection Act 1999*, section 14; and
- (b) who was residing with someone other than the person with whom the child normally resided as a result of an agreement, between a parent or guardian of the child and the chief executive (child safety), entered into before the commencement of the *Child Safety Legislation Amendment Act 2005*, section 14.’

## Schedule (continued)

**5 Schedule 2, definition *child in a placement with the consent of a parent or guardian*—**

*omit.*

**Juvenile Justice Act 1992****1 Section 293, heading, ‘foster’—**

*omit.*

**2 Section 293(b), ‘foster’—**

*omit.*

**3 Section 293(b)—**

*renumber* as section 293(c).

**4 Section 293(a)—**

*omit, insert—*

- (a) for a placement in the care of a licensee—a person conducting the licensed care service; or
- (b) for a placement in the care of an entity conducting a departmental care service—a person conducting the service; or’.

## Schedule (continued)

**Police Powers and Responsibilities Act 2000**

- 1 **Section 316(11), definition *parent*, ‘foster’—**  
*omit.*
  
- 2 **Schedule 4, definition *parent*, ‘foster’—**  
*omit.*