



Queensland

Family Responsibilities Commission Act 2008

Act No. 9 of 2008



Queensland

Family Responsibilities Commission Act 2008

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Queensland

Family Responsibilities Commission Act 2008

Act No. 9 of 2008

**An Act to establish the Family Responsibilities Commission,
and for related matters**

[Assented to 13 March 2008]

The Parliament of Queensland enacts—

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Family Responsibilities Commission Act 2008*.

2 Commencement

This Act, other than the following provisions, commences on a day to be fixed by proclamation—

- (a) section 6;
- (b) section 94;
- (c) schedule, to the extent it inserts the definitions *compulsory school age*, *education chief executive*, *non-State school*, *school* and *State school*.

3 Act binds all persons

- (1) This Act binds all persons, including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Subsection (1) does not make the State, the Commonwealth or another State liable to be prosecuted for an offence against this Act.

Division 2 Objects and principles of Act

4 Main objects

- (1) The main objects of this Act are—
 - (a) to support the restoration of socially responsible standards of behaviour and local authority in welfare reform community areas; and
 - (b) to help people in welfare reform community areas to resume primary responsibility for the wellbeing of their community and the individuals and families of the community.
- (2) The objects are to be achieved mainly by establishing the Family Responsibilities Commission—
 - (a) to hold conferences about agency notices; and
 - (b) to deal with the matters to which the notices relate in a way that—
 - (i) encourages community members the subject of a conference to engage in socially responsible standards of behaviour; and
 - (ii) promotes the interests, rights and wellbeing of children and other vulnerable persons living in a welfare reform community area.

5 Principles for administering Act

- (1) The Act is to be administered under the principle that the wellbeing and best interests of a child are paramount.
- (2) Subject to subsection (1), this Act is also to be administered under the following principles—
 - (a) in a conference about an agency notice, the commission should deal with the matters to which the notice relates in a way that—
 - (i) facilitates early intervention in relation to the matters; and

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- (ii) supports the restoration of socially responsible standards of behaviour and local authority in welfare reform community areas; and
- (iii) makes appropriate use of community support services;
- (b) in a conference about an agency notice involving a child, the child's views and wishes should be taken into account in a way that has regard to the child's age and ability to understand;
- (c) Aboriginal tradition and Island custom must be taken into account in matters involving Aboriginal people or Torres Strait Islanders;
- (d) the commission should deal with agency notices in a timely way.

Division 3 Interpretation

6 Definitions

The dictionary in the schedule defines particular words used in this Act.

7 Meaning of *community member*

A person is a *community member* if—

- (a) the person is a welfare recipient; and
- (b) either—
 - (i) the person's usual place of residence is, or was on the commencement of this section, in a welfare reform community area; or
 - (ii) the person has, at any time after the commencement of this section, lived in a welfare reform community area for at least 3 months.

8 Meaning of *welfare recipient*

A person is a *welfare recipient* if—

- (a) under the Social Security Act, part 3B, the person or the person's partner is an eligible recipient of a category P welfare payment; or
- (b) under the Social Security Act, part 3B, neither the person nor the person's partner is an eligible recipient of a category P welfare payment, but the person or the person's partner is an eligible recipient of a category R welfare payment; or
- (c) the person is a CDEP Scheme participant.

Part 2 The Family Responsibilities Commission

Division 1 Establishment, functions and powers of commission

9 Establishment of commission

The Family Responsibilities Commission is established.

10 Commission's functions

- (1) The commission has the following functions—
 - (a) to hold conferences and make decisions under this Act about agency notices in relation to community members;
 - (b) to deal with, under part 7, division 2, a person's noncompliance with a compulsory case plan;

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- (c) to hear applications to the commission to amend or end a family responsibilities agreement or family responsibilities order.
- (2) The commission also has the other functions given to the commission under this or another Act.

11 Commission's powers

- (1) The commission has the powers necessary or convenient to perform the commission's functions.
- (2) The commission also has the other powers given to the commission under this or another Act.

Division 2 Membership

12 Membership of commission

- (1) The members of the commission are—
 - (a) the commissioner; and
 - (b) the deputy commissioners, if deputy commissioners are appointed; and
 - (c) the local commissioners.
- (2) The commission members are to be appointed by the Governor in Council.
- (3) The Minister may recommend to the Governor in Council for appointment as many deputy commissioners or local commissioners as the Minister considers necessary to ensure the effective and efficient operation of the commission.
- (4) A local commissioner is to be appointed as a local commissioner for a particular welfare reform community area.
- (5) All commission members are appointed under this Act and not the *Public Service Act 1996*.

13 Selection of commissioner and deputy commissioners

Before selecting a person for recommendation to the Governor in Council for appointment as the commissioner or a deputy commissioner, the Minister must consult with the board about the proposed appointment.

14 Selection of local commissioners

- (1) This section applies for selecting persons for recommendation to the Governor in Council for appointment as local commissioners for a welfare reform community area.
- (2) The Minister must ask the community justice group for the area, or if there is no community justice group for the area, as many relevant community groups for the area as the Minister considers appropriate, to nominate persons the group or groups consider suitable for appointment as local commissioners for the area.
- (3) In nominating a person under this section, a community justice group or relevant community group—
 - (a) must have regard to the matters mentioned in section 18 about a person's eligibility for appointment as a local commissioner; and
 - (b) must give the Minister a notice stating the group is satisfied the person is a suitable person to perform the duties of a local commissioner.
- (4) A person nominated by a community justice group or relevant community group may, but need not be, a member of the group.
- (5) If the Minister considers not enough eligible persons are nominated for appointment as local commissioners for a welfare reform community area, the Minister may nominate persons the Minister considers suitable for appointment.
- (6) In selecting persons for recommendation to the Governor in Council for appointment as local commissioners for a welfare reform community area, the Minister must—
 - (a) if practicable—

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- (i) ensure the local commissioners for the area represent the clan or family groups in the area; and
 - (ii) subject to subsection (5), only select persons nominated by a community justice group or relevant community group; and
- (b) have regard to the need to have both male and female local commissioners for conferences.

15 Term of appointment

A commission member is appointed for the term stated in the member's instrument of appointment.

16 Conditions of appointment

- (1) A commission member is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) A commission member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

17 Eligibility for appointment as commissioner or deputy commissioner

A person is eligible for appointment as the commissioner or a deputy commissioner only if—

- (a) the person is a lawyer of a least 5 years standing; and
- (b) the Minister considers the person has an appropriate understanding of the history and culture of Aboriginal people and Torres Strait Islanders; and
- (c) the Minister considers the person has—
 - (i) appropriate experience in mediation or alternative dispute resolution; or
 - (ii) other knowledge or experience making the person appropriate to be the commissioner or a deputy commissioner.

18 Eligibility for appointment as local commissioner

A person is eligible for appointment as a local commissioner only if—

- (a) the person is an Aboriginal person or Torres Strait Islander who—
 - (i) is a member of a community justice group or relevant community group; or
 - (ii) is an elder or other respected person of a welfare reform community area; or
 - (iii) is another person who the Minister is satisfied is of good standing and lives in, or has a close connection with, a welfare reform community area; and
- (b) the Minister is satisfied the person is a suitable person to perform the duties of a local commissioner.

19 Disqualification from being commissioner or deputy commissioner

- (1) A person can not become, or continue as, the commissioner or a deputy commissioner if—
 - (a) the person—
 - (i) is, or has been, convicted of an offence and the conviction is not a spent conviction; or
 - (ii) is an insolvent under administration within the meaning of the Corporations Act, section 9; or
 - (iii) is a public service employee, a police officer or an employee of the Commonwealth public service; or
 - (b) at any time after 5 years before the commencement of this section, a protection order has been made against the person; or
 - (c) the Minister has received a notice from the child protection chief executive under section 28 advising the

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Minister that the child protection chief executive considers the person may pose a risk to a child's safety.

- (2) Also, a person can not become the commissioner or a deputy commissioner if the person does not consent to the Minister requesting—
 - (a) a report about the person's criminal history and domestic violence history under section 27; or
 - (b) a notice about the person under section 28.
- (3) In this section—

offence means—

 - (a) an indictable offence; or
 - (b) an offence under the *Drugs Misuse Act 1986*, other than an indictable offence; or
 - (c) an offence under the *Liquor Act 1992*, section 168B.

20 Disqualification from being local commissioner

- (1) A person can not become, or continue as, a local commissioner if—
 - (a) the person—
 - (i) is, or has been, convicted of a serious offence and the conviction is not a spent conviction; or
 - (ii) is an insolvent under administration within the meaning of the Corporations Act, section 9; or
 - (iii) is, or has been, the subject of a family responsibilities agreement or a decision of the commission under section 69(1)(b); or
 - (b) at any time after 5 years before the commencement of this section, a protection order has been made against the person; or
 - (c) the Minister has received a notice from the child protection chief executive under section 28 advising the

Minister that the child protection chief executive considers the person may pose a risk to a child's safety.

- (2) Also, a person can not become a local commissioner if the person does not consent to the Minister requesting—
- (a) a report about the person's criminal history and domestic violence history under section 27; or
 - (b) a notice about the person under section 28.
- (3) In this section—

serious offence means—

- (a) a serious violent offence of which an offender is convicted under the *Penalties and Sentences Act 1992*, section 161A; or
- (b) a serious offence as defined under the *Commission for Children and Young People and Child Guardian Act 2000*, other than an offence mentioned in paragraph (a); or
- (c) an offence under the *Drugs Misuse Act 1986*, other than an offence mentioned in paragraph (a) or (b); or
- (d) an offence under the *Liquor Act 1992*, section 168B.

21 Vacation of office

- (1) The office of a commission member becomes vacant if the member—
- (a) resigns the member's office by signed notice of resignation given to—
 - (i) for the commissioner or a deputy commissioner—the Minister; or
 - (ii) for a local commissioner—the commissioner; or
 - (b) can not continue as a member under section 19 or 20; or
 - (c) is removed from office by the Governor in Council under subsection (2).

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- (2) The Governor in Council may remove a commission member from office if the member—
 - (a) is incapable of properly discharging the commission's functions; or
 - (b) is performing the member's duties—
 - (i) carelessly, incompetently or inefficiently; or
 - (ii) without proper regard to the principles stated in section 5.

Division 3 Functions and powers of commissioner

22 Commissioner's functions

- (1) The commissioner has the following functions—
 - (a) ensuring the efficient and quick discharge of the commission's business;
 - (b) ensuring the local commissioners and the staff of the registry receive regular and appropriate training;
 - (c) preparing the annual report;
 - (d) making commission guidelines;
 - (e) carrying out the activities the commissioner reasonably considers necessary to achieve the objects of this Act.
- (2) The commissioner also has the other functions given to the commissioner under this or another Act.

23 Commissioner's powers

- (1) The commissioner has the powers necessary or convenient to perform the commissioner's functions.
- (2) The commissioner also has the other powers given to the commissioner under this or another Act.

24 Delegation by commissioner

- (1) The commissioner may delegate the commissioner's functions under this Act to a deputy commissioner.
- (2) Also, the commissioner may delegate the commissioner's functions under this Act, other than a function under a prescribed provision, to the registrar.
- (3) In this section—
functions includes powers.
prescribed provision means section 49, 50, 51, 53, 68(9), 85, 98 or 108(2).

25 When deputy commissioner to act as commissioner

- (1) A deputy commissioner, nominated by the Minister, is to act as the commissioner if—
 - (a) the commissioner is not available to perform the commissioner's functions; or
 - (b) there is a vacancy in the office of the commissioner.
- (2) This section does not limit the *Acts Interpretation Act 1954*, section 24B.

