

Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024

Explanatory Notes

Short title

The short title of the Bill is the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024.

Policy objectives and the reasons for them

The policy objectives of the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2024 (the Bill) are to:

- implement, either in full or part, 12 recommendations arising from the Queensland Family and Child Commission (QFCC) report, *Keeping Queensland's children more than safe: review of the blue card system* (QFCC Blue Card Review Report);
- implement recommendations made by the former Legal Affairs and Safety Committee (LASC), the Women's Safety and Justice Taskforce (Taskforce) and the Youth Justice Reform Select Committee (YJRSC) highlighting the need to consider the decision-making framework;
- make a range of other amendments to simplify, streamline, and improve the operation of the blue card system;
- implement the first stage of the Government's response to the QFCC report, *A thematic analysis of provisionally approved kinship carers who receive a subsequent blue card negative notice* (QFCC Kinship Care Report); and
- provide for the sharing of Childrens Court child protection records with other Australian courts and tribunals in particular to facilitate information sharing under the National Strategic Framework for Information Sharing between the Family Law Courts and Family Violence and Child Protection Systems (National Framework).

Overview of Queensland's blue card system

The blue card system is administered by Blue Card Services (BCS) and is Queensland's Working with Children Check (WWCC) system.

The *Working with Children (Risk Management and Screening) Act 2000* (WWC Act) and the *Working with Children (Risk Management and Screening) Regulation 2020* regulate how the blue card system operates.

Whether a person requires a blue card will depend on several factors including the environment where the work is performed, the type of work and the frequency of work.

Activities and services to which the blue card system applies are categorised as ‘regulated employment’ and ‘regulated businesses’ under the WWC Act. There are currently 16 categories of regulated employment and 12 categories of regulated businesses. To require a blue card, a person’s paid work, volunteer or business activities must fall within the scope of one of the categories of regulated employment or business, without an exemption applying.

QFCC Blue Card Review Report

The QFCC Blue Card Review Report built on the earlier work undertaken by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) in its *Working with Children Checks Report* (WWCC Report) on how WWCC systems should be administered.

The Queensland Government released the QFCC Blue Card Review Report in 2017 and indicated its broad support for the intent of all 81 recommendations.

The Queensland Government’s response to the WWCC Report accepted, accepted-in-principle or noted a majority of the Royal Commission’s recommendations. This included consulting and negotiating across all jurisdictions to develop a set of National Standards for Working with Children Checks (National Standards), which received final endorsement from all States and Territories in November 2019.

The QFCC Blue Card Review Report noted Queensland’s blue card system is one of the strongest and most longstanding in Australia but that it could benefit from reforms to further strengthen the system to meet emerging risks and streamline online service capability to better meet modern community expectations. A significant number of reforms have already been implemented in response to the QFCC Blue Card Review Report, including the No Card, No Start reforms as well as an online application process and organisation portal.

LASC Report

The LASC Report No. 38 (LASC Report) on its examination of the Working with Children (Indigenous Communities) Amendment Bill 2021 (Private Member’s Bill) included six recommendations directed at Government, including that the Queensland Government accelerate implementation of the QFCC Blue Card Review Report, specifically the implementation of a new decision-making framework.

As part of the response to the LASC Report, tabled on 21 February 2023, the Government committed to prioritising work on certain recommendations made in the QFCC Blue Card Review Report. In particular, the Government committed to reviewing the decision-making framework under the WWC Act to ensure it is fit for purpose.

Similar themed recommendations about the decision-making framework have been made by the Taskforce in *Hear Her Voice – Report two: Women and girls’ experiences across the criminal justice system* (recommendation 174) and the YJRSC in its *Interim Report: Inquiry into ongoing reforms to the youth justice system and support for victims of crime* (recommendation 24).

Other amendments to improve the blue card system

The Bill also makes a range of amendments that are intended to improve the operation of the blue card system. These amendments have been informed by the operational learnings of BCS,

feedback from stakeholders, and the experience of WWCC systems in other Australian jurisdictions.

QFCC Kinship Care Report

The QFCC Kinship Care Report was released in October 2023. It analysed 11 case studies where a kinship carer applicant was provisionally approved by the Department of Child Safety, Seniors and Disability Services (DCSSDS) but went on to receive a negative notice from the chief executive (BCS) meaning they could not be approved as a kinship carer. The QFCC Kinship Care Report made two recommendations to:

- remove the requirement for Aboriginal and Torres Strait Islander kinship carers, as defined in the *Child Protection Act 1999* (CP Act), to hold a blue card if they are caring for children in their family; and
- retain the existing departmental assessment and approval process, in relation to Aboriginal and Torres Strait Islander kinship carers, removing the provisional status period in the absence of the blue card condition.

The Government has supported the QFCC Kinship Care Report recommendations in principle.

The QFCC Kinship Care Report found that blue card screening is not designed for kinship care, and that its processes create additional barriers for Aboriginal and Torres Strait Islander kinship carers.

National Framework

The National Framework was endorsed by the former Meeting of Attorneys-General and commenced on 6 May 2024. It provides a high-level commitment to a nationally consistent process for information sharing between the family law courts and State and Territory policing and child protection agencies, and courts, to support the safety of vulnerable families and children across all jurisdictions.

Achievement of policy objectives

Implementing QFCC Blue Card Review Report recommendations

The Bill achieves this policy objective by:

- introducing a new decision-making framework;
- simplifying the disqualification framework;
- providing the chief executive with discretion to impose a suspension where there is a change in assessable information and the chief executive considers the person would pose a risk to the safety of children if the person was permitted to engage in regulated employment or carry on a regulated business pending the reassessment;
- enabling the chief executive to seek the specialist knowledge, skills or experience considered necessary to help with making a decision in relation to a blue card application;
- making risk assessment guidelines a statutory instrument;
- including new categories of regulated employment and regulated businesses;
- providing a consistent exemption for parent volunteers;

- providing the chief executive with a new power to facilitate compliance with the WWC Act; and
- enabling genuine researchers to access data about the blue card system for approved research purposes.

New decision-making framework (recommendation 41)

It has been over 20 years since the genesis of the ‘best interests of children’ test, which was originally borne from a much broader legislative framework in the form of the *Commission for Children and Young People Act 2000* (now the WWC Act).

Over the last several years, stakeholders have continued to highlight the need for a recalibration of the blue card system, particularly to improve outcomes for First Nations people.

Consistent feedback highlighted during public hearings held by the LASC on the Private Member’s Bill as well as through other forums is that the current approach under the WWC Act is too risk averse and is disproportionately impacting First Nations stakeholders.

In line with the findings of the QFCC and the Royal Commission, the Bill:

- establishes a new statutory threshold for assessments requiring the chief executive to be satisfied an applicant presents a risk to the safety of children (which must be real and appreciable) in order to refuse an application;
- introduces a complementary ‘reasonable person’ test which will require the chief executive, in determining whether an applicant poses a risk to the safety of children, to consider whether a reasonable person would allow their child to have direct contact with the applicant while engaged in child-related work;
- establishes new clear and consistent risk assessment criteria for undertaking blue card assessments where a person returns information of concern; and
- enables the chief executive to access specialist advice in relation to the complexities of a particular case.

Consistent with the Government response to the LASC Report, the new decision-making framework will also include a specific statutory factor to be considered for First Nations applicants.

New statutory threshold

The Bill implements a new ‘risk to the safety of children’ test which is further defined to mean a ‘real and appreciable risk’. In this context, ‘real and appreciable’ is the threshold through which the chief executive must be satisfied that a person poses a risk to the safety of children. The chief executive is not required to be satisfied that the risk is likely when determining whether a person poses a risk to the safety of children.

Accordingly, it is intended that risks that are negligible or fanciful will not satisfy the real and appreciable risk-based threshold.

Shifting to a risk-based threshold brings the WWC Act into broad alignment with all other jurisdictions, the National Standards, Royal Commission recommendations, and other comparable frameworks, such as the disability worker screening system.

The application of a risk-based test in Queensland will result in a targeted refinement of the decision-making requirements under the WWC Act. Importantly, it will require a decision to issue a negative notice to demonstrate a clear nexus between a person's conduct, or alleged conduct, and the risk of harm to children.

Risk assessment criteria and reasonable person test

The Bill also adopts as statutory factors to which the decision-maker must have regard in undertaking a blue card assessment, specific criteria outlined by the Royal Commission, reinforced in the QFCC Blue Card Review Report, and reflected in the National Standards.