Division 4 Miscellaneous

26 Independence of commission and commission member

- (1) In performing or exercising its functions or powers, the commission—
 - (a) must act independently and impartially; and
 - (b) is not subject to direction by the Minister.
- (2) A commission member, in exercising the member's functions or powers, is not subject to direction by the Minister.

[s 27]

27 Report about person's criminal history or domestic violence history

- (1) To decide whether a person is disqualified from membership of the commission under section 19(1)(a)(i) or (b) or section 20(1)(a)(i) or (b), the Minister may ask the commissioner of police for—
 - (a) a written report about the person's criminal history or domestic violence history; and
 - (b) if the request is about the person's criminal history—a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) The commissioner of police must comply with the request.
- (3) However, the Minister may make a request under subsection (1) about a person who is not a commission member only if the person has given the Minister written consent for the request.
- (4) The duty imposed on the commissioner of police to comply with the request applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) If the Minister receives a report about a person under this section, the Minister must give a copy of the report to the person.
- (6) The Minister must ensure a report given to the Minister under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

28 Information about child safety

- (1) To decide whether a person is disqualified from membership of the commission under section 19(1)(c) or 20(1)(c), the Minister may ask the child protection chief executive to give the Minister a notice about whether the child protection chief executive considers the person may pose a risk to a child's safety.

-
- (2) The child protection chief executive must comply with the request.
 - (3) Also, if the child protection chief executive considers a person who is a commission member may pose a risk to a child's safety, the child protection chief executive must give the Minister a notice stating the child protection chief executive considers the person may pose a risk to a child's safety.
 - (4) In considering whether, in the child protection chief executive's opinion, a person may pose a risk to a child's safety, the child protection chief executive may have regard to any information that—
 - (a) is in the child protection chief executive's possession or to which the child protection chief executive has access; and
 - (b) has been obtained under the *Child Protection Act 1999*.
 - (5) The Minister may make a request under subsection (1) about a person who is not a commission member only if the person has given the Minister written consent for the request.
 - (6) The duty imposed on the child protection chief executive under this section applies only to information in the child protection chief executive's possession or to which the child protection chief executive has access.
 - (7) If the Minister receives a notice about a person under this section, the Minister must give a copy of the notice to the person.
 - (8) The Minister must ensure a notice given to the Minister under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

29 Requirement to disclose changes in criminal history or domestic violence history

- (1) If there is a change in the criminal history or domestic violence history of the commissioner or a deputy commissioner, the commissioner or deputy commissioner must, unless the commissioner or deputy commissioner has a

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reasonable excuse, immediately disclose the change to the Minister.

Maximum penalty—100 penalty units.

- (2) If there is a change in the criminal history or domestic violence history of a local commissioner, the local commissioner must, unless the local commissioner has a reasonable excuse, immediately disclose the change to the commissioner.

Maximum penalty—100 penalty units.

- (3) Immediately after a local commissioner discloses a change in criminal history or domestic violence history to the commissioner under subsection (2), the commissioner must give the Minister notice of the disclosure.

Maximum penalty—100 penalty units.

- (4) For a person who does not have a criminal history or domestic violence history, there is taken to be a change in the person's criminal history or domestic violence history if the person acquires a criminal history or domestic violence history.

- (5) To comply with subsection (1) or (2)—

(a) the information disclosed by the person about a conviction for an offence in the person's criminal history must include the following—

- (i) the existence of the conviction;
- (ii) when the offence was committed;
- (iii) details adequate to identify the offence;
- (iv) whether or not a conviction was recorded;
- (v) the sentence imposed on the person; and

(b) the information disclosed by the person about a protection order for the person's domestic violence history must include the following—

- (i) the existence of the protection order;

-
- (ii) when the protection order was made against the person.

30 Commission is statutory body under the Financial Administration and Audit Act 1977

The commission is a statutory body under the *Financial Administration and Audit Act 1977*.

31 Commission is not a tribunal under Ombudsman Act 2001, s 16

The commission is not a tribunal for the purposes of the *Ombudsman Act 2001*, section 16(2)(a).

Part 3 The registry

32 Establishment of registry

- (1) The Family Responsibilities Commission Registry is established.
- (2) The registry is the registry for the commission.

33 Registry staff

- (1) The registry consists of—
 - (a) the registrar; and
 - (b) the other staff of the registry necessary for the commission to effectively and efficiently perform its functions.
- (2) The staff of the registry must include a local registry coordinator appointed for each welfare reform community area.

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- (3) The registrar and the other staff are to be appointed under the *Public Service Act 1996*.

34 Eligibility for appointment as registrar

A person is eligible for appointment as the registrar only if the person is—

- (a) a lawyer who has an appropriate understanding of the history and culture of Aboriginal people and Torres Strait Islanders; or
- (b) another person who—
 - (i) has appropriate expertise and experience in matters relating to the operation of a registry of a court or tribunal; and
 - (ii) has an appropriate understanding of the history and culture of Aboriginal people and Torres Strait Islanders.

35 Registrar's functions

- (1) Subject to the directions of the commissioner, the registrar is responsible for managing the registry and the administrative affairs of the commission.
- (2) The registrar has all the following functions—
 - (a) providing administrative support to the commission to help the commission hold conferences;
 - (b) keeping the records and information the registrar or the commissioner considers appropriate;
 - (c) coordinating the provision of appropriate support or training for local commissioners and the staff of the registry;
 - (d) helping the commissioner prepare the annual report and make commission guidelines;

-
- (e) preparing case plans relating to a person's attendance at a community support service;
 - (f) if, under a family responsibilities agreement or family responsibilities order, a person is required to attend a community support service under a case plan—monitoring the person's compliance with the plan;
 - (g) if the registrar monitors a person's compliance with a case plan—giving the commission reports about the person's compliance;
 - (h) collecting statistical data and other information relevant to the operation of the commission for inclusion in the annual report;
 - (i) performing other functions the registrar or commissioner considers appropriate for the effective and efficient operation of the commission;
 - (j) any other functions given under this Act.

36 Registrar's powers

- (1) The registrar has the powers reasonably necessary to perform the registrar's functions.
- (2) The registrar also has the other powers given to the registrar under this Act.

37 Delegation by registrar

- (1) The registrar may delegate the registrar's functions under this Act to an appropriately qualified member of the staff of the registry.
- (2) In this section—
appropriately qualified, for a member of the staff of the registry to whom a function may be delegated, includes having the qualifications, experience or standing appropriate for the function.

[s 38]

Example of standing of member of the staff of the registry—

a person's seniority level as a member of the staff of the registry

functions includes powers.

38 Function of local registry coordinators

The function of a local registry coordinator is to support the efficient and effective operation of the commission in the welfare reform community area for which the coordinator is appointed, including, for example, by—

- (a) taking appropriate steps to facilitate the holding of conferences; and
- (b) nominating appropriate local commissioners for a conference; and
- (c) providing information about community support services and the operation of the commission to persons living in the area; and
- (d) keeping the records and information the registrar considers appropriate.

39 When staff of registry are subject to direction of commissioner

In performing or exercising their functions or powers under this Act, the registrar and other staff of the registry are only subject to the direction of the commissioner on matters relating to the management of the registry and the administrative affairs of the commission.

Part 4 Agency notices

Division 1 Requirements about giving agency notices

40 Notice about school attendance

- (1) Subsection (2) applies if—
 - (a) a student at a school in a welfare reform community area is absent from the school for all or part of any 3 school days during a school term; and
 - (b) the principal of the school is not satisfied there is a reasonable explanation for the absences.
- (2) The principal must give notice of the absences to the commission as soon as practicable but not more than 10 school days after the third absence happens.
- (3) Subsection (4) applies if—
 - (a) a student at a school that is not in a welfare reform community area is absent from the school for all or part of any 3 school days during a school term; and
 - (b) the principal of the school is not satisfied there is a reasonable explanation for the absences; and
 - (c) the principal is, or becomes, aware the student or a parent of the student lives, or at any time after the commencement of this section has lived, in a welfare reform community area.
- (4) The principal must give notice of the absences to the commission—
 - (a) if the principal is aware of a matter mentioned in subsection (3)(c) when the third absence happens—as soon as practicable but not more than 10 school days after the third absence happens; or

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- (b) if paragraph (a) does not apply—as soon as practicable but not more than 10 school days after becoming aware of the matter.
- (5) A notice under this section must be in the approved form.
- (6) The approved form must include provision for the following—
 - (a) the student’s name and date of birth;
 - (b) the name and address, if known, of the parents of the student;
 - (c) the days the student was absent from school;
 - (d) the duration of the student’s absences;
 - (e) the reason, if any, recorded by the school for the absences.
- (7) In considering whether a student is absent, or there is a reasonable explanation for a student’s absence, from a school, the principal of the school must have regard to any commission guidelines relating to matters about student attendance at schools.

41 Notice about school enrolment

- (1) This section applies if the education chief executive becomes aware—
 - (a) a child of compulsory school age is not enrolled at a school; and
 - (b) the child or a parent of the child lives, or at any time after the commencement of this section has lived, in a welfare reform community area.
- (2) The education chief executive must as soon as practicable give the commission notice of the child’s non-enrolment.
- (3) The notice must be in the approved form.
- (4) The approved form must include provision for—
 - (a) the name and, if known, the address of the child; and

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- (b) the name and address, if known, of the parents of the child.
 - (5) This section does not apply to a child of compulsory school age if—
 - (a) an exemption under the *Education (General Provisions) Act 2006*, chapter 9, part 3, is in force for the child; or
 - (b) the *Education (General Provisions) Act 2006*, section 176(1) does not apply in relation to the child because of chapter 9, part 4 of that Act.

42 Notice about child safety and welfare matters

- (1) This section applies if the child protection chief executive—
 - (a) becomes aware, whether because of notification given to the chief executive or otherwise, of alleged harm or alleged risk of harm to a child; and
 - (b) becomes aware the allegation is in relation to—
 - (i) conduct that is happening, or has happened, in a welfare reform community area; or
 - (ii) conduct of a person who lives, or at any time after the commencement of this section has lived, in a welfare reform community area.
- (2) The child protection chief executive must give the commission notice of the alleged harm or alleged risk of harm to the child.
- (3) The notice must be given to the commission—
 - (a) if an authorised officer under the *Child Protection Act 1999* investigates the allegation to assess the child's need of protection—within 5 business days after the investigation and assessment of the allegation ends; or
 - (b) if paragraph (a) does not apply—within 5 business days after the later of the following to happen—

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- (i) the child protection chief executive becomes aware of the alleged harm or alleged risk of harm to the child;
 - (ii) the child protection chief executive becomes aware of a matter mentioned in subsection (1)(b).
- (4) The notice must be in the approved form.
- (5) The approved form must include provision for the following—
 - (a) the day the child protection chief executive became aware of the alleged harm or alleged risk of harm;
 - (b) whether the allegation was investigated as mentioned in subsection (3)(a);
 - (c) the name and, if known, the address of the child allegedly harmed or allegedly at risk of harm;
 - (d) the name and address, if known, of the parents of the child;
 - (e) the name and address, if known, of any person allegedly causing harm to the child, or allegedly causing the child to be at risk of harm;
 - (f) details of the alleged harm or alleged risk of harm to the child;
 - (g) information to identify the welfare reform community area where—
 - (i) the conduct the subject of the allegation is happening or has happened; or
 - (ii) the person whose conduct is the subject of the allegation lives or lived.
- (6) In this section—

harm, to a child, see the *Child Protection Act 1999*, section 9.

43 Notice about offences

- (1) Subsection (2) applies if—

- (a) in a proceeding before a Magistrates Court sitting in a welfare reform community area, Cooktown or Mossman, a person is convicted of an offence; or
 - (b) in a proceeding before another Magistrates Court, a person is convicted of an offence and the clerk of the court has been advised that the person lives, or at any time after the commencement of this section has lived, in a welfare reform community area.
- (2) The clerk of the court in which the proceeding was heard must give the commission notice of the conviction.
- (3) The notice must be given to the commission—
- (a) if subsection (1)(a) applies—as soon as practicable but not more than 10 business days after the person is convicted; or
 - (b) otherwise—as soon as practicable but not more than 10 business days after the clerk of the court has been advised about a matter mentioned in subsection (1)(b).
- (4) The notice must be in the approved form.
- (5) The approved form must include provision for all the following—
- (a) the day of the conviction;
 - (b) the name and, if known, the address of the person convicted;
 - (c) information to identify the offence of which the person was convicted and the Magistrates Court for the proceeding;
 - (d) information to identify the welfare reform community area where—
 - (i) the conduct the subject of the conviction happened; or
 - (ii) the person against whom the conviction is made lives or lived.

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44 Notice about residential tenancy agreement

- (1) Subsection (2) applies in relation to a tenant of premises if the lessor of the premises—
 - (a) is satisfied the premises have been, or are being, used by the tenant for an illegal purpose; or
 - (b) becomes aware that the tenant has not complied with a remedy notice relating to—
 - (i) the tenant causing a nuisance by the use of the premises; or
 - (ii) the tenant interfering with the reasonable peace, comfort or privacy of a neighbour of the tenant; or
 - (iii) the tenant not keeping the premises and its inclusions clean, having regard to their condition when the tenant entered into the residential tenancy agreement for the premises; or
 - (iv) the tenant maliciously damaging, or allowing someone else to maliciously damage, the premises or its inclusions; or
 - (c) becomes aware that the rent payable by the tenant under the residential tenancy agreement (the *outstanding amount*) has remained unpaid in breach of the agreement for at least 7 days and the tenant—
 - (i) has not responded to a remedy notice relating to the outstanding amount; or
 - (ii) has not entered into an agreement with the lessor to pay the outstanding amount; or
 - (iii) has breached an agreement entered into with the lessor to pay the outstanding amount.
- (2) The lessor must, within 5 business days after being satisfied or becoming aware of a matter mentioned in subsection (1), give the commission notice of the matter.
- (3) Subsection (4) applies in relation to a tenant of premises if the lessor of the premises has, after the commencement of this

section and within a period of not more than 6 months, given the tenant more than 1 remedy notice relating to—

- (a) any of the matters mentioned in subsection (1)(b); or
 - (b) rent remaining unpaid, in breach of the residential tenancy agreement for the premises, for at least 7 days.
- (4) The lessor must, within 5 business days after giving a second remedy notice to the tenant, give the commission notice of the giving of the remedy notice and the matter to which it relates.
- (5) A notice under subsection (2) or (4) must be in the approved form.
- (6) The approved form must include provision for the following—
- (a) the name of the tenant;
 - (b) the address of the tenanted premises;
 - (c) details of the matter to which the notice relates.
- (7) In this section—

housing department means the department in which the *Housing Act 2003* is administered.

lessor, in relation to premises that are social housing, means the entity that provides the housing.

remedy notice means a notice to remedy breach under the *Residential Tenancies Act 1994*.

social housing means housing that—

- (a) is in a welfare reform community area; and
- (b) is directly provided, for residential use, by the housing department, a local government or another entity prescribed under a regulation.

tenant means—

- (a) a person who is a party to a residential tenancy agreement relating to premises that are social housing;
or

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- (b) a person who—
 - (i) was, at any time after the commencement of this definition, a party to a residential tenancy agreement relating to premises that are social housing; and
 - (ii) is a party to a residential tenancy agreement relating to premises, not in a welfare reform community area, directly provided by the housing department for residential use.

Division 2 Miscellaneous

45 Entity not under obligation to investigate particular matters

- (1) This section applies to an entity that, under this part, must give the commission an agency notice on becoming aware that—
 - (a) a person lives, or lived, in a welfare reform community area; or
 - (b) a person's conduct to which an allegation mentioned in section 42(1) relates is happening, or has happened, in a welfare reform community area.
- (2) The duty imposed on the entity to give the commission an agency notice in relation to the person or the person's conduct does not require the entity to conduct an investigation about the person or the person's conduct.

Part 5 Commission's conferences about agency notices

Division 1 Preliminary

46 Purpose of conference

The purpose of a conference held under this part is to provide a forum for the commission—

- (a) to discuss the matters to which an agency notice relates with a relevant person for the notice who is a community member; and
- (b) if practicable, to reach agreement with the person about the appropriate action to be taken in relation to the matters to help achieve the objects of this Act; and
- (c) if agreement is not reached—to make decisions under section 69 to help achieve the objects of this Act.

47 Commissioner's decision to hold conference

In deciding whether to hold a conference, the commissioner—

- (a) must have regard to the objects of this Act; and
- (b) may have regard to other matters the commissioner considers relevant, including, for example—
 - (i) whether the commission has previously received an agency notice relating to the person the subject of the proposed conference; and
 - (ii) the nature of the matters raised in any agency notice relating to the person; and
 - (iii) if the proposed conference is about a school attendance notice—the extent to which a student mentioned in the notice has been absent from school.

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48 Matters commissioner or commission may have regard to in considering whether a person is a community member

In considering, for the purpose of section 7(b), whether a relevant person for an agency notice is a community member, the commissioner or commission may have regard to any of the following matters—

- (a) the postal address, or address of the place of residence, of the person last known to the centrelink secretary;
- (b) whether a child of the person is enrolled at a school in a welfare reform community area;
- (c) whether the person is or has been a party to a residential tenancy agreement relating to premises in a welfare reform community area;
- (d) if the person is an Aboriginal person or a Torres Strait Islander—the person's usual place of residence, having regard to the person's family or kinship relationships;
- (e) the frequency and duration of, and reasons for, any periods the person spends outside of a welfare reform community area;
- (f) anything else the commissioner or commission considers relevant.

Division 2 Jurisdiction and operation

49 Holding conferences

The commission may hold a conference in relation to a relevant person for an agency notice only if the commissioner considers the relevant person for the notice is a community member.

50 Constitution of commission for conference

- (1) For a conference, the commission is to be constituted by—
 - (a) the commissioner; and

- (b) 2 local commissioners appointed for the welfare reform community area in which the commissioner considers the person the subject of the conference lives or lived.
- (2) The local commissioners mentioned in subsection (1)(b) are to be nominated by a local registry coordinator, and appointed by the commissioner, under section 51.

51 Nomination and appointment of local commissioners for conference

- (1) The local commissioners for a conference are to be—
 - (a) nominated by the local registry coordinator for the welfare reform community area in consultation with the local commissioners appointed for the area; and
 - (b) appointed by the commissioner.
- (2) A person can not be nominated under subsection (1) unless the person has successfully completed the training reasonably required by the Minister to ensure the person can properly perform the person's duties on the commission.
- (3) In nominating or appointing the local commissioners for a conference, the local registry coordinator and commissioner must—
 - (a) if the person the subject of the conference is an Aboriginal person or a Torres Strait Islander—consider whether the nominees or appointees are appropriate, having regard to the clan or family group to which the person belongs; and
 - (b) having regard to the matter to which the agency notice relates, consider whether the local commissioners should be male or female; and
 - (c) if practicable and appropriate in the circumstances, ensure that 1 of the local commissioners is female.

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52 Disclosure of interests

- (1) This section applies to a commission member constituting the commission for a conference if—
 - (a) the member becomes aware of a direct or indirect interest, financial or otherwise, the member has in a matter being considered or about to be considered at the conference; and
 - (b) the interest could conflict with the proper performance of the member's duties for considering the matter.
- (2) The commission member must immediately disclose the issue giving rise to the conflict to the other commission members constituting the commission for the conference.
- (3) The commission member may take part in the conference only with the agreement of the other commission members constituting the commission for the conference.

53 Reconstituting commission for particular conference

- (1) This section applies if a constituting member for a conference stops being a member or for any reason is not available for the conference.
- (2) The commissioner may direct that the commission for the conference be constituted by the commissioner, the remaining constituting member and another local commissioner appointed by the commissioner.
- (3) In appointing another local commissioner, the commissioner must have regard to the matters mentioned in section 51(2) and (3).
- (4) The commission as reconstituted must continue and finish the conference, and, for that purpose, may have regard to any record relating to the conference made by the commission as previously constituted.

54 Representation at conference

- (1) A person attending the commission at a conference must represent himself or herself.
- (2) Despite subsection (1), the person the subject of a conference may be represented at the conference by a lawyer if the commission considers it appropriate in the interests of justice to allow the person to be represented by a lawyer.

55 Conference privileged

- (1) This section applies to—
 - (a) anything said or admitted during a conference (the *information*); and
 - (b) a document, or a copy of a document, prepared for or in the course of a conference.
- (2) The information, document or copy is not admissible as evidence in a proceeding before a court, tribunal or disciplinary body.
- (3) Subsection (2) does not apply to the information, document or copy for the purposes of an appeal under part 11.

Division 3 Conference procedures

56 Procedure generally

- (1) In a conference, the commission—
 - (a) must observe natural justice; and
 - (b) must act quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues before it; and
 - (c) is not bound by the rules of evidence; and
 - (d) may inquire into, and inform itself, of anything in the way it considers appropriate.

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- (2) The commission may, in appropriate cases, hold a conference by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the conference.
- (3) To the extent a matter relating to the commission's conduct of a conference is not provided for by this Act, the commission may decide its own procedure.

57 Time and place of conference

- (1) The commission may hold a conference at the time and place decided by the commissioner.
- (2) In deciding a time and place for a conference, the commissioner must have regard to—
 - (a) the need for the commission to respond in a timely way to the agency notice to which the conference relates; and
 - (b) the location of the person the subject of the conference; and
 - (c) the availability of other persons the commissioner considers appropriate to attend the conference; and
 - (d) Aboriginal tradition and Island custom, if the conference involves Aboriginal people or Torres Strait Islanders.
- (3) Subsection (2) does not limit the matters to which the commissioner may have regard.

58 When commission must hold conference

- (1) The commission must hold a conference within whichever is the longer of the following periods—
 - (a) 1 year after receiving the agency notice to which the conference relates;
 - (b) if the person the subject of the conference is a prisoner when the notice was received, or becomes a prisoner within the period mentioned in paragraph (a) and before

the commission holds a conference—6 months after the person stops being a prisoner;

- (c) if paragraph (b) does not apply and the commission has taken reasonable steps to find the person but has not found the person within 6 months after receiving the notice—6 months after the person is found.

- (2) In this section—

prisoner means a prisoner in a corrective services facility under the *Corrective Services Act 2006*.

59 Conference not limited to particular agency notice

If the commissioner considers it appropriate in the circumstances, a conference may be about—

- (a) more than 1 agency notice relating to a particular person; and
- (b) more than 1 relevant person for an agency notice.

60 Participation in conference

- (1) The following persons may take part in a conference—

- (a) the person the subject of the conference;
- (b) someone the person mentioned in paragraph (a) chooses to provide support to the person;
- (c) any other person the commission considers may help the commission deal with the issues raised in the agency notice to which the conference relates, including, for example, a member of the family of the person mentioned in paragraph (a).

- (2) Also, if the registrar has under section 61 given notice of a conference to the notifying agency for the agency notice to which the conference relates, and the notice requires the agency to attend the conference, the agency or a person representing the agency must attend, and may take part in, the conference.

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- (3) Subject to subsections (1) and (2), a conference must be held in private.