In the case of First Nations applicants, the Bill also includes a statutory factor that requires a decision-maker to consider the effect of systemic disadvantage and intergenerational trauma, and the historical context and limitations on access to justice. Further, amendments to the objects of the WWC Act in section 6(b) will ensure that, for Aboriginal children and Torres Strait Islander children, the Act is administered in a way that promotes the child's wellbeing, including recognising the importance of connection with the child's family, community, culture, traditions and language.

Consistent with the WWCC legislative frameworks in New South Wales and Victoria, the Bill adopts a 'reasonable person' test. The test will require the chief executive, in determining whether an applicant poses a risk to the safety of children, to consider whether a reasonable person would allow their child to have direct contact with the applicant, whether supervised or unsupervised and while engaged in child-related work.

In line with the seminal case for this threshold in Victoria (and as adopted in New South Wales), the reasonable person test will 'require the application of an objective standard based upon the views of a reasonable person.'¹ In reference to assessing an individual's eligibility for a blue card, a 'reasonable person [should] not approach the task with a closed mind, thinking that once a person has offended, he or she can never be redeemed. The reasonable person, however, [should] not put aside all scepticism and reasonable caution in this most difficult area in some over-optimistic attempt to facilitate rehabilitation.'²

Access to specialist knowledge and skills

The Bill will enable the chief executive to access specialist advice in relation to the complexities of a particular case, where the chief executive considers such advice would be valuable in determining whether to refuse a blue card application or cancel a negative notice.

The Bill also provides for the establishment of advisory committees which can be drawn on to assist the chief executive in the decision-making process, as well as a head of power which will enable the committee's operations (including, for example, membership and eligibility) to be dealt with by regulation. This approach provides the chief executive with the flexibility to establish committees, as required.

It is intended that advisory committees will be small groups of representatives with relevant knowledge, skills, and experience to provide advice to the chief executive on certain matters in the decision-making process.

¹ *VQB v The Secretary to the Department of Justice (Review and Regulation)* [2013] VCAT 789 at [36]

² *VQB* at [36]

For example, a committee may be convened to assess matters relating to persons from a particular location or for a particular cohort of applicants, allowing the inclusion and consideration of local cultural, geographic, socio-economic, or other relevant contexts in the assessment process. Advisory committees could include, for example, representatives of peak and advocacy bodies, community organisations or community members with local knowledge and authority.

In addition, the chief executive can also appoint an expert advisor with specialist knowledge, skills, or expertise to provide advice if the chief executive considers it would help in undertaking a risk assessment. Expert advisors could include, for example, persons with expertise in child protection, domestic and family violence, mental health, social work, or drug and alcohol abuse.

New discretionary suspension power

The Bill provides the chief executive with the ability to suspend a blue card where there is: (a) a change in assessable information that was not known to the chief executive at the time of issuing the card which the chief executive reasonably believes is relevant to deciding whether the person would pose a risk to the safety of children; and (b) the chief executive considers that if the person were permitted to engage in child related activities pending the determination of the person's continuing eligibility to hold a blue, the person would pose a risk to the safety of children.

This will provide an additional safeguard which will increase protections for children by enabling the chief executive to take swift and decisive action to remove a cardholder from child related activities, if necessary.

Introducing a new disqualification framework (recommendation 29)

The QFCC recommended amending the WWC Act to introduce a new streamlined disqualification framework to:

- remove the eligibility declaration process;
- require the automatic issue of a negative notice to a person over the age of 18 who has been convicted of a disqualifying offence and sentenced to a period of imprisonment; and
- continue the discretion about all other applicants involving a conviction for a disqualifying offence.

Currently under the WWC Act, it is an offence for a person convicted of a disqualifying offence (a disqualified person) to apply for a blue card. The eligibility declaration process provides an avenue for a disqualified person with no term of imprisonment imposed to be declared eligible to apply for a blue card.

An eligibility declaration can be issued only if the chief executive is satisfied it is an exceptional case in which it would not harm the best interests of children to issue the declaration. The process is unique to Queensland.

The Bill removes the upfront offence for a disqualified person applying for a blue card. Where a disqualified person does undertake child-related employment, the WWC Act stipulates that this is to be considered an aggravating circumstance under section 175 and enables a harsher penalty to be potentially imposed.

The Bill also omits the eligibility declaration process and generally removes imprisonment as a requirement for an offence to permanently exclude a person from working with children. Key components of the discretion afforded by the process will instead be incorporated in the standard blue card decision-making framework. This will include retaining discretion for the two major cohorts for which it is currently exercised:

- juvenile offenders; and
- adults convicted of the offence of engaging in penile intercourse with a child under 16 where no term of imprisonment is imposed.

Including an age qualifier by providing that an offender must be 18 years or older at the time of committing the offence for it to be treated as a ‘serious’ or ‘disqualifying’ offence recognises the potential for youth offender rehabilitation and that juvenile offences are often (but not always) associated with immaturity and do not necessarily reflect an applicant’s current risk profile.

Transitional arrangements will preserve the ability of existing eligibility declaration holders to hold a blue card and continue in child-related work.

Expanding the scope of regulated employment and regulated businesses (recommendations 12 and 15)

Commercial services

The Royal Commission and the QFCC made recommendations to expand the scope of who requires a blue card to include commercial services provided to children. This is also reflected in the National Standards.

The Bill will provide for commercial services delivered to children to be captured as a type of employment and businesses regulated by the WWC Act by:

- explicitly stating that gyms and play facilities are captured under the existing sport and active recreation category; and
- including a new standalone category which captures:
 - entertainment or party services;
 - beauty or talent competitions; and
 - photography services.

For the sport and active recreation and entertainment, beauty and photography services categories, an exemption is included which provides that a person will not require a blue card where they are merely providing food, beverages or equipment and have no further contact with children.

Relatedly, the Bill also removes the exemption for amusement parks, requiring those employed or engaging in providing services directed to a child at an amusement park to hold a blue card. Although the Royal Commission and the QFCC did not mention amusement parks in their reports, no other jurisdiction specifically exempts persons working within an amusement park from their WWCC system.

The Royal Commission noted that situational or organisational factors should not form part of an assessment of a person’s suitability for a WWCC. Instead, it recommended applicants be

assessed either as suitable to work with children or not, regardless of the situation or organisation. For example, a person appearing as a costumed character directed at entertaining children should require a blue card whether they are employed by an amusement park or by a shopping centre.

Consequently, it would be inconsistent to maintain the exemption for amusement parks while also expanding the scope of regulated employment and regulated businesses to capture commercial services.

Overnight camps

Both the Royal Commission and QFCC recommended that a parent should not be able to rely on the parent volunteer exemption, or the minimum frequency test, in respect of overnight excursions or stays, or overnight camps.

Accordingly, the Bill will expand the existing child accommodation service category to specifically capture overnight camps or excursions, utilising these terms instead of ‘stay’ to be consistent with most other jurisdictions. The intent of this approach is to distinguish between an organised event, such as a school camp, and a child staying at a friend’s house overnight as part of an informal arrangement.

This is in line with the Royal Commission which recommended that work undertaken for a personal or domestic purpose should not be captured.

Justice and detention services

The Royal Commission and QFCC also both recommended that justice and detention services be regulated as child-related work. The National Standards also define child-related work to include justice or detention services.

The Bill will therefore establish a new category of regulated employment requiring those working in youth justice related employment to obtain a blue card where the usual functions of the employment:

- are carried out, or are likely to be carried out, at a detention centre established under the *Youth Justice Act 1992* (YJ Act), section 262; or
- include, or are likely to include, supervising and monitoring a child on orders that may be made or imposed by a court under the YJ Act, including a community-based order, a supervised release order, or any other order made or imposed by a court under the YJ Act.

A new category of regulated business dealing with justice and detention services is also established.

Providing a consistent exemption for parent volunteers (recommendation 25)

Some parent volunteers are currently exempt under certain categories of regulated employment. The exemption applies differently across different sectors.

The Royal Commission considered that parents or guardians who volunteer for services or activities usually provided to their children should be exempt in respect of that activity, noting that participating in activities or services for their children is intrinsic to being a parent and

should be encouraged. However, the Royal Commission considered the exemption should not apply to:

- parents who volunteer on overnight excursions; and
- parents who volunteer in providing services to children with disabilities, where the services involve close, personal contact with those children (for example, bathing).