61 Notice of conference

- (1) Before the commission holds a conference, the registrar must give notice of the conference to—
 - (a) the person the subject of the conference; and
 - (b) any other person the commissioner considers likely to make a useful contribution to the conduct of the conference.
- (2) Also, before the commission holds a conference the registrar may give notice of the conference to the notifying agency for the agency notice to which the conference relates.
- (3) The notice must include the following details of the proposed conference—
 - (a) the day, time and place for the conference;
 - (b) the purpose of the conference;
 - (c) information about the particular issues to be considered at the conference;
 - (d) information about the conduct of the conference.
- (4) A notice given to a notifying agency under subsection (2) must state whether or not the commission requires the notifying agency to attend the conference.

62 Obtaining views of persons not attending conference

- (1) The commissioner must take reasonable steps to ascertain before the conference, and make known at the conference, the views relevant to the conference of all the following—
 - (a) a person given a notice under section 61(1)(b) who notifies the commissioner that he or she will not be attending the conference;

- (b) if the person the subject of the conference is an Aboriginal person or a Torres Strait Islander—a member of the clan or family group of the person who has not been given a notice under section 61(1)(b) but whose views the commissioner considers should be obtained.
- (2) However, the commissioner—
- (a) is required to act under subsection (1) in relation to the views of a particular person only if the views may reasonably be ascertained and the commissioner does not expect the person to be attending the conference; and
 - (b) may make known at the conference a person's views only if the registrar has, at least 3 days before the conference, given the person the subject of the conference notice of the views.

63 Particular matters about conduct of conference

The commission must take reasonable and practicable measures to ensure—

- (a) a conference is conducted in a way that recognises and is responsive to the needs of persons taking part in the conference, including, for example, their customs and traditions; and
- (b) people taking part in a conference—
 - (i) understand the commission's role in the conference and the conference procedures; and
 - (ii) have an opportunity to participate in the conference and have their submissions considered; and
- (c) if the first language of the person the subject of the conference is not English—appropriate arrangements are made to facilitate the person's understanding of, and full participation in, the conference.

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64 Adjourment of conference

- (1) In considering whether to adjourn a conference, the commission must take into account the impact that the adjournment may have on the commission's ability to deal in a timely way with the issues raised in the agency notice to which it relates.
- (2) If the commission adjourns a conference, it must—
 - (a) give reasons for the adjournment; and
 - (b) state any matters it requires a party to the conference to address during the adjournment.

65 Rescheduling conference

- (1) This section applies if a person who is given a notice under section 61(1)(a) to attend a conference (the *first conference*) fails to attend the conference.
- (2) The commission must reschedule the conference and the registrar must give notice of the rescheduled conference to—
 - (a) the person; and
 - (b) any other person given notice of the first conference under section 61(1)(b) or (2).
- (3) The notice must state the time and place of the rescheduled conference.

66 Commission may proceed in absence of person

- (1) If a person the subject of a rescheduled conference fails to attend the conference, the commission may hold the conference, and make a decision under part 6 about the agency notice to which it relates, in the absence of the person.
- (2) However, the commission may make the decision only if satisfied—
 - (a) it has enough information to make an informed decision about the agency notice, having regard to the objects of

this Act and the wellbeing of the person the subject of the conference or any other person; and

- (b) the person the subject of the conference has, under section 65, received notice of the rescheduled conference or reasonable steps were taken to give the person notice of the rescheduled conference.

67 Record of conference

- (1) The commission must keep a record of each conference.
- (2) The record must include all the following information—
 - (a) the day the conference was held and its duration;
 - (b) the names of the persons who took part in the conference;
 - (c) the commission's decision on the conference and the reasons for the decision;
 - (d) if the commission's decision is not unanimous—the decision, and the reasons for the decision, of the commission members who did not agree with the commission's decision.
- (3) Subsection (2) does not limit the information the record may include.

Part 6 Commission's decisions at conferences

Division 1 Decisions

68 Decision to enter into agreement

- (1) After holding a conference, the commission may decide to enter into an agreement (a *family responsibilities agreement*)

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with the person the subject of the conference if satisfied the person is a community member.

- (2) A family responsibilities agreement must be about—
 - (a) the person attending an appropriate community support service under a case plan; or
 - (b) the commission giving the centrelink secretary a notice requiring that the person be subject to income management.
- (3) However, if the person is a CDEP Scheme participant, a notice mentioned in subsection (2)(b) may only require the person to be subject to income management if the person is also a welfare recipient under section 8(a) or (b).
- (4) Before making a decision mentioned in section 69(1)(b)(iii) or (iv), the commission must take reasonable steps to enter into a family responsibilities agreement with the person if the commission considers it appropriate in the circumstances.
- (5) If a family responsibilities agreement is about a person attending a community support service under a case plan, the agreement must state—
 - (a) the period, of not more than 1 year, for which the person is required to attend the community support service; and
 - (b) details of the community support service; and
 - (c) information about the preparation of the case plan under this Act.
- (6) If a family responsibilities agreement is about the commission giving the centrelink secretary a notice requiring that a person be subject to income management, the agreement must state—
 - (a) the period, of at least 3 months but not more than 1 year, for which the person will be subject to income management; and
 - (b) the proportion of the person's welfare payments that is required to be deducted under income management.

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- (7) Subsections (5) and (6) do not limit the matters that may be included in a family responsibilities agreement.
 - (8) Before entering into a family responsibilities agreement with a person, the commission must take the reasonable and appropriate steps to ensure the terms of the agreement are fully understood by the person.
 - (9) A family responsibilities agreement for a person must be signed by—
 - (a) the person; and
 - (b) the commissioner or a constituting member for the conference.

69 Other decisions

- (1) If, after holding a conference about an agency notice, the commission does not enter into a family responsibilities agreement with the person the subject of the conference, the commission may decide—
 - (a) to take no further action in relation to the notice; or
 - (b) to do 1 or more of the following, if the commission is satisfied the person is a community member—
 - (i) reprimand the person;
 - (ii) recommend that the person attend an appropriate community support service;
 - (iii) direct the person to attend an appropriate community support service under a case plan for not more than 1 year;
 - (iv) give the centrelink secretary a notice requiring that the person be subject to income management for at least 3 months but not more than 1 year.
- (2) Before making a decision mentioned in subsection (1)(b)(iv), the commission must consider whether it is more appropriate in all the circumstances merely to direct the person to attend an appropriate community support service under a case plan.

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- (3) If the person is a CDEP Scheme participant, a decision mentioned in subsection (1)(b)(iv) may only require the person to be subject to income management if the person is also a welfare recipient under section 8(a) or (b).
- (4) If the commission makes a decision under this section, the commission must take the reasonable and appropriate steps to ensure the person fully understands the decision.

Division 2 Notice of decisions

70 Notice of decision

- (1) As soon as practicable after the commission makes a decision under section 69, the registrar must give the person the subject of the conference notice of the decision.
- (2) The notice of the decision must state all of the following—
 - (a) the decision and the reasons for it;
 - (b) if the decision is, or includes, a direction to the person to attend a community support service under a case plan—
 - (i) the period, of not more than 1 year, for which the person is required to attend the community support service; and
 - (ii) details of the community support service; and
 - (iii) information about the preparation of the case plan under this Act;
 - (c) if the decision is to give, or includes giving, the centrelink secretary a notice requiring that the person be subject to income management—
 - (i) the period, of at least 3 months but not more than 1 year, for which the person will be subject to income management; and
 - (ii) the proportion of the person's welfare payments that is required to be deducted under income management.

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- (3) If the notice is for a decision mentioned in subsection (2)(b) or (c), the notice must be accompanied by an appeal notice for the decision.

Division 3 Criteria for making decisions

71 Matters commission has regard to in making particular decisions

- (1) This section applies to a decision under section 69—
- (a) to direct a person to attend a community support service under a case plan; or
 - (b) to give the centrelink secretary a notice requiring that a person be subject to income management.
- (2) In making the decision, the commission—
- (a) must have regard to—
 - (i) the nature of the matters to which the agency notice for the conference relates; and
 - (ii) how the decision is likely—
 - (A) to facilitate early intervention in relation to the matters; and
 - (B) to help the person engage in socially responsible standards of behaviour; and
 - (b) may have regard to—
 - (i) any action taken by the notifying agency for the agency notice in relation to the matters to which the notice relates; and
 - (ii) any other agency notices received by the commission in relation to the person; and
 - (iii) anything else the commission considers relevant.

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72 Matters commission has regard to in making decision about child safety notice

- (1) This section applies to a decision at a conference about a child safety notice if the decision is—
 - (a) to enter into a family responsibilities agreement about the person the subject of the conference attending a community support service; or
 - (b) to recommend or direct that the person attend a community support service.
- (2) In making the decision, the commission must have regard to any case plan prepared under the *Child Protection Act 1999*, chapter 2, part 3A, in relation to a child the subject of the allegation to which the child safety notice relates.
- (3) This section does not limit section 71.

Division 4 Other matters

73 Notice about requirement to attend community support service

- (1) This section applies if the commission decides—
 - (a) to enter into an agreement with a person about attending a community support service; or
 - (b) to direct a person to attend a community support service.
- (2) The commission must, as soon as practicable after making the decision, inform the registrar of the decision.

74 Notice to centrelink secretary

- (1) As soon as practicable after entering into a family responsibilities agreement, or making a decision under section 69, requiring that a person be subject to income management, the commission must give the centrelink secretary notice of the agreement or decision.
- (2) The notice must be in the approved form.

- (3) The approved form must include provision for the following—
 - (a) the person's name;
 - (b) the period, of at least 3 months but not more than 1 year, for which the person will be subject to income management;
 - (c) the proportion of the person's welfare payments that is required to be deducted under income management.
- (4) The notice must be accompanied by a copy of the family responsibilities agreement or other decision of the commission relating to the requirement for the person to be subject to income management.

75 Revocation of notice to centrelink secretary

- (1) This section applies if—
 - (a) a person is subject to income management because of a notice (the *original notice*) given to the centrelink secretary; and
 - (b) the commission decides, at a conference, to give the centrelink secretary a further notice requiring that the person be subject to income management.
- (2) The further notice must be accompanied by a notice revoking the original notice.

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Part 7 Provisions about case plans

Division 1 Case plans

Subdivision 1 Preliminary

76 Meaning of *case plan*

- (1) A *case plan* is a written plan—
 - (a) prepared by the registrar; and
 - (b) relating to a person's attendance at a community support service; and
 - (c) including all the following matters—
 - (i) the goal to be achieved by implementing the plan;
 - (ii) details of the community support service to which the plan relates;
 - (iii) information about whether a person's attendance at a community support service under the plan is compulsory;
 - (iv) if a person's attendance at a community support service under the plan is compulsory—information about the consequences of not complying with the plan.
- (2) Subsection (1)(c) does not limit the matters a case plan may include.

Subdivision 2 Particular provisions about case plans

77 Recording of case plan

The registrar must record each case plan in the approved form.

78 Preparation and endorsement of particular case plans

- (1) This section applies if the registrar must prepare a case plan (a *compulsory case plan*) for—
 - (a) a family responsibilities agreement; or
 - (b) a decision of the commission directing a person to attend a community support service under a case plan.
- (2) The registrar must prepare the case plan as soon as practicable after the decision is made.
- (3) Within 7 days after the case plan is prepared, the commissioner must endorse the plan unless section 79 applies.

79 Commissioner may ask registrar to amend compulsory case plan

- (1) This section applies if the commissioner is satisfied a compulsory case plan prepared for a particular person, or something in the plan, does not adequately address the issues of concern to the commission in making the decision for which the plan was prepared.
- (2) The commissioner may ask the registrar to amend the case plan to the extent necessary to adequately address the issues mentioned in subsection (1).
- (3) The commissioner must endorse the amended plan if the commissioner considers it satisfactorily addresses the issues mentioned in subsection (1).
- (4) The commissioner may act under subsection (2) more than once.

80 Registrar to give copy of, and explain, compulsory case plan

As soon as practicable after a compulsory case plan for a particular person has been recorded in the approved form and endorsed by the commissioner, the registrar must—

- (a) give a copy of the plan to the person; and

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- (b) explain the plan to the person in a way that ensures the person fully understands it.

Division 2 Noncompliance with compulsory case plans

81 Definition for div 2

In this division—

proposed action, for a show cause notice given to a person, means the following actions—

- (a) if the person is subject to income management when the notice is given—
 - (i) increasing the period for which the person will be subject to income management; or
 - (ii) increasing the proportion of the person's welfare payments that is required to be deducted under income management;
- (b) if the person is not subject to income management when the notice is given—giving the centrelink secretary a notice requiring that the person be subject to income management.

82 Show cause notice

- (1) This section applies if the commissioner reasonably believes a person who is a welfare recipient has not complied with a requirement under a compulsory case plan about the person attending a community support service.
- (2) The commissioner must give the person a notice under this section (a *show cause notice*).
- (3) The show cause notice must state all the following—
 - (a) the proposed action the commission is considering taking under this part;

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- (b) if the proposed action is to increase the period for which the person will be subject to income management—the proposed increase;
 - (c) if the proposed action is to increase the proportion of the person's welfare payments that is required to be deducted under income management—the proposed increase;
 - (d) an outline of the facts and circumstances forming the basis of the commissioner's reasonable belief about the person's noncompliance;
 - (e) that the person may make oral representations to the commission, at the stated time and place, to show why the proposed action should not be taken.
- (4) The stated time must be at least 28 days after the person is given the show cause notice.
 - (5) In deciding a place for the person to make the representations, the commission must have regard to where the person lives.

83 How oral representations may be made

- (1) Subject to this part, the commission may allow the person to make oral representations about the proposed action stated in the show cause notice in the way the commission considers appropriate.
- (2) If asked by the person, the commission must allow another person (a *person's representative*) to make oral representations to the commission to show why the proposed action should not be taken.
- (3) However, a person's representative may be a lawyer only if the commission considers it appropriate in the interests of justice to allow the representations to be made by a lawyer.
- (4) The commission may, in appropriate cases, allow a person to make oral representations by using any technology allowing reasonably contemporaneous and continuous communication between the person and the commission.

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84 Commission to consider oral representations

The commission must consider all representations (the *accepted representations*) made under section 83.

85 Constitution of commission for show cause process

- (1) For acting under this division, the commission is to be constituted by—
 - (a) the commissioner; and
 - (b) 2 local commissioners appointed for the welfare reform community area in which the commissioner considers the person the subject of the show cause notice lives or lived.
- (2) The local commissioners mentioned in subsection (1)(b) are to be—
 - (a) if practicable, the local commissioners who were constituting members for the conference at which the decision to which the show cause notice relates was made; or
 - (b) otherwise—nominated by the local registry coordinator for the welfare reform community area, and appointed by the commissioner, under section 51.
- (3) For subsection (2)(b), section 51 applies—
 - (a) as if a reference in the section to a conference were a reference to the show cause process; and
 - (b) as if the reference in the section to the agency notice were a reference to the show cause notice.
- (4) In dealing with a show cause notice under this division, the commission—
 - (a) must observe natural justice; and
 - (b) must act quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues before it; and
 - (c) is not bound by the rules of evidence; and

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- (d) may inquire into, and inform itself, of anything in the way it considers appropriate.

86 Ending show cause process without taking proposed action

- (1) If, after considering the person's accepted representations for the show cause notice, the commission is satisfied it is not appropriate to take the proposed action stated in the notice, the commission may decide—
- (a) to take no further action about the notice; or
 - (b) to ask the registrar to amend the compulsory case plan for the person to the extent necessary to adequately address the issues that gave rise to the notice.
- (2) The registrar must as soon as practicable give the person notice of the commission's decision under this section.
- (3) A compulsory case plan amended by the registrar under subsection (1)(b) must be endorsed by the commissioner.
- (4) If a person's compulsory case plan is amended under subsection (1)(b), the registrar must—
- (a) give the person a copy of the amended plan; and
 - (b) explain the amended plan to the person in a way that ensures the person fully understands it.
- (5) An amendment of a compulsory case plan must not result in the person being required to attend a community service, under the plan, for more than 1 year.

87 Commission may decide to take proposed action

- (1) This section applies if—
- (a) there are no accepted representations for the show cause notice; or
 - (b) after considering the accepted representations for the show cause notice, the commission reasonably believes

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it is appropriate to take the proposed action stated in the notice—

- (i) to help the person engage in socially responsible standards of behaviour; or
- (ii) to help restore local authority in a welfare reform community area.

- (2) The commission may—
 - (a) if the proposed action was to increase the period for which the person will be subject to income management—give the centrelink secretary a notice to increase the period for not longer than the proposed period stated in the show cause notice; or
 - (b) if the proposed action was to increase the proportion of the person's welfare payment that is required to be deducted under income management—give the centrelink secretary a notice to increase the proportion by not more than the proposed increase stated in the show cause notice; or
 - (c) if the proposed action was to give the centrelink secretary a notice requiring that the person be subject to income management—give the centrelink secretary a notice requiring that the person be subject to income management for at least 3 months but not more than 1 year.
- (3) If the person is a CDEP Scheme participant, a decision may only require the person to be subject to income management if the person is also a welfare recipient under section 8(a) or (b).
- (4) If the commission decides to take action under subsection (2), the commission must as soon as practicable give the person notice of the decision.
- (5) The notice must state all the following—
 - (a) the decision and the reasons for it;
 - (b) for a decision mentioned in subsection (2)(a)—the period for which the person will be subject to income management;

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- (c) for a decision mentioned in subsection (2)(b)—the proportion of the person’s welfare payments that is required to be deducted under income management;
 - (d) for a decision mentioned in subsection (2)(c)—
 - (i) the period, of at least 3 months but not more than 1 year, the person will be subject to income management; and
 - (ii) the proportion of the person’s welfare payments that is required to be deducted under income management.
 - (6) The notice must be accompanied by an appeal notice for the decision.
 - (7) A decision to increase the proportion of a person’s welfare payment that is required to be deducted under income management takes effect on the day the centrelink secretary, after receiving notice of the decision, acts under the Social Security Act to give effect to the decision.

88 Limitation on increasing period of income management

- (1) This section applies if, in relation to a decision of the commission under part 6, the commission proposes to increase the period for which a person will be subject to income management.
- (2) The proposed increase must not result in the person being subject to income management, in relation to the decision, for more than 1 year.

89 Notice to centrelink secretary

- (1) A notice given to the centrelink secretary under section 87(2) must be in the approved form.
- (2) The approved form must include provision for—
 - (a) if the notice is about increasing the period for which a person will be subject to income management—

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- (i) the person's name; and
 - (ii) the period for which the person will be subject to income management; and
- (b) if the notice is about increasing the proportion of a person's welfare payments that is required to be deducted under income management—
 - (i) the person's name; and
 - (ii) the proportion of the person's welfare payments that is required to be deducted under income management; and
- (c) if the notice requires that a person be subject to income management—
 - (i) the person's name; and
 - (ii) the period, of at least 3 months but not more than 1 year, for which the person will be subject to income management; and
 - (iii) the proportion of the person's welfare payments that is required to be deducted under income management.

Part 8 Information exchange

Division 1 Preliminary

90 Definitions for pt 8

In this part—

prescribed entity means—

- (a) the chief executive of a department that is mainly responsible for any of the following matters—

- (i) child protection services;
- (ii) education;
- (iii) housing services;
- (iv) adult corrective services;
- (v) criminal justice matters; or
- (b) the police commissioner; or
- (c) the principal of a school that is accredited, or provisionally accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*; or
- (d) the chief executive officer, however called, of an entity that provides a community support service that is attended by a person under a case plan; or
- (e) a person who provides relevant services in relation to children of compulsory school age, or in relation to parents of the children, in welfare reform community areas.

provides relevant services means provides services, under a scheme relating to the implementation of welfare reform and the provision of educational programs or services in welfare reform community areas, that are about the enrolment or attendance of children at school.

91 What is ***relevant information***

- (1) ***Relevant information*** means information that the holder of the information reasonably believes may—
 - (a) help the commissioner or commission to properly consider matters to which an agency notice relates; or
 - (b) help the commissioner to decide whether to hold a conference about an agency notice; or
 - (c) help the commissioner or commission to decide whether a relevant person for an agency notice is a community member; or

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- (d) help the commissioner to identify appropriate persons to attend a conference; or
 - (e) help the commission to make appropriate decisions relating to a person the subject of a conference; or
 - (f) help the registrar to prepare case plans; or
 - (g) help the registrar to assess the effectiveness of, and to monitor compliance with, a case plan.
- (2) Relevant information may be information about—
- (a) a relevant person for an agency notice; or
 - (b) a student the subject of a school attendance notice; or
 - (c) a child the subject of a child safety notice; or
 - (d) the family of a relevant person, student or child mentioned in paragraph (a), (b) or (c).
- (3) Relevant information may be comprised of facts or opinion.
- (4) Relevant information does not include information about a person's criminal history to the extent it relates to a spent conviction.

Division 2 Particular provisions about information exchange

92 Commissioner may give information to particular entities

- (1) The commissioner may give personal information about a person to a prescribed entity if the commissioner reasonably considers giving the information—
- (a) may help the entity to decide whether particular relevant information should be given to the commissioner or commission; or
 - (b) is necessary to help the commissioner, or the commission, and the entity to coordinate any support services for the person.

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- (2) The commissioner may, for the purposes of the Social Security Act, section 123ZEA, give personal information about a person to the centrelink secretary if the commissioner reasonably considers giving the information may help the commissioner or commission—
- (a) to decide whether a person is a community member; or
 - (b) to make an appropriate decision under this Act in relation to the person.
- (3) Also, the commissioner may give personal information about a person to a relevant entity if the commissioner reasonably considers giving the information is necessary to help the commissioner or entity to evaluate the effectiveness and operation of the commission under this Act.
- (4) In this section—

personal information, about a person, means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

relevant entity means the following—

- (a) the Commissioner for Children and Young People and Child Guardian under the *Commission for Children and Young People and Child Guardian Act 2000*;
- (b) the chief executive of a department that is mainly responsible for any of the following matters—
 - (i) child protection services;
 - (ii) education;
 - (iii) housing services;
 - (iv) criminal justice matters;
- (c) the centrelink secretary.

93 Information requirement made by commissioner

- (1) The commissioner may ask a prescribed entity for particular relevant information in the entity's possession or control.

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- (2) However, the commissioner may ask a prescribed entity mentioned in the definition *prescribed entity*, paragraph (d), for relevant information only if the information is in relation to a person who has been directed by the commission to attend a community support service under a case plan.
- (3) If the commissioner asks a prescribed entity for relevant information under this section, the entity must comply with the request unless the entity reasonably considers that—
 - (a) giving the information could reasonably be expected—
 - (i) to prejudice the investigation of a contravention or possible contravention of a law in a particular case; or
 - (ii) to prejudice an investigation under the *Coroners Act 2003*; or
 - (iii) to enable the existence of a confidential source of information, in relation to the enforcement or administration of a law, to be ascertained; or
 - (iv) to identify a confidential source of information in relation to the enforcement or administration of a law; or
 - (v) to identify a person who has given the entity or someone else information about a matter mentioned in the *Child Protection Act 1999*, section 186(1); or
 - (vi) to endanger a person’s life or physical safety; or
 - (vii) to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law; and
 - (b) it would not be in the public interest to give the information.
- (4) For subsection (1), information is not taken to be in the prescribed entity’s control merely because of an agreement between the prescribed entity and another entity under which

the other entity must give the information to the prescribed entity.