The National Standards also provide that a person is not required to apply for a blue card if the person is a parent or guardian who volunteers for services or activities that are usually provided to their children, in respect of that activity, except in relation to overnight excursions or stays or providing services to children with disabilities, where the services involve close, personal contact with a child other than their own child (National Standard 6(d)).

Consequently, the Bill establishes an overarching exemption for parent volunteers providing a service or activity that is child-related work on a voluntary basis where the children to whom the service or activity is provided includes the person's own child. Specific exemptions to this overarching rule will apply, where a parent volunteer will be required to obtain a blue card if they are participating in an overnight camp or excursion or providing personal care to a child other than their own.

Examples of circumstances that are intended to be captured as regulated employment under the overnight camp or excursion requirement would include:

- a parent who volunteers to assist and provide services at a school camp that involves their child and other children who attend the school; or
- a parent who is engaged to provide services as part of a training camp undertaken by a sporting club where the parent's child is part of the team.

Examples of circumstances that are not intended to be captured include where an informal arrangement, such as a parent who is hosting a sleepover with one of their children and their friends or family, or a student who is 18 years of age and attending or participating in their own school camp. These matters are not considered to meet the threshold of employment or volunteering to provide services or conduct activities and a blue card would not be required.

Requirement for members of an executive committee of a church, club or association to obtain a blue card

Section 14 of the WWC Act requires that where a corporation is carrying on a regulated business, a person will be captured by the regulated business category where they purport to be an executive officer of the corporation. However, this requirement does not neatly extend to persons who are decision-makers of an executive committee for a church, club or association.

Therefore, the Bill amends Schedule 1, section 5 to clarify that a person engaging in decision-making in relation to children as a member of an executive committee of a church, club or association is captured under the churches, clubs and associations regulated employment category.

Removing the exemption for Australian lawyers (recommendation 24)

Currently, Australian lawyers who engage in legal practice in Queensland under the *Legal Profession Act 2007*, to the extent they are engaging in legal practice, are exempt from requiring a blue card.

The Royal Commission recommended that States and Territories amend WWCC laws towards a streamlined, consistent and simplified approach to exemptions. The QFCC also recommended that consideration be given to whether removing the exemption for lawyers is the most effective way to achieve comparable screening for individuals in child-related services. Further, the National Standards do not include lawyers as an exempt category.

Removing the lawyer exemption will bring the WWC Act into broad alignment with other jurisdictions and will improve safeguards for Queensland children, ensuring lawyers providing child-related services are assessed under the WWCC standard. The Bill will therefore omit the exemption from Schedule 1, Part 3 of the WWC Act and include ‘legal advice or advocacy service’ within the definition of ‘support service’ in Schedule 1, Parts 1 and 2.

Improving information sharing arrangements

The Bill provides for a number of new information sharing arrangements, including:

- enabling the chief executive to enter into a written arrangement about asking for, or receiving, information from a prescribed entity which has information relevant to whether a person poses a risk to the safety of children;
- enabling the chief executive to give information about a person to the Queensland College of Teachers (QCT), if the chief executive reasonably believes the information is relevant to the functions of QCT; and
- enabling the chief executive to share information with Blue Card Liaison Officers (BCLO) in First Nations’ communities.

The LASC Report made a bipartisan set of recommendations to improve the WWCC system, particularly on the participation of First Nations’ communities. As part of the response to the LASC Report, the Queensland Government committed to trial a BCLO Pilot Program, which will use dedicated individuals in First Nations communities to provide WWCC advice and assistance.

A person performing the BCLO role, which depends on each community, will not be an employee of the department. The Bill will ensure the chief executive can provide to the BCLO the information necessary to discharge their duties effectively and that BCLOs are subject to the confidentiality requirements under the WWC Act.

Genuine researchers (recommendation 75)

The Bill allows genuine researchers to access de-identified data about the blue card system to improve its transparency. The QFCC suggested this could be achieved by allowing researchers to access data to conduct research and improve the evidence base about the blue card system.

Under the new provision, the chief executive can impose conditions on the use of data released and prohibit the publishing of the research in a way that could reasonably be expected to result in the identification of any individual to whom the research relates. Penalties apply for failure to comply.

The chief executive may publish guidelines about what constitutes genuine researchers and approved research under the WWC Act.

Auditing and monitoring compliance (recommendation 49)

The Bill makes a range of amendments to enable the chief executive to more effectively monitor compliance with the blue card system. This includes empowering the chief executive under new section 370A to, by written notice, ask a person for information the chief executive reasonably believes is necessary to carry out the function of auditing and monitoring compliance with the Act.

Section 370A includes an offence for a person who fails to comply with the request on or before the day stated in the notice, with a maximum penalty of 50 penalty units applying.

To further support the chief executive to effectively audit and monitor compliance with the Act, the Bill includes requirements for an employer to keep a register of information about persons they employ. This includes details of employees who have made a WWCC application, who hold a blue card, who are employed in restricted employment and who are not required to apply for a blue card. It is an offence with a maximum penalty of 50 penalty units for an employer to fail to keep a register. The register requirement is consistent with and builds on the current obligations placed on organisations regulated by the blue card system to develop and implement a child and youth risk management strategy.

Other amendments to improve the blue card system

The Bill also makes a range of amendments to the WWC Act unrelated to either the QFCC or LASC Reports to improve the operation of the blue card system, including by:

- refining the review jurisdiction of the Queensland Civil and Administrative Tribunal (QCAT);
- reframing school screening requirements to provide clarity and reduce overcompliance;
- providing the chief executive discretion to cancel a blue card without also issuing a negative notice in situations where cardholders cannot be contacted following a change in their criminal history or other relevant information;
- aligning the period in which a negative notice remains in force with the term of a blue card;
- including self-disclosure requirements for applicants;
- enabling foster and kinship carers and associated household members to be linked to their affiliated foster and kinship care service;
- providing an exemption for interstate or international emergency workers deployed to Queensland as part of a declaration of a state of fire emergency made under the *Fire Services Act 1990* or a disaster situation under the *Disaster Management Act 2003*; and
- making a range of other minor and technical changes.

Refining QCAT's review jurisdiction

Currently, the WWC Act predominantly provides for QCAT to review a decision but only to the extent of whether there is an exceptional case for a person. This is a '*chapter 8 reviewable decision*', which applies to a decision of the chief executive about whether an exceptional case exists in relation to a person if the chief executive has issued the person a negative notice or refused to cancel a negative notice issued to a person.

Queensland's position of limiting a decision to whether there is an exceptional case is inconsistent with all other jurisdictions. The Bill better aligns Queensland with all other jurisdictions by empowering QCAT to review a decision of the chief executive to issue a negative notice or refuse to cancel a negative notice. This will improve legislative clarity on QCAT's power to set aside a decision of the chief executive and substitute it with its own decision.

Changes to screening requirements for schools

The Bill reframes the 'schools' category of regulated employment in Schedule 1, section 3 of the WWC Act. The reframed category applies the principles of the Royal Commission to increase clarity about who needs a blue card at a school to provide that the employment will be regulated by the WWC Act if any of the usual functions of the employment or usual activities of the business take place:

- in an area of a school in which children are being educated and cared for, or that is accessible to children; and
- at a time when children are ordinarily present.

For example, cleaners and groundskeepers will require a blue card in the above circumstances. However, employment conducted at a school will not be regulated if the functions of the employment:

- are not directed towards children; and
- are of a nature that does not permit or facilitate contact with children, other than incidental contact.

In these circumstances, for example, a person called to schools to fix an air-conditioning unit or service fire extinguishers, do not require a blue card.

The Bill also inserts in Schedule 1, Part 2 a new 'schools' regulated business category to align with the regulated employment category.

Cancelling a blue card without issuing a negative notice

The chief executive can currently cancel a person's blue card if the chief executive becomes aware of subsequent relevant information about a person and if satisfied it is appropriate to issue a negative notice to the person. This decision requires a reassessment of the person's eligibility to continue to hold a blue card following the chief executive's consideration of the subsequent information.

In making a decision about issuing a negative notice, the chief executive must give notice to the person and invite the person to make a submission about why the chief executive should not issue a negative notice. However, there is no discretion to cancel a blue card without also issuing a negative notice. This includes in scenarios where it may not be warranted, for example, where a cardholder cannot be contacted following a change in their criminal history or other relevant information.

Cancelling a blue card has significantly less adverse impacts on the individual than the issuing of a negative notice. A person issued with a negative notice must wait until the end of the sit-out period (the Bill extends this period from two to three years) before they can apply to have

their negative notice cancelled. In contrast, a person whose card is cancelled without the issue of a negative notice can simply reapply for a blue card at a later date.