94 Education chief executive may give particular information

- (1) The education chief executive may give personal information about a person to a relevant entity if the education chief executive reasonably considers giving the information may help the education chief executive and the entity to coordinate or provide educational programs or services in relation to children of compulsory school age in welfare reform community areas.

Examples of educational programs or services—

- a literacy or numeracy program
 - a program or service designed to involve parents in ensuring their children are enrolled at, and attend, a school
- (2) A relevant entity may record, disclose or use personal information about a person given to the entity under this section for the purpose of—
- (a) providing educational programs or services in relation to children of compulsory school age in welfare reform community areas; or
 - (b) coordinating, with the education chief executive, the provision of the educational programs or services; or
 - (c) evaluating the effectiveness of the educational programs or services.
- (3) In this section—

personal information, about a person, means information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

relevant entity means an entity involved in the provision of educational programs or services, in relation to children of compulsory school age in welfare reform community areas, that form part of a scheme relating to the implementation of

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welfare reform and the provision of educational programs or services in the areas.

welfare reform community area means the following areas—

- (a) Aurukun area;
- (b) Coen area;
- (c) Hope Vale area;
- (d) Mossman Gorge area;
- (e) another area prescribed under a regulation.

95 Giving of information protected

- (1) This section applies if a person, acting honestly, gives information or a record (the *information*) to the commission, the commissioner, the registrar or another entity—
 - (a) in compliance with this division; or
 - (b) otherwise under this Act.
- (2) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (3) Also, merely because the person gives the information, the person can not be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (4) Without limiting subsection (2) or (3)—
 - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
 - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and

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- (ii) is not liable for disciplinary action for giving the information.

96 Interaction with other laws

- (1) This part does not limit a power or obligation under another Act or law to give information.
- (2) This part applies to information despite any other law that would otherwise prohibit or restrict the giving of the information.

Example of other law—

Education (General Provisions) Act 2006, section 426

Part 9 Amending or ending family responsibilities agreements or orders

97 Application to amend or end family responsibilities agreement or order

- (1) A person the subject of a family responsibilities agreement or family responsibilities order may apply to the commission to amend or end the agreement or order.
- (2) The application must state all the following—
- (a) the person's name and contact details;
 - (b) details of the agreement or order;
 - (c) the reasons that the person is seeking the amendment or ending of the agreement or order;
 - (d) if the application is to amend the agreement or order—details of the proposed amendment.

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98 Constitution of commission

- (1) For hearing an application under this part (the *application hearing*), the commission is to be constituted by—
 - (a) the commissioner; and
 - (b) 2 local commissioners appointed for the welfare reform community area in which the commissioner considers the applicant lives or lived.
- (2) The local commissioners mentioned in subsection (1)(b) are to be—
 - (a) if practicable, the local commissioners who were constituting members for the conference at which the family responsibilities agreement was entered into or the family responsibilities order was made; or
 - (b) otherwise—nominated by the local registry coordinator for the welfare reform community area, and appointed by the commissioner, under section 51.
- (3) For subsection (2)(b), section 51 applies—
 - (a) as if a reference in the section to a conference were a reference to the application hearing; and
 - (b) as if the reference in the section to the agency notice were a reference to the application hearing.
- (4) For an application hearing, the commission—
 - (a) must observe natural justice; and
 - (b) must act quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues before it; and
 - (c) is not bound by the rules of evidence; and
 - (d) may inquire into, and inform itself, of anything in the way it considers appropriate.

99 Decision about application

- (1) The commission must consider the application and decide—

- (a) to amend, or refuse to amend, the family responsibilities agreement or family responsibilities order; or
 - (b) to end, or refuse to end, the agreement or order.
- (2) Despite subsection (1), the commission may dismiss the application, and refuse to amend or end the family responsibilities agreement or family responsibilities order, if the commission considers the application is frivolous or vexatious.
- (3) The commission may amend or end the agreement or order only if satisfied the amendment or ending of the agreement or order is not likely to be detrimental to the interests, rights and wellbeing of children, and other vulnerable persons living in a welfare reform community area.
- (4) As soon as practicable after deciding an application under this section, the commission must give the applicant notice of the decision and the reasons for the decision.
- (5) The notice must be accompanied by an appeal notice for the decision if the commission decides to refuse to amend or end the family responsibilities agreement or family responsibilities order.
- (6) The amendment or ending of a family responsibilities agreement or family responsibilities order takes effect on—
- (a) if the agreement or order is about income management—the day the centrelink secretary, after receiving notice of the amendment or ending, acts under the Social Security Act to give effect to the amendment or ending of the agreement or order; or
 - (b) if paragraph (a) does not apply, the later of the following days—
 - (i) the day the notice is given to the applicant;
 - (ii) the later day stated in the notice for that purpose.

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100 Inquiry about application

- (1) Before deciding an application under this part, the commission may, by notice given to the applicant, require the applicant to give the commission within the reasonable period of at least 21 days stated in the notice, further information or a document the commission reasonably requires to decide the application.
- (2) The applicant is taken to have withdrawn the application if, within the stated period, the applicant does not comply with the requirement.
- (3) The information or document under subsection (1) must, if the notice requires, be verified by statutory declaration.

101 Failure to decide application

- (1) Subject to subsections (2) and (3), if the commission fails to decide an application within 2 months after its receipt, the failure is taken to be a decision by the commission to refuse to amend or end the family responsibilities agreement or family responsibilities order.
- (2) Subsection (3) applies if—
 - (a) a person has made an application under this part; and
 - (b) the commission has, under section 100, required the person to give the commission further information or a document.
- (3) The commission is taken to have refused to amend or end the family responsibilities agreement or family responsibilities order if the commission does not decide the application within 2 months after the commission receives the further information or document, verified, if required, by statutory declaration.
- (4) If the application is refused under this section, the applicant is entitled to be given an appeal notice for the decision.

102 Notice to centrelink secretary

- (1) This section applies if the commission decides to amend or end a family responsibilities agreement or family responsibilities order relating to income management for a person.
- (2) The commission must give the centrelink secretary notice of the amendment or ending of the family responsibilities agreement or family responsibilities order.
- (3) The notice must be in the approved form.
- (4) The approved form must include provision for—
 - (a) the person's name; and
 - (b) for a notice about amending a family responsibilities agreement or family responsibilities order, details of the amendment to—
 - (i) the period for which the person will be subject to income management; or
 - (ii) the proportion of the person's welfare payment that is required to be deducted under income management.
- (5) The notice must be accompanied by a copy of the decision and the reasons for it.

103 Limitation on increasing period of income management

- (1) This section applies if, under this part, the commission proposes to amend a family responsibilities agreement or family responsibilities order to increase the period for which a person will be subject to income management.
- (2) The proposed increase must not result in the person being subject to income management for more than 1 year in relation to the amended family responsibilities agreement or family responsibilities order.

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104 Amendment of case plan

- (1) This section applies if the commission decides to amend a family responsibilities agreement or family responsibilities order in relation to a person's attendance at a community support service under a case plan.
- (2) The commissioner may ask the registrar to amend the compulsory case plan for the person to the extent necessary to adequately provide for the amendment.
- (3) A compulsory case plan amended by the registrar under subsection (2) must be endorsed by the commissioner.
- (4) The registrar must as soon as practicable—
 - (a) give the person a copy of the amended plan; and
 - (b) explain the amended plan to the person in a way that ensures the person fully understands it.
- (5) An amendment of a compulsory case plan must not result in the person being required to attend a community service, under the case plan, for more than 1 year.

Part 10 Voluntary referrals to commission

105 Purpose of pt 10

The purpose of this part is to provide for a process under which a community member may voluntarily seek help from the commission about the community member engaging in socially responsible standards of behaviour.

106 Asking for referral to community support services or income management

A person who is a community member may ask—

- (a) the local registry coordinator for a welfare reform community area to refer the person to a community support service; or
- (b) the commission to give the centrelink secretary a notice requiring that the person be subject to income management for at least 3 months but not more than 1 year.

107 Responding to request about referral to community support service

- (1) This section applies if, under section 106, a community member asks the local registry coordinator for a welfare reform community area to refer the person to a community support service.
- (2) The registrar may appoint a case manager—
 - (a) to prepare a case plan in relation to the community member's attendance at the community support service; and
 - (b) to help the community member attend the community support service.
- (3) Before acting under subsection (2), the local registry coordinator may consult with any commission members about the appropriateness of referring the community member to the community support service.

108 Responding to request about referral to income management

- (1) This section applies if—
 - (a) under section 106, a community member asks the commission to give the centrelink secretary a notice requiring that the person be subject to income management; and
 - (b) after consultation with the community member, the commissioner is satisfied the giving of the notice to the

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centrelink secretary is in the best interests of the person, a child of the person or another member of the person's family.

- (2) The commissioner may enter into an agreement (a *voluntary agreement*) with the person about the proposed income management.
- (3) If the person is a CDEP Scheme participant, the agreement may only require the person to be subject to income management if the person is also a welfare recipient under section 8(a) or (b).
- (4) The agreement must—
 - (a) be signed by the person; and
 - (b) state all the following—
 - (i) the period, of at least 3 months but not more than 1 year, for which the person agrees to be subject to income management; and
 - (ii) the proportion of the person's welfare payments that is to be deducted under income management.
- (5) The commissioner must take the reasonable and appropriate steps to ensure the terms of the agreement are fully understood by the person.
- (6) If the commissioner enters into an agreement with a person about income management, the commission must as soon as practicable give the centrelink secretary notice, in the approved form, of the agreement.
- (7) The approved form must include provision for—
 - (a) the person's name; and
 - (b) the details of the agreement.

109 Amendment or ending of voluntary agreement

- (1) This section applies if—
 - (a) a person has entered into a voluntary agreement about income management with the commissioner; and

- (b) the person asks the commissioner to amend or end the agreement.
- (2) The commissioner must amend or end the agreement, as requested by the person, unless the commissioner is satisfied the amendment or ending would be detrimental to the interests, rights and wellbeing of children, and other vulnerable persons living in a welfare reform community area.
- (3) The commission must give the centrelink secretary notice of the amendment or ending of the voluntary agreement.
- (4) The notice must be in the approved form.
- (5) The approved form must include provision for—
 - (a) the person’s name; and
 - (b) for a notice about amending a voluntary agreement, details of the amendment to—
 - (i) the period for which the person will be subject to income management under the agreement; or
 - (ii) the proportion of the person’s welfare payment that is required to be deducted under income management.
- (6) The amendment or ending of the voluntary agreement takes effect on the day the centrelink secretary, after receiving notice of the amendment or ending, acts under the Social Security Act to give effect to the amendment or ending of the agreement.
- (7) If the commissioner refuses to amend or end a person’s voluntary agreement, the registrar must give notice of the decision, and the reasons for it, to the person.
- (8) The notice mentioned in subsection (7) must be accompanied by an appeal notice for the decision.

Part 11 Appeals

110 Who may appeal

A person who is given, or is entitled to be given, an appeal notice for a decision may appeal against the decision to a Magistrates Court, but only on a question of law.

111 Starting appeal

- (1) An appeal may be started at a Magistrates Court sitting in or near the welfare reform community area in which the person lives or lived.
- (2) Subsection (1) does not limit the Magistrates Court at which the appeal may be started under the *Uniform Civil Procedure Rules 1999*.
- (3) The notice of appeal under the *Uniform Civil Procedure Rules 1999* must be filed with the registrar of the court within 28 days after—
 - (a) if the person is given an appeal notice for the decision—the day the person is given the notice; or
 - (b) if paragraph (a) does not apply—the day the person otherwise becomes aware of the decision.
- (4) The court may, at any time, extend the period for filing the notice of appeal.

112 Court can not stay decision

The court can not stay the operation of the decision.

113 Hearing procedures

In hearing the appeal, the court—

- (a) has the same powers as the commission as constituted under this Act for the purpose of making the decision appealed against (the *decision maker*); and

- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice.

114 Court's powers on appeal

- (1) In deciding the appeal, the court may—
 - (a) confirm or amend the decision appealed against; or
 - (b) set aside the decision and substitute another decision; or
 - (c) set aside the decision and return the issue to the decision maker with the directions the court considers appropriate.
- (2) If the court amends the decision appealed against, or substitutes another decision, the amended or substituted decision is, for this Act, other than this part, taken to be the decision maker's decision.

115 Appeal to District Court

An appeal lies to the District Court against a decision of a Magistrates Court under this part, but only on a question of law.

Part 12 Family Responsibilities Board

Division 1 Establishment and functions

116 Establishment of Family Responsibilities Board

The Family Responsibilities Board is established.

117 Board's functions

- (1) The board has the following functions—

[s 118]

- (a) to give advice and make recommendations to the Minister about the operation of the commission, including, for example, advice and recommendations about the action the board considers the State or Commonwealth should take to help improve the operation of the commission;
 - (b) if asked by the commissioner, to give advice and make recommendations to the commission about the performance of its functions;
 - (c) to consider reports given to the board under section 144.
- (2) The board also has the other functions given to the board under this Act or by the Minister.

Division 2 Membership

118 Membership of board

- (1) The board consists of the following members—
 - (a) 1 person nominated by the Minister;
 - (b) 1 person nominated by the Commonwealth;
 - (c) 1 person nominated by the Cape York Institute for Policy and Leadership.
- (2) The board members are to be appointed by the Governor in Council.
- (3) The board member mentioned in subsection (1)(a) is the chairperson of the board.
- (4) The Minister may recommend a person for appointment to the Governor in Council only if satisfied the person has the necessary expertise and experience for the performance of the board's functions.
- (5) All members are appointed under this Act and not the *Public Service Act 1996*.

119 Term of appointment

A board member is appointed for the term stated in the member's instrument of appointment.

120 Conditions of appointment

- (1) A board member is to be paid the remuneration and allowances decided by the Governor in Council.
- (2) A board member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

121 Vacation of office

- (1) The office of a board member becomes vacant if the member—
 - (a) resigns office by signed notice given to the Minister; or
 - (b) is removed from office by the Governor in Council under subsection (2).
- (2) The Governor in Council may remove a board member from office if the member—
 - (a) is incapable of properly discharging the board's functions; or
 - (b) is not, or is no longer, a suitable person to hold the office.

Division 3 Business of board

122 Conduct of business

Subject to this Act, the board may conduct its business, including its meetings, in the way it considers appropriate.

[s 123]

123 Board meetings

- (1) Board meetings are to be held at the times and places the chairperson of the board decides.
- (2) A board meeting must be held at least once in every 3 months.
- (3) All board members must be present at a board meeting.
- (4) A board meeting may be held by using any technology allowing reasonably contemporaneous and continuous communication between the board members.
- (5) However, the board members must meet in person at least once a year.

Division 4 Miscellaneous

124 Commission or commission member not subject to direction by board

In performing or exercising a function or power, the commission or a commission member is not subject to direction by the board.

Part 13 Particular offences and legal proceedings

Division 1 Offences

125 False or misleading statements

A person must not state anything to the commission or a commission member the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

126 False or misleading documents

- (1) A person must not give to the commission or a commission member a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the commission or commission member to the best of the person's ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information, gives the correct information.

127 Retaliation against official or official's family

A person must not, without reasonable excuse, cause, or threaten to cause, any injury or detriment to an official or a member of the family of an official in retaliation because of anything lawfully done by the official under this Act.

Maximum penalty—100 penalty units.

128 Reprisal and grounds for reprisal

- (1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that—
- (a) an agency notice has been given to the commission; or
 - (b) the other person or someone else has helped or may help the commission.
- (2) Also, a person must not cause, or attempt or conspire to cause, detriment to a member of a community justice group or a relevant community group for a welfare reform community area because the group did not nominate the person or someone else as a local commissioner for the area.
- (3) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

[s 129]

- (4) A contravention of subsection (1) or (2) is a reprisal or the taking of a reprisal.
- (5) A ground mentioned in subsection (1) or (2) as the ground for a reprisal is the unlawful ground for the reprisal.
- (6) For the contravention mentioned in subsection (4) to happen, it is sufficient if the unlawful ground is a substantial ground for the act or omission that is the reprisal, even if there is another ground for the act or omission.

129 Offence of taking reprisal

A person must not take a reprisal.

Maximum penalty—100 penalty units.

130 Damages entitlement for reprisal

- (1) A reprisal is a tort and a person who takes a reprisal is liable in damages to any person who suffers detriment as a result.
- (2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.
- (3) If the claim for damages goes to trial in the Supreme Court or the District Court, it must be decided by a judge sitting without a jury.

131 Offence to disrupt conference or other proceeding

In relation to a conference or other proceeding of the commission under this Act, a person must not—

- (a) deliberately interrupt the conference or proceeding; or
- (b) create or continue, or join in creating or continuing, a disturbance in or near a place where the commission is conducting the conference or other proceeding.

Maximum penalty—100 penalty units.

132 Summary offences

An offence against this Act is a summary offence.

133 Limitation on time for starting summary offence

A summary proceeding under the *Justices Act 1886* for a summary offence must start within whichever is the longer of the following—

- (a) 1 year after the commission of the offence;
- (b) 6 months after the offence comes to the knowledge of the complainant, but within 2 years after the commission of the offence.

134 Allegations of false or misleading information or document

In a proceeding for an offence against this Act defined as involving false or misleading information, or a false or misleading document, it is enough for a charge to state that the information or document was, without specifying which, ‘false or misleading’.

Division 2 Evidentiary provisions

135 Appointments and authority

In a proceeding, the following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment under this Act of a commission member or a member of the staff of the registry;
- (b) the authority of a commission member or a member of the staff of the registry to do anything under this Act.

[s 136]

136 Signatures

A signature purporting to be the signature of a commission member or the registrar is evidence of the signature it purports to be.

137 Other evidentiary aids

- (1) In a proceeding, a certificate purporting to be that of the commissioner stating any of the following matters is evidence of the matter—
 - (a) a stated document is an appointment or notice made or given under this Act;
 - (b) a stated document is a document given to the commission under this Act;
 - (c) a stated document is a copy of a document mentioned in paragraph (a) or (b);
 - (d) on a stated day, a stated requirement was made of a person.
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

Part 14 Other matters

Division 1 General matters about commission's operations

138 Commission's notices to centrelink secretary

- (1) Subsection (2) applies if the commission gives the centrelink secretary notice of a family responsibilities agreement or

voluntary agreement about income management for a person under section 74, 102 or 108.

- (2) The notice may include, or be accompanied by—
 - (a) a written direction to the centrelink secretary about the exercise of a power of the centrelink secretary under a relevant provision in relation to income management for the person; or
 - (b) a recommendation from the commission about how the centrelink secretary should exercise a power of the secretary under a relevant provision in relation to income management for the person.
- (3) Subsection (4) applies if the commission gives the centrelink secretary a notice—
 - (a) under section 74 about a family responsibilities order requiring a person be subject to income management; or
 - (b) under section 87(2) about income management for a person; or
 - (c) under section 102 about a family responsibilities order relating to income management for a person.
- (4) The notice may include, or be accompanied by—
 - (a) a written direction to the centrelink secretary about how the centrelink secretary should exercise a power of the centrelink secretary under the Social Security Act, section 123XM(3), 123XN(3), 123XO(3) or 123XP(3), in relation to income management for the person; or
 - (b) a recommendation from the commission about how the centrelink secretary should exercise a power of the centrelink secretary under a relevant provision in relation to income management for the person.
- (5) Subsection (6) applies if the commission gives the centrelink secretary a written direction or recommendation about how the centrelink secretary should exercise a power of the centrelink secretary under the Social Security Act, part 3B, division 6, in relation to income management for a person (the *first person*).

[s 139]

- (6) The direction or recommendation may be accompanied by a notice stating that a specified bank account held by another person is a nominated third party account in relation to the first person.
- (7) In this section—
relevant provision means any of the following provisions of the Social Security Act—
 - (a) section 123XM(3), 123XN(3), 123XO(3) or 123XP(3);
 - (b) part 3B, division 6.

139 Decision-making by commission

- (1) This section applies to the commission in making a decision—
 - (a) under part 6 at a conference; or
 - (b) under part 7, division 2 about a show cause notice; or
 - (c) under part 9 about an application to amend or end a family responsibilities agreement or a family responsibilities order.
- (2) The commission must make every reasonable effort to reach a unanimous decision.
- (3) If the commission can not reach a unanimous decision, the majority decision of the commission members is the decision of the commission.

140 Constitution of commission in particular circumstances

- (1) This section applies if—
 - (a) under this Act, the commission is required or permitted to do a thing; and
 - (b) the Act does not require the commission to be constituted in a particular way for doing the thing.
- (2) For the purpose of doing the thing, the commission is constituted by the commissioner.

- (3) If the commissioner does the thing, it is taken to have been done by the commission.

141 Commissioner to destroy particular documents

- (1) This section applies to an agency notice received by the commission if the commissioner is satisfied no relevant person for the notice is a community member.
- (2) The commissioner must destroy the agency notice and any other documents obtained by the commission or the commissioner for the purpose of deciding whether any relevant person for the notice was a community member.
- (3) The commissioner must act under subsection (2) as soon as practicable after the commissioner is satisfied no relevant person for the agency notice is a community member.

142 Registrar to give notice of decisions

- (1) If asked by the notifying agency for an agency notice to which a conference relates, the registrar must give the notifying agency notice of the commission's decision at the conference as soon as practicable after the conference ends.
- (2) If, under section 86, 87 or 99, the commission makes a decision (a *subsequent decision*) about a matter relating to the decision mentioned in subsection (1), the registrar also must give the notifying agency notice of the subsequent decision as soon as practicable after it is made.
- (3) A notifying agency may make a request as mentioned in subsection (1) in relation to a particular agency notice or all agency notices given by the notifying agency.

143 Annual report on operation of commission

- (1) As soon as practicable after each financial year, but not later than 31 October, the commissioner must prepare and give the Minister a written report containing—

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- (a) a review of the operation of the commission during the financial year; and
 - (b) the other information, required by the Minister, relating to the performance of the commission's functions under this Act.
- (2) However, the report must not contain information from which a person could be identified as the subject of an agency notice.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving the report.

144 Other reports

- (1) As soon as practicable after each quarter, the commissioner must give the board a written report about the operation of the commission in the quarter.
- (2) The report must include information, required by the board, relating to the operation of the commission.
- (3) However, the report must not contain information from which a person could be identified as the subject of an agency notice.

145 Commission guidelines

- (1) The commissioner may make guidelines (*commission guidelines*), consistent with this Act—
- (a) for dealing with information obtained by the commission or the registry under this Act; or
 - (b) to provide guidance to persons about matters relating to the operation of this Act or the commission.
- (2) The purpose of the guidelines mentioned in subsection (1)(a) is to ensure—
- (a) natural justice is afforded to the persons about whom the information is obtained; and
 - (b) only relevant information is used in considering a matter to which an agency notice relates; and

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- (c) decisions about relevant persons for an agency notice, based on the relevant information, are made consistently.
 - (3) A commission guideline may be amended or replaced by a later guideline made under this section.
 - (4) The commissioner must give a copy of a commission guideline to a person on request.
 - (5) The commissioner must give a copy of each commission guideline relating to matters about student attendance at schools to—
 - (a) the education chief executive; and
 - (b) the Association of Independent Schools of Queensland Inc.; and
 - (c) the Queensland Catholic Education Commission.