The Bill therefore amends the WWC Act to provide that, if the chief executive has requested submissions from a person for the purpose of deciding whether it is appropriate to issue a negative notice to the person, but is not able to be satisfied the person has received the request, the chief executive may cancel the person's blue card without issuing a negative notice. However, a notice must be given to each notifiable person or potential employer to state the person's blue card has been cancelled.

Aligning the terms in which a negative notice and blue card are in force

Presently under the WWC Act, a negative notice remains in force until it is cancelled or until a person applies to have the notice cancelled. A person may apply to the chief executive to cancel the negative notice if the application is made more than two years after the notice was issued. In comparison, the term of a blue card is three years.

The one-year discrepancy between the duration of a blue card and the period upon which a negative notice holder must wait before applying to have the notice cancelled has resulted in an increase in the number of applications to cancel a negative notice over the years. Aligning the sit-out period for a negative notice holder with the term of a blue card will create efficiencies and result in administrative and operational improvements for BCS.

Inclusion of self-disclosure requirements

The Bill requires applicants and cardholders to self-disclose the existence a '*disclosable matter*', which includes:

- a domestic violence order made, or police protection notice issued, against the person under the *Domestic and Family Violence Protection Act 2012*;
- an adverse interstate WWC decision;
- an allegation of harm caused by the person substantiated by the chief executive (child safety) or the chief executive of the department of another State administering a child welfare law of the State;
- disciplinary action taken against the person that is prescribed by regulation;
- another matter relevant to whether the person poses a risk to the safety of children prescribed by regulation.

The Bill provides that the approved form for a WWCC application may provide for the applicant to disclose whether a disclosable matter exists in relation to the applicant. A penalty will apply for failing to disclose a disclosable matter.

The Bill also makes clear that the approved form for a WWCC application may provide for the applicant to disclose whether particular police information exists in relation to the applicant. This will complement the existing requirement under the WWC Act which requires a cardholder to notify the chief executive if a cardholder has a change in police information (see section 323).

Linking to foster and kinship carers services in the blue card portal

Recommendation 4 of the LASC Report was that the Queensland Government consider legislative amendments to allow for the disclosure of information between government departments to streamline and facilitate the timeliness of blue card and kinship care approvals. The chief executive (child safety) is considered the employer or proposed employer of foster and kinship carers and adult household members under the WWC Act and currently receives blue card information about carers and adult household members, including electronically through the blue card organisation portal.

Amendments in the Bill will ensure foster and kinship care services have direct access to information about the blue card status of carer applicants, approved carers and household members they are affiliated with (support). This will include withdrawals, suspensions, cancellations and when the person's blue card must be renewed. The Bill amends the WWC Act definition of '*notifiable person*' and inserts new definitions of '*carer applicant*' and '*foster and kinship care service*' to enable foster and kinship care services to directly link to carers that they support.

Emergency exemption

The Bill includes a special exemption from blue card screening for an emergency services worker deployed from an interstate or overseas location where the worker is deployed to respond to the emergency. This includes where a declaration of a state of fire emergency is made by the QFES Commissioner; or the declaration of a disaster situation is made by a district disaster coordinator with the approval of the Minister under the *Disaster Management Act 2003* or is made by the Minister and the Premier under that Act.

Minor and technical changes

A range of technical changes are included in the Bill which will:

- simplify the Act through minor and technical amendments, such as omitting spent sections, and removing spent transitional provisions;
- enable the chief executive to withdraw an application to cancel a negative notice in scenarios where the applicant does not engage in the submission process, or if their identity cannot be established;
- simplify the definition of notifiable person and the obligations which apply to a notifiable person; and
- allow the chief executive to provide interstate screening units with a written summary of an *Evidence Act 1977*, section 93A transcript or a recorded statement;
- clarify and streamline the interaction between the WWC Act and the *Disability Services Act 2006*, Part 5 (Disability worker screening and related requirements), including by aligning confidentiality requirements.

Implementing the QFCC Kinship Care Report recommendations

The Bill includes preliminary amendments which will:

- amend the WWC Act so that approved kinship carers are no longer considered to be in regulated employment;

- remove the requirements under the CP Act for approved kinship carers to hold a blue card before a kinship carer certificate can be granted; and
- remove grounds for suspension and cancellation of kinship carer certificates which relate to WWC authorities.

The amendments will commence on a date to be fixed by proclamation. Automatic commencement under the *Acts Interpretation Act 1954* (AI Act) will not apply to these amendments. This is to provide sufficient time for DCSSDS to consult on the development of a new, fit for purpose screening framework for kinship carers. Delayed commencement will also allow for consultation and engagement with peak stakeholders to ensure that any new framework keeps children safe, has sufficient safeguards and minimises risks of unintended consequences. It is critical that in removing the blue card requirement for kinship carers, children in kinship care do not become less safe.

Once Part 2 and clause 131 of the Bill commence, kinship carers will not require a blue card to care for kin. Kinship carers will continue to require a blue card until that time. The amendments in Part 2 and clause 131 do not apply to adult household members of a carer's household. Adult members of a carer's household will continue to require a blue card.

Although blue card requirements for kinship carers will be removed when Part 2 of the Bill commences, giving foster and kinship care services access to kinship carers blue card information as a notifiable person will be beneficial operationally in the interim period.

Amendment of the Childrens Court Act 1992

The Bill amends the *Childrens Court Act 1992* (CC Act) to formalise an existing process for the sharing of child protection information by the Childrens Court with other courts and tribunals.

A new provision is inserted into Part 6 of the CC Act to allow the registrar or clerk of the court to give an Australian court or tribunal access to a court record, or part of a court record, for a proceeding under the *Child Protection Act 1999* if the record is relevant to a proceeding before the Australian court or tribunal. For example, the amendments will allow for child protection court records to be provided to the Federal Circuit and Family Court of Australia (FCFCA) to support judicial decision making in family court proceedings. In the event that a child protection record includes youth justice information, the *Youth Justice Act 1992* continues to apply.

Alternative ways of achieving policy objectives

There are no alternative ways to achieve the policy objectives.

Estimated cost for government implementation

Costs associated with giving effect to the amendments to the WWC Act and CC Act will be met from existing budget allocations.

The amendments to remove blue card requirements for kinship carers will not have financial impacts. Financial impacts associated with a new screening framework will be considered during development.

Consistency with fundamental legislative principles

The Bill has been drafted having regard to the fundamental legislative principles in the *Legislative Standards Act 1992* (LS Act) and is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are considered justified and are addressed below.

Legislation has sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992, section 4(2)(a) – right to employment and conduct business*

Decision-making reforms

A number of changes are being made to the decision-making framework under the WWC Act that may result in a rebalancing of the rights and liberties of individuals. These amendments include:

- establishing a new statutory threshold for blue card assessments which will require the chief executive to be satisfied an applicant presents a risk to the safety of children (which must be real and appreciable) to refuse an application;
- introducing a complementary ‘reasonable person’ test which will require the chief executive, in determining whether an applicant poses a risk to the safety of children, to consider whether a reasonable person would allow their child to have direct contact with the applicant without supervision while engaged in child-related work;
- establishing new clear and consistent risk assessment criteria for undertaking blue card assessments where a person returns information of concern; and
- removing the eligibility declaration process and the term of imprisonment qualifier for what constitutes a ‘*disqualifying offence*’—persons who commit a ‘disqualifying offence’ as juveniles, and adults who commit unlawful penile intercourse offences where an imprisonment order is not imposed, will retain a pathway to apply for a blue card.

These amendments are a potential departure from the principle that sufficient regard be given to the rights and liberties of individuals and, in particular, the right to obtain and keep employment and the right to conduct business without interference.

However, these amendments are considered justified on the grounds that they broadly align the WWC Act with the approach of other jurisdictions, the QFCC recommendations, Royal Commission recommendations and the National Standards. The proposed reforms are also consistent with other established screening systems, such as disability worker screening.

Further, the amendments to the decision-making framework seek to countervail the currently disproportionate impacts on First Nations people engaging with the blue card system.

Scope-related amendments

The Bill increases the scope of work considered to be regulated employment and regulated businesses for the purposes of the WWC Act, now capturing entertainment or party services, gym or play facilities, photography services, talent or beauty competitions (these services align with the ‘commercial services’ recommended by the Royal Commission), decision-makers on an executive committee for an association, church or club for children and overnight camps or excursions. Existing exemptions for amusement park workers and lawyers have also been omitted.

By expanding the scope of regulated employment and regulated business, the Bill increases the number of people required to undergo a WWCC in order to start, or continue working, in that industry. In some cases, this may delay an applicant from starting work as they wait for the outcome of their application. Further, it may prevent a person from engaging in regulated employment or carrying on a regulated business entirely.

The amendments are a potential departure from the principle that sufficient regard be given to the rights and liberties of individuals, in particular, the right to obtain and keep employment and the right to conduct business without interference. However, the expansion to scope is necessary for the safety and wellbeing of children. The amendments reflect the different type of environments in which children regularly engage and ensure that an individual intending to engage in one of these categories does not have a concerning history that indicates a risk to the safety of children.

The amendments are consistent with the principles for administering the WWC Act, that the welfare and best interests of the child are paramount and that every child is entitled to be cared for in a way that protects the child from harm and promotes the child's wellbeing.

Legislation has sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992, section 4(2)(a) – privacy and confidentiality rights*

The Bill makes a number of amendments relating to information sharing arrangements.

Information sharing with prescribed entities

The Bill inserts new Division 8A in Chapter 8, Part 6 to enable the chief executive to enter into a written agreement about receiving information from an entity which has information relevant to whether a person poses a risk to the safety of children (subject to the CP Act, Chapter 6, Part 6, Division 2, Subdivision 1).

Without limitation, the arrangement may provide for information to be asked for and given electronically, including on a daily basis, or for information to be given by way of providing electronic access to information (including any limitations on the access provided for under the WWC Act or another law).

These amendments are a potential departure from the principle that sufficient regard be given to an individual's rights and liberties, including privacy and confidentiality. However, the amendments are considered justified because the sharing of information relevant to whether a person poses a risk to the safety of children is a fundamental component of the new decision-making framework and of the blue card system as a whole. The chief executive requires information from a range of entities in order to effectively carry out its functions and to accurately assess whether a person poses a risk to the safety of children. It is therefore essential that arrangements are in place to facilitate the sharing of information with the chief executive.

The amendments include appropriate safeguards to ensure the protection of information shared by a prescribed entity with the chief executive. This includes ensuring that only information relevant to the chief executive's main functions may be shared. Similarly, the sharing of information between prescribed entities and the chief executive will be governed by written arrangements that will include any limitations on the access to information provided for under the WWC Act or another law. Where there are limitations, the sharing of information will be subject to those limitations.

Lastly, the existing confidentiality provisions under sections 384 and 385 of the WWC Act will apply to the use of information shared under these amendments. This will mean that current or former public service employees, a Minister and members of the Minister's staff who were given, or given access to, protected or confidential information from a prescribed entity will be prohibited from using, disclosing or giving access to that information except as permitted under the WWC Act. It is an offence with a maximum penalty of 100 penalty units or two years' imprisonment to misuse protected information, and an offence with a maximum penalty of 100 penalty units to misuse other confidential information.

Information sharing with the Queensland College of Teachers

The Bill will also make amendments to enable the chief executive to give information about a person to QCT in relation to an employment-screening decision if the chief executive reasonably believes the information is relevant to the functions of QCT under the *Education (Queensland College of Teachers) Act 2005* (QCT Act). To achieve this, the Bill replaces section 343 of the WWC Act with a new information sharing provision modelled on existing section 344.

The amendments are a potential departure from the principle that sufficient regard be given to an individual's rights and liberties, including privacy and confidentiality. These amendments are considered justified to mitigate risks a teacher may pose to children, where the chief executive has found the person ineligible to work with children. This is because there is presently a gap where the chief executive finds a person ineligible to work with children based on information not available to QCT. This information may include adverse interstate WWCC information, child protection information, domestic violence information or other relevant information. In such cases, QCT is limited in the action it can take to mitigate the risks in the school environment. The amendments are necessary to ensure QCT has the information it needs to mitigate risks and to better protect children against those who may pose a risk to their safety.

Noting the impacts of these amendments on the rights to privacy and confidentiality of individuals, the Bill includes measures to protect the confidentiality of the information and to reduce adverse impacts. This includes providing appropriate parameters on the sharing of information such that only information relevant to an employment-screening decision, of which QCT is not aware, is shared and only if it is relevant to QCT's functions under the QCT Act.

Information sharing with Blue Card Liaison Officers

The Bill will amend the WWC Act to enable the chief executive to share information with BCLOs as part of Government's response to the LASC Report recommendation on improving the blue card system, particularly on the participation of First Nations' communities. In its response to the LASC Report, the Queensland Government committed to trial a BCLO Pilot Program, in which BCLOs are dedicated individuals in First Nations communities who provide advice and information for applicants and organisations, assist with blue card applications and processes, and make targeted referrals to culturally appropriate support services.

These amendments are a potential departure from the principle that sufficient regard be given to an individual's rights and liberties, including privacy and confidentiality. This is because they will enable the sharing of protected and confidential information between the chief executive and BCLOs. This is achieved by amending section 344A to provide that the chief executive may give information to another person the chief executive accepts is authorised to assist the chief executive in performing their main functions under section 8 of the WWC Act.

Information under this section includes information about a blue card application made by the person or a blue card or negative notice held by the person.

While these amendments impact on the rights of individuals to privacy and confidentiality by enabling the sharing of information, they are considered justified because they are necessary to enable the BCLO to effectively discharge their role.

These amendments ensure that BCLOs are captured within the WWC Act and therefore subject to confidentiality provisions and limitations on the use of the information they receive. Specifically, section 344B will apply to the use of information shared with BCLOs under section 344A, such that the use, disclosure or giving of access to the information unless in accordance with section 344B will be an offence with a maximum penalty of 100 penalty units.

Approved research

The Bill inserts new section 398B to enable the chief executive to give access to data collected under the WWC Act for research purposes. This is a potential departure from the principle that sufficient regard be given to an individual's rights and liberties, including privacy and confidentiality.

However, the amendment includes a number of safeguards to ensure that de-identified data given under this provision is not misused and cannot be used to identify the person or persons to whom the data relates. These safeguards include requiring the chief executive to be satisfied that the research is consistent with the objects of the WWC Act or a function of the chief executive under the Act (defined as *approved research*) and that the entity undertaking the research has the appropriate qualifications or experience to carry out the approved research. The chief executive may only give the information if, in their opinion, the information to which access is being given is reasonably necessary for the approved research.

The provision also specifically provides that the chief executive can impose conditions on the use of data released under the provision. It will be an offence for failing to comply with the conditions imposed, with a maximum penalty of 100 penalty units unless the person has a reasonable excuse.

The chief executive is also empowered to publish guidelines about approved research and the appropriate qualifications or experience necessary to undertake that research. This ensures there will be clear parameters and publicly accessible information available about the type of information given under this provision and about the way it may be used for research purposes.

This amendment is considered justified because it is intended to improve transparency in the blue card system by allowing researchers to improve the system's evidence base. This ultimately serves the objects of the WWC Act by enabling comprehensive research and data analysis on identifying trends or potential risks in particular environments and helping to develop new and better ways of assessing risks to children.

Legislation has sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992, section 4(2)(a) – creation of new offences*

The Bill creates new offences and reframes a number of existing offences in the WWC Act. The creation of new offences potentially breaches the fundamental legislative principle that legislation has sufficient regard to the rights and liberties of individuals, in so far as they impose a penalty upon the person for a breach of the provision. However, these penalties are considered reasonable as they provide stronger safeguards for children and represent a deterrent for persons who breach requirements.

The amendments will operate prospectively and will only capture offenders who commit offences after commencement.

New offences relating to self-disclosures and notifying of changes in information

The Bill inserts new section 188 to provide that the WWCC application form may provide for the applicant to disclose whether particular police information or a disclosable matter exists in relation to the applicant. To support the new self-disclosure requirements and to require the disclosure of information, it will be an offence for failing to disclose police information or a disclosable matter.

Similarly, the Bill inserts new provisions to require a relevant person (a blue card applicant, a blue card holder, or a negative notice holder who has applied to cancel the notice) to notify the chief executive of changes to the person's name, business information (section 328B), or of a change to a person's contact details (section 328C). Under both provisions, it is an offence for failing to notify of the relevant changes. However, these amendments are simply a consolidation of existing requirements under the WWC Act.

The new offences are intended to facilitate the disclosure of information, or the notification of changes in information, relevant to the assessment or reassessment of a person's eligibility to hold a blue card. The offences are considered justified because the effective and timely disclosure of information is crucial to the operation of the blue card system and its objective of promoting and protecting the rights, interests, and wellbeing of children.

However, the need to require information has been balanced against the impact of the penalties on the rights and liberties of individuals, recognising that the purpose of the offences is to facilitate the disclosure of information, rather than to punish or deter applicants and cardholders. Accordingly, to mitigate against potential disproportionate impacts, the maximum penalty for failing to disclose a disclosable matter will be 10 penalty units. Further, the intention is for the offence to operate on a discretionary basis, where applicants who fail to disclose a disclosable matter by way of honest mistake will not be penalised.

The offence for failing to disclose police information as part of a WWCC application attracts a higher maximum penalty of 100 penalty units. This is to align with the existing requirement under section 323 for a cardholder to immediately notify the chief executive about a change in police information, which also has a maximum penalty of 100 penalty units. This is because police information is highly pertinent in determining a person's eligibility to hold a blue card when undertaking a risk assessment.

Additionally, relevant persons under sections 328B and 328C will have seven days following a change in information or contact details in which to notify the chief executive. Their intention

is to facilitate the timely disclosure of information to ensure the effective operation of the blue card system and the offences are not intended to operate as enforcement mechanisms to punish or deter applicants or cardholders.

New offence relating to access and use of information for research purposes

New section 398B allows the chief executive to give access to data collected under the WWC Act for approved research purposes. The amendment is intended to improve transparency in the blue card system and to improve the evidence base. The chief executive can also impose conditions on the use of data, for example, that a person or public sector entity given access to information must not publish the research in a way that could reasonably be expected to result in the identification of any individual to whom the research relates.

Under section 398B, it will be an offence to not comply with a condition imposed by the chief executive and a maximum penalty of 100 penalty units applies. The offence recognises that although access to and use of information collected under the Act will help to improve transparency, it must be balanced against the right to privacy of those individuals to whom the information relates. Accordingly, the offence is necessary to ensure that the information provided under section 398B is only used for the authorised purpose or purposes it has been given.

Noting that the unauthorised use of information provided under this section has the potential to identify and/or cause detriment to individuals to whom the information relates, the maximum penalty of 100 penalty units appropriately reflects the range and seriousness of the offending behaviour. However, the penalty will not apply if the person has a reasonable excuse, which will help to mitigate the impact of the offence.

Reframed offence relating to employer or potential employer of a suspended person

The Bill amends section 298 to reframe the offence currently applicable to notifiable persons so that it only applies to employers or potential employers. The offence provides that a person's employer or potential employer who is given a notice about the suspension must not allow the person to perform work that is regulated employment. A maximum penalty of 200 penalty units or two years imprisonment applies.

While notifiable persons have a legitimate interest in a person's blue card status (for example, a regulatory body), they are not responsible for the employment of a cardholder. The amendment to reframe the offence recognises that responsibility for employment rests with the employer or potential employer and, consequently, only they should be liable for allowing a suspended person to perform work that is regulated employment.

Although the penalty for this offence is high, it is considered justified due to being consistent with the principles for administering the WWC Act—that the welfare and best interests of a child are paramount and that every child is entitled to be cared for in a way that protects the child from harm and promotes the child's wellbeing.

The offence operates in circumstances where a person's blue card has been suspended, which is in response to a change in assessable information and warrants a reassessment of the person's continuing eligibility to hold a blue card. It represents an unacceptable risk to the safety and wellbeing of children to allow a suspended person to continue to perform work that is regulated employment while the reassessment of that person's suitability to hold a blue card takes place.

The penalty therefore appropriately reflects the seriousness of the offence and represents a strong deterrent for breaching this requirement.

New offence to support monitoring and enforcement of the Act

The Bill makes a range of amendments to set out the powers the chief executive may use when performing the function of auditing or monitoring compliance under section 8(b). This includes empowering the chief executive under new section 370A to, by written notice, ask a person or entity for information the chief executive reasonably believes is necessary to carry out the function of auditing and monitoring compliance.

Section 370A includes an offence for a person who fails to comply with the request on or before the day stated in the notice, with a maximum penalty of 50 penalty units applying. The offence is considered appropriate because it is necessary to support the chief executive's auditing and monitoring functions under the Act and provides an avenue for requiring the provision of information, if required. However, the impact is mitigated to the extent that the offence will not apply if the person has a reasonable excuse, which recognises the purpose of the offence is to encourage the provision of information in support of the auditing and monitoring function.

Legislation has sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992, section 4(2)(a) - privacy and confidentiality rights*

Amendments to the CC Act

The proposed amendments to the CC Act may impact on an individual's right to privacy as they will facilitate the sharing of a child protection court record, or information from a record, of a proceeding in the Childrens Court if the record is relevant to a proceeding before an Australian court or tribunal.

The amendments are intended to formalise the existing process where the Childrens Court provides the FCFCA with information about child protection proceedings, including interim and final child protection orders and court records disclosing a history of family violence, child abuse or risk of abuse. These amendments will provide a clear legislative basis for when court records may be accessed or disclosed. Any potential impact on the privacy of individuals is mitigated by the safeguards outlined in the National Framework.

Legislation has sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992, section 4(3)(b) – depends on whether the legislation is consistent with the principles of natural justice*

New suspension and cancellation reforms

The Bill includes reforms which give the chief executive new powers, including the ability to:

- suspend a person's blue card, pending the determination of an assessment of the person's continuing eligibility to hold a blue card where the chief executive considers the person is likely to pose a risk to the safety of children, in circumstances where—
 - the chief executive becomes aware of assessable information about the person that was not known to the chief executive when the blue card was issued; and
 - the chief executive reasonably believes that the information is relevant to deciding whether the person would pose a risk to the safety of children;

- decide to cancel a blue card in the absence of submissions from a cardholder, if the chief executive has made reasonable attempts to seek submissions from that person for the purposes of deciding whether it is appropriate to issue a negative notice, and has been unable to contact the person; and
- withdraw an application to cancel a negative notice if an applicant does not engage in the submission process, or if their identity cannot be established (consistent with the process for dealing with an initial WWCC applications).

These powers are a potential departure from the principle that sufficient regard be given to the rights and liberties of individuals and, in particular, that something should not be done that will deprive a person of some right, interest or legitimate expectation of a benefit without there being an adequate opportunity to present the person's case to the decision-maker.

These new powers are also a potential departure from the right to obtain and keep employment and the right to conduct business without interference.

In addition, it is proposed that these decisions will not be subject to review. For a person whose card is cancelled due to the inability of the chief executive to make contact with the cardholder, as they are not issued with a negative notice, they will be able to lodge a fresh blue card application. For a person whose application to cancel a negative notice is deemed withdrawn, they will be able to lodge a further application to cancel. The absence of review rights is a departure from the principle that it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process.

The amendments take a precautionary approach in recognition of the vulnerability of children and to ensure children are safe from harm. The amendments are considered justified as they are aimed at reducing risks to the safety and wellbeing of children by preventing persons with concerning histories from being able to work with children.

In relation to the new suspension power, the amendments provide a consistent approach to ensure that where the chief executive is aware of any concerning information indicating a likely risk to the safety and protection of children, the person does not engage in child-related work while a full assessment occurs.

Legislation has sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992, section 4(3)(g) – extending time for starting proceedings*

Certain transitional arrangements may be a potential departure from the principle that sufficient regard be had to the rights and liberties of individuals, particularly by extending the time in which proceedings may be commenced for offences committed—

- for section 623—against sections 176I or 176J before, or both before and after, the commencement; or
- for section 629—against former sections 176K or 176L before commencement.

Sections 176I and 176J include offences that relate to 'restricted employment' and 'restricted persons', which are intended to exclude a limited range of individuals from being able to rely on an exemption to carry out child-related work. An employer must not employ or continue to employ the person if they know or reasonably ought to know the person is a restricted person, per section 176I. Section 176J states that a restricted person must not start or continue in restricted employment. Similarly, section 176K provides that it is an offence for a disqualified

person to make a WWCC application and section 176L states that it is an offence for a negative notice holder to make a WWCC application.

New sections 623 and 629 are considered appropriate and justified because they ensure that persons who commit offences prior to commencement can be prosecuted under the law as was applicable when the offence was committed. This is a necessary measure to help preserve the integrity of the blue card system by deterring those who commit offences under the WWC Act.

Legislation has sufficient regard to the institution of Parliament – *Legislative Standards Act 1992, section 4(4) – sufficient regard to the institution of Parliament*

Removing blue card requirements for kinship carers

Delaying commencement of provisions relating to removing blue cards requirements for kinship carers by removing the application of the automatic commencement provisions under the AI Act may be inconsistent with the principles set out in section 4 of the LS Act. This is justified and mitigated.

The Bill will commence Part 2 and clause 131 relating to removing blue card requirements for kinship carers on a date to be fixed by proclamation while removing the application of the automatic commencement provisions in section 15DA of the AI Act. This may breach the FLP that the Bill have sufficient regard to the institution of Parliament. Further, this approach to commencement could be considered ambiguous and insufficiently clear and precise given that there is no certainty regarding commencement (LS Act section 4(3)(k)).

Delayed commencement provides reassurance to the community about the government's intent to implement the recommendations of the QFCC Kinship Care Report.

It is not intended for Part 2 and clause 131 to commence until a new screening framework is developed and ready for implementation. Delaying commencement in this way provides time for consultation and engagement with key stakeholders to ensure that any new framework is fit for purpose and has sufficient safeguards.

This approach will provide time for sufficient regard to Aboriginal tradition and Torres Strait Island custom to ensure that any new framework is culturally appropriate.

Legislation has sufficient regard to the institution of Parliament – *Legislative Standards Act 1992, section 4(4)(a) – a Bill should allow the delegation of legislative power only in appropriate cases and to appropriate persons*

The Bill makes a number of amendments to the WWC Act that provide the chief executive to prescribe certain matters by regulation. The regulation making powers and delegations of legislative power are a potential departure from the principle that sufficient regard be given to the institution of Parliament.

The principle provides that the greater the level of potential interference with individual rights and liberties, or the institution of Parliament, the greater will be the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament. This is especially the case where the effect of the power is to delegate to an entity other than Parliament a power to change the application or effect of the legislation and good reasons are therefore required to include the power.

Meaning of disclosable matter

Clause 42 of the Bill inserts new section 186 ‘Meaning of *disclosable matter*’ which will enable a type of disciplinary action and another matter relevant to whether a person poses a risk to the safety of children to be prescribed by regulation.

This is a delegation of power to change the application or effect of the legislation that will interfere with the rights and liberties of individuals, particularly the right to privacy, the right to obtain and keep employment and the right to conduct business without interference.

Prescribing additional matters within the meaning of *disclosable matter* will result in applicants and cardholders being required to disclose further matters when applying for a blue card or when notifying of a change in information. This could mean some applicants and cardholders will be required to disclose further information they may otherwise not have needed to disclose without another matter being prescribed, potentially affecting their eligibility to hold a blue card.

However, disclosable matters are relevant to determining whether a person poses a risk to the safety of children and their continued eligibility to hold a blue card. It is consistent with the protective nature of the Act and the purpose of risk assessment decisions to require the disclosure of information relevant to the making of these decisions.

The amendment to prescribe additional disclosable matters by regulation is therefore considered justified because it anticipates that there may be further matters or information that become relevant to determining whether a person poses a risk to the safety of children that are not currently captured within section 186. This flexible approach will enable the chief executive to respond more quickly if, and when, further matters are identified as being relevant to disclose for the purpose of risk assessments, rather than through amending the WWC Act every time further matters may be identified.

Membership and procedures of advisory committees

Clause 56 of the Bill inserts new section 246A ‘Membership and procedures of advisory committees’ which enables a regulation to provide for matters to facilitate the effective operation of the committee, including the scope of a committee’s functions, matters related to membership, and the vacation of office of committee members. This represents a delegation of legislative power and a potential departure from the principle that sufficient regard be given to the institution of Parliament.

However, the amendments are considered justified because the regulation will provide for administrative matters to facilitate the effective operation of the committee, rather than altering the effect and operation of the Act.

Legislation has sufficient regard to the institution of Parliament – *Legislative Standards Act 1992, section 4(4)(c) – A Bill should only authorise the amendment of an Act by another Act*

Transitional regulation-making powers

The Bill includes transitional regulation making powers in relation to:

- the WWC Act—making provision about matters necessary to facilitate the transition from the Act as in force before its amendment to the amendment Act as in force from the commencement, as well as matters the Act does not sufficiently provide for (clause 120, new section 635); and
- the CP Act—the removal of blue card requirements for kinship carers (clause 10, section 288).

Both regulation-making powers are a ‘Henry VIII clause’, which is a clause of an Act of Parliament that enables the Act to be expressly or impliedly amended by subordinate legislation. Henry VIII clauses are ordinarily an inappropriate delegation of legislative power and a departure from the principle that sufficient regard is given to the institution of Parliament. However, there are limited circumstances in which this departure is justifiable, such as to facilitate transitional arrangements.

Facilitating transition between Acts

Section 635 is inserted to enable the effective transition between the current Act and the amendment Act as in force from the commencement. Every measure has been taken to ensure the transitional arrangements provided in the Bill adequately address all situations that may arise in transitioning between Acts.

However, given the breadth of changes made by the Bill, including to fundamental components like the decision-making framework and scope of regulated employment and regulated businesses, the regulation-making power is considered justified to resolve any complex transitional issues that are unforeseeable at the time of introduction.

In addition, the regulation-making power is further considered justified on the basis that it is subject to appropriate controls. The transitional regulation will not operate retrospectively to a day earlier than the section commences, will be declared it is a transitional regulation for the avoidance of doubt, and will expire no later than two years after the day the section commences.

Removing blue card requirements for kinship carers

Given the preliminary nature of the amendments, a transitional regulation-making power provides a mechanism for dealing with unforeseen issues that may arise in the transition from the previous legal framework to the new framework in the Bill. The delay in commencement and the clear intention to develop a new screening framework prior to commencement removes the need for transitional arrangements at this time. The inclusion of a power to make a transitional regulation will provide for relevant agencies to manage operational and practical issues that may arise prior to the development of the new screening framework.

The inclusion of a transitional regulation-making power is considered reasonable and justifiable as a safeguard to address any transitional issues given the uncertainty associated with delaying commencement. If the Bill commences prematurely, there will be significant uncertainty for current blue card holders and applicants without the ability to make more detailed transitional provisions if required, particularly to manage existing blue cards and current undecided applications.

Including a transitional regulation-making power supports the principle that the legislation has sufficient regard to the rights and liberties of individuals by addressing ambiguity and being drafted in a sufficiently clear and precise way. Further, to ensure the transitional regulation-

making power has sufficient regard to the institution of Parliament, the Bill includes sunset clauses.

Consultation

In April 2024, targeted consultation was undertaken with key stakeholders on a draft Bill. Stakeholders included those from First Nations and cultural organisations, the legal sector, child advocacy groups, child protection stakeholders, recreation, organised events, overnight camp and accommodation providers and amusement park organisations and commercial services.

In relation to removing blue card requirements for kinship carers, peak child protection stakeholders were consulted on the development of the amendments and policy proposal and were generally supportive.

The President of the Childrens Court and the Chief Magistrate have been consulted on the amendments to the CC Act.

Feedback received during this consultation process was taken into account in finalising the Bill for the purposes of introduction.

Consistency with legislation of other jurisdictions

The amendments to the WWC Act will bring Queensland into greater alignment with WWCC legislation in other jurisdictions. Specifically, changes to the decision-making framework to introduce a risk-based threshold will broadly align with all other jurisdictions, the National Standards and Royal Commission recommendations.

Creating new categories of regulated employment and regulated business to capture commercial services or activities directed at children aligns with recommendations from the QFCC and the Royal Commission, as well as with the National Standards. Consistent with other jurisdictions, however, suppliers of food, drink or equipment at a children's entertainment or party service; or gym or play facility who have no further contact with children will be exempt from WWC requirements.

The amendments to introduce a new stand-alone category of regulated employment, which is clarifying in nature, to deal exclusively with persons who deliver justice and detention services to children will further align Queensland's WWC Act with other jurisdictions.

All other jurisdictions capture overnight camps in their screening requirements, although they adopt different approaches as to whether a parent volunteer can attend an overnight camp with their child without a clearance. Introducing screening requirements for overnight camps in Queensland is therefore consistent with screening requirements in other jurisdictions. Further, the Bill's use of the terms 'camp' and 'excursion' aligns with most other jurisdictions that have legislated in this area and attempts to distinguish between an organised event, such as a school camp and a child staying at a friend's house overnight.

Removing blue card requirements for kinship carers

All other States and Territories require kinship carers to hold a type of WWC clearance or authority. The Australian Capital Territory has an alternative approach which enables the

Director-General to approve a person as a kinship carer without a working with vulnerable people registration in limited circumstances.

Amendments to the CC Act

The amendments to the CC Act will support the operation of the National Framework across jurisdictions.

Notes on provisions

Part 1 Preliminary

Clause 1 states that, when enacted, the Bill will be cited as the *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2024*.

Clause 2 states that the following provisions commence on proclamation:

- Part 2;
- Parts 4 to 6; and
- Schedule 1.

Further, the application of section 15DA of the *Acts Interpretation Act 1954* does not apply in relation to the commencement by proclamation of Part 2 and section 131 of the Act, so those amendments do not automatically commence after one year.

Part 2 Amendment of Child Protection Act 1999

Clause 3 provides that this part amends the *Child Protection Act 1999* and includes a note that states, see also the amendments in Schedule 1.

Clause 4 amends section 135(1)(b)(iv) (Restrictions on granting application) to remove the requirement for the chief executive to be satisfied that an applicant for a certificate of approval as an approved kinship carer has a working with children authority (WWC authority).

Clause 5 amends section 139(5)(b) (Authority may be suspended or cancelled) to remove the discretion and power for the chief executive to suspend or cancel a person's certificate of approval as an approved kinship carer if they do not hold a WWC authority.

Subsection (6) is also amended to omit 'subdivision (3)' and insert 'subdivision 3' to a correct a technical drafting issue.

Clause 6 provides for consequential amendments to section 140AB (Definitions for sdiv 3) by removing the definition of 'approved carer' and amending the definition of 'relevant person' in paragraph (a) by omitting 'approved carer's' and inserting 'approved foster carer's or approved kinship carer's'. The heading to section 140AB is also amended to replace 'sdiv 3' with 'subdivision'.

Clause 7 amends section 140AC (Immediate suspension) to remove the requirement for the chief executive to immediately suspend the kinship carer's certificate of approval if a prohibiting event happens to a kinship carer who holds a certificate of approval. Section 140AC(1) provides that if a prohibiting event happens, subsection (2) will only apply to an approved foster carer; or a member of an approved foster carer's or approved kinship carer's household (adult household member) or the nominee for a licence, or director of a licensee. Subsections (1)(ab) and (b) are renumbered as subsections (1)(b) and (1)(c). Subsection (2) is amended to replace 'approved carer's' with 'approved foster carer's or approved kinship carer's'.

Clause 8 amends section 140AF(1) (End of suspension) to clarify that the suspension of the person's authority under the subdivision ends if the person or relevant person is issued with a WWC authority.

Clause 9 amends section 140AG(1) (Cancellation of certificate of approval) to remove requirements for the chief executive to cancel a kinship carer's certificate of approval if the approved kinship carer is issued a negative notice under a prescribed provision. Subsection (2) is also amended to apply to approved foster carers and not approved kinship carers.

Subsections (3), (4) and (5) are also amended to replace references to 'approved carer's' with references to 'approved foster carer's or approved kinship carer's'.

Clause 10 inserts a new Chapter 9, Part 14 'Transitional provision for Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2024', including section 288 'Transitional regulation-making power' in the *Child Protection Act 1999* providing for a transitional regulation-making power as a mechanism for dealing with unforeseen issues that may arise in the transition from the previous legal framework to the new framework in this Bill.

New subsection (2) provides that the transitional regulation may have retrospective operation to a day not earlier than the day the section commences. New subsection (3) requires a transitional regulation to declare it is a transitional regulation. Further, new subsection (4) provides a sunset clause for the transitional regulation-making power to expire two years after the day of commencement. New subsection (5) defines '*amendment Act*' for the section as the *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2024*.

Clause 11 amends the Schedule 3 (Dictionary) definition of '*approved carer*' to reflect the removal by *clause 6* of the definition of '*approved carer*' in Chapter 4, Part 2, Division 4, Subdivision 3, section 140AB.

Part 3 Amendment of Childrens Court Act 1992

Clause 12 states that this part amends the *Childrens Court Act 1992*.

Clause 13 inserts new section 28AA 'Access to child protection by Australian court or tribunal' to provide that the registrar or clerk of the court may give an Australian court or tribunal access to a child protection record, or information from a child protection record, if the record or information is relevant to a proceeding before the Australian court or Tribunal. '*Australian court or tribunal*' means a court or tribunal of the Commonwealth or of a State. A '*child protection record*' means a court record or part of a court record, for a proceeding under the *Child Protection Act 1999*.

Clause 14 inserts in Part 7, new Division 6 'Transitional provision for Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2024'. New section 39 'Application of s 28AA' is a transitional provision to clarify that section 28AA applies in relation to a child protection record whether the record was or is made before or after the commencement. A '*child protection record*' means a court record or part of a court record, for a proceeding under the *Child Protection Act 1999*.

Part 4 Amendment of Disability Services Act 2006

Clause 15 states the part amends the *Disability Services Act 2006*.

Clause 16 inserts new section 43A ‘Definition for part’ to provide that, in Part 5, ‘*disability services department*’ means the department responsible for administering Part 1 of the *Disability Services Act 2006*.

Clause 17 amends the following sections to replace the references to ‘department’ with references to ‘disability services department’:

- 47(1) (Meaning of *State disability work*);
- 48(1) and (3) (When person is *engaged* to carry out State disability work)
- 61(1) (Carrying out State disability work without clearance prohibited)
- 66(a) (Application related to State disability work);
- 84(2)(b) (Effect of interim bar); and
- 113(2)(b) (Effect of suspension of clearance).

Clause 18 amends section 138M(4) (Obtaining information from director of public prosecutions) by replacing the reference to ‘section 227’ in the note with a reference to ‘section 138ZLA’.

Clause 19 amends section 138N(3) (Obtaining information from chief executive (corrective services)) by replacing the reference to ‘section 227’ in the note with a reference to ‘section 138ZLA’.

Clause 20 amends section 138R(5) (Request for other information about relevant person from prescribed entities) definition of ‘*prescribed entity*’ by inserting a new subsection to provide that the chief executive of the disability services department is captured as a prescribed entity. Paragraphs (5)(ba) and (c) are also renumbered as paragraphs (c) and (d).

Clause 21 amends section 138V(4) (Obtaining report about person’s mental health from registered health practitioner) by replacing the reference to ‘section 227’ in the second note with a reference to ‘section 138ZLA’.

Clause 22 amends section 138ZD(1) (Giving information authorised despite other laws) by replacing the reference to ‘section 227’ in the note with a reference to ‘section 138ZLA’.

Clause 23 inserts a new Subdivision 8A in Part 5, Division 8 of the *Disability Services Act 2006*. The new Subdivision 8A deals with confidentiality.

New section 138ZLA ‘Confidentiality of police, disciplinary, mental health and other protected information’ applies to a person who is or has been a public service employee employed in the department and in that capacity, was given, or given access to, protected information about another person. This section also applies to a person who is or has been the Minister and, in that capacity, received a report under section 138ZLD that contains protected information, or a member of the Minister’s staff and, in that capacity, was given, or given access to, a report or information mentioned in a report under section 138ZLD.

The new section clarifies that the following information is ‘*protected information*’ about a person:

- police information and information related to the police information;
- domestic violence information and information related to the domestic violence information;
- disciplinary information;
- NDIS disciplinary or misconduct information;
- information about the person’s mental health, including, for example, information given to the chief executive under Subdivision 6;
- other information about the person given to the chief executive to help the chief executive decide whether the person poses an unacceptable risk of harm to people with disability, including information about the person given to the chief executive:
 - by the NDIS commission; or
 - by an NDIS worker screening unit; or
 - by a prescribed entity under section 138R.

It is an offence for a person to whom this section applies to use the protected information, or disclose or give access to the protected information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (5). A maximum penalty of 100 penalty units or two years imprisonment applies.

New subsection (5) states the person may use the protected information, or disclose or give access to the protected information to another person, if the use, disclosure or giving of access:

- is for the performance of the chief executive’s screening functions; or
- is expressly permitted under Part 5; or
- happens with the consent of the person to whom the information relates; or
- for protected information other than a section 93A transcript or a transcript of a recorded statement—is for the purpose of obtaining advice