146 Commissioner may ask registrar to amend case plan—change of address

- (1) This section applies if the commissioner becomes aware that—
 - (a) a person who is the subject of a family responsibilities agreement or family responsibilities order directing the person to attend a community support service has changed the person's residential address since the agreement was entered into or the order was given; and
 - (b) because of the change of residential address, the person can no longer attend the community support service under the case plan for the agreement or order.
- (2) The commissioner may ask the registrar to amend the case plan to the extent necessary to provide for the person to attend an appropriate community support service under the case plan.
- (3) The commissioner must endorse the amended plan if the commissioner considers it satisfactorily provides for the person to attend an appropriate community support service.

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- (4) The commissioner may act under subsection (2) more than once.
- (5) As soon as practicable after the amended case plan has been endorsed by the commissioner, the registrar must—
 - (a) give a copy of the amended plan to the person; and
 - (b) explain the plan to the person in a way that ensures the person fully understands it.

Division 2 Miscellaneous

147 Preservation of confidentiality

- (1) A person must not record, disclose or use confidential information gained by the person through involvement in the administration of this Act, or otherwise under this Act, unless the person does so—
 - (a) for the purpose of this Act; or
 - (b) when authorised under this Act; or
 - (c) with the consent of the person to whom the information relates, or if the person is a child unable to consent, with the consent of a parent of the child.

Maximum penalty—100 penalty units.

- (2) A person is not required—
 - (a) to disclose confidential information to a court or tribunal; or
 - (b) to produce a record containing confidential information to a court or tribunal;

unless it is necessary to do so for the purpose of this Act.

- (3) A person gains information through involvement in the administration of this Act if the person gains the information—
 - (a) in the course of the involvement; or

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- (b) because of an opportunity provided by the involvement.
 - (4) The following persons are taken to be involved in the administration of this Act—
 - (a) a commission member;
 - (b) a board member;
 - (c) a member of the staff of the registry.
 - (5) In this section—
 - confidential information* includes—
 - (a) information or an opinion, whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion; and
 - (b) information disclosed by an entity in an agency notice.

148 Protecting officials from liability

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

149 Magistrate appointed as commissioner

- (1) This section applies if a magistrate is appointed as the commissioner.
- (2) Service as the commissioner counts as service as a magistrate for all purposes, including, for example, long service leave entitlements.
- (3) However, the commissioner may not perform the duties of the office of a magistrate, or exercise the powers of a magistrate, while holding office as the commissioner.
- (4) The *Magistrates Act 1991*, section 41 does not apply to the commissioner while holding office as the commissioner.

[s 150]

150 Approved forms

The chief executive may approve forms for use under this Act.

151 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation that prescribes that an area is a welfare reform community area, or an area adjacent to or contiguous with a welfare reform community area is part of the area, expires 1 year after it is made.

152 Expiry of Act

This Act expires on 1 January 2012.

Part 15 Transitional provisions

153 Commission's first annual report

Despite section 143, the commission's first annual report must relate to the period starting on the day that section commences and ending on 30 June 2009.

154 Commission's first quarterly report

Despite section 144, the first report under that section must—

- (a) be given to the board after the end of the second full quarter after the day section 144 commences; and
- (b) relate to the period starting on the day section 144 commences and ending at the end of the full quarter.

155 Vacation of office on expiry of Act

- (1) This section applies to a commission member or board member holding office immediately before 1 January 2012.
- (2) On 1 January 2012, the member's office is taken to have been vacated.

156 When particular agreements or family responsibilities orders end

- (1) This section applies to any of the following in force immediately before 1 January 2012—
 - (a) a family responsibilities agreement;
 - (b) an agreement about income management entered into under part 10;
 - (c) a family responsibilities order.
- (2) On 1 January 2012, the agreement or order ends.

Schedule Dictionary

section 6

accepted representations see section 84.

agency notice means any of the following notices given to the commission—

- (a) school attendance notice
- (b) school enrolment notice;
- (c) child safety notice;
- (d) conviction notice;
- (e) tenancy agreement notice.

annual report means the report prepared by the commissioner under section 144.

appeal notice, for a decision under this Act, means a notice stating—

- (a) that the person to whom the notice is given may, within 28 days after receiving the notice, appeal against the decision to a Magistrates Court, but only on a question of law; and
- (b) how the person may appeal.

approved form means a form approved by the chief executive under section 150.

Aurukun area means the following areas—

- (a) the area of the Aurukun Shire Council;
- (b) an area, prescribed under a regulation, that is adjacent to or contiguous with the area of the Aurukun Shire Council.

board means the Family Responsibilities Board established under section 116.

board member means a member of the board.

case manager, for a case plan, means the member of the staff of the registry whose duties include helping the person the subject of the case plan to access the community support service the person has agreed, or been directed, to attend under this Act.

case plan see section 76.

CDEP Scheme participant means a person who is a CDEP Scheme participant under the *Social Security Act 1991* (Cwlth), section 1188B.

centrelink secretary means the Secretary under the Social Security Act.

child means an individual under 18 years.

child protection chief executive means the chief executive of the department in which the *Child Protection Act 1999* is administered.

child safety notice means a notice given to the commission under section 42.

Coen area means the following areas—

- (a) the area shown as the Coen area on plan no. AP19403 held by the department in which the *Land Title Act 1994* is administered;
- (b) an area, prescribed under a regulation, that is adjacent to or contiguous with the area mentioned in paragraph (a).

Note—

On the commencement of this definition, plan no. AP19403 was available for inspection on the department's website at <www.premiers.qld.gov.au>.

commission means the Family Responsibilities Commission established under section 9.

commission guidelines see section 145(1).

commission member means a member of the commission.

commissioner means the person appointed under section 12 as the commissioner for the commission.

community justice group, for a welfare reform community area, means the community justice group established under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, part 4, division 1, for an area that includes all or a part of the welfare reform community area.

community member see section 7.

community support service means a service or activity that provides information or help to an individual about matters relating to—

- (a) the individual's wellbeing; or
- (b) the wellbeing of a member of the individual's family; or
- (c) the development and rebuilding of socially responsible standards of behaviour.

Examples of a community support service—

- a service relating to matters about health, education, employment or training
- a service relating to money management or home budgeting
- a service providing help or education in relation to drug or alcohol rehabilitation, or gambling or anger management

compulsory case plan see section 78(1).

compulsory school age see the *Education (General Provisions) Act 2006*, section 9.

conference means a conference held by the commission under part 5.

constituting member, for a conference, means a local commissioner being 1 of the commission members constituting the commission at the conference.

conviction means a finding of guilt by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

conviction notice means a notice given to the commission under section 43.

criminal history, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

decision maker see section 113(a).

domestic violence history, of a person, means the history of protection orders made against the person.

education chief executive means the chief executive of the department in which the *Education (General Provisions) Act 2006* is administered.

family responsibilities agreement see section 68(1).

family responsibilities order means a decision, under section 69, to direct a person to attend a community support service or to give the centrelink secretary a notice requiring that a person be subject to income management, and includes the order as amended under this Act.

Hope Vale area means the following areas—

- (a) the area of the Hope Vale Shire Council;
- (b) an area, prescribed under a regulation, that is adjacent to or contiguous with the area of the Hope Vale Shire Council.

income management means the income management regime under the Social Security Act, part 3B.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659, applies to the indictable offence.

local registry coordinator, for a welfare reform community area, means the member of the staff of the registry who, under section 33, is appointed as the local registry coordinator for the area.

Mossman Gorge area means the following areas—

- (a) the area shown as the Mossman Gorge area on plan no. AP19404 held by the department in which the *Land Title Act 1994* is administered;

- (b) an area, prescribed under a regulation, that is adjacent to or contiguous with the area mentioned in paragraph (a).

Note—

On the commencement of this definition, plan no. AP19404 was available for inspection on the department's website at <www.premiers.qld.gov.au>.

non-State school means a school that is provisionally accredited, or accredited, under the *Education (Accreditation of Non-State Schools) Act 2001*.

notice means written notice.

notifying agency, for an agency notice, means the entity that, under this Act, gives the notice to the commission.

offender means a person who is convicted of an offence, whether or not a conviction is recorded.

official means—

- (a) a commission member; or
- (b) a board member; or
- (c) a member of the staff of the registry; or
- (d) a member of a community justice group or relevant community group for a welfare reform community area.

parent, in relation to a child, see the *Child Protection Act 1999*, section 11(1) to (4).

prescribed entity, for part 8, see section 90.

proposed action, for part 7, division 2, see section 81.

protection order means a protection order under the *Domestic and Family Violence Protection Act 1989*.

quarter means a 3 month period ending at the end of 31 March, 30 June, 30 September or 31 December.

registrar means the person appointed under section 33 as the registrar of the commission.

registry means the Family Responsibilities Commission Registry established under section 32(1).

relevant community group, for a welfare reform community area, means—

- (a) any group of persons within the area, other than a department of government, that is involved in the provision of any of the following—
 - (i) information to a court about Aboriginal or Torres Strait Islander offenders;
 - (ii) diversionary, interventionist or rehabilitation activities relating to Aboriginal or Torres Strait Islander offenders;
 - (iii) other activities relating to local justice issues in the area; or
- (b) any other group of persons made up of elders or other respected persons of the area.

relevant information, for part 8, see section 91.

relevant person means—

- (a) for a school attendance notice—a parent of the student mentioned in the notice; and
- (b) for a school enrolment notice—a parent of the child mentioned in the notice; and
- (c) for a child safety notice—
 - (i) a parent of the child who is the subject of the alleged harm or alleged risk of harm to which the notice relates; or
 - (ii) a person allegedly causing harm to the child, or allegedly causing the child to be at risk of harm; or
- (d) for a particular conviction notice—the person the subject of the notice; or
- (e) for a tenancy agreement notice—the person the subject of the notice.

reprisal means a reprisal as mentioned in section 128(4).

residential tenancy agreement means a residential tenancy agreement under the *Residential Tenancies Act 1994*.

school means a non-State school or a State school.

school attendance notice means a notice given to the commission under section 40.

school enrolment notice means a notice given to the commission under section 41.

school day, for a school, means any day on which a student enrolled at the school is required to attend the school.

school term, for a school, means any of the 4 periods in a year—

- (a) that are between the summer, autumn, winter or spring vacation periods for the school; and
- (b) during which students enrolled at the school are required to attend the school.

show cause notice see section 82(2).

Social Security Act means the *Social Security (Administration) Act 1999* (Cwlth).

socially responsible standards of behaviour means socially responsible standards of behaviour relating to any of the following matters—

- (a) a child's attendance at school;
- (b) a child's safety and general wellbeing;
- (c) a person's conduct in a community, including, for example, conduct involving drug or alcohol use, gambling, offensive behaviour or violence;
- (d) a person's use of premises that are social housing.

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under the Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

State school means a State school under the *Education (General Provisions) Act 2006*.

student, in relation to a school, means a child who—

- (a) is of compulsory school age; and
- (b) is enrolled at the school.

take a reprisal means the taking of a reprisal as mentioned in section 128(4).

tenancy agreement notice means a notice given to the commission under section 44.

voluntary agreement see section 108(2).

welfare recipient see section 8.

welfare reform community area, other than for section 94, means the following areas—

- (a) Aurukun area;
- (b) Coen area;
- (c) Hope Vale area;
- (d) Mossman Gorge area;
- (e) another area prescribed under a regulation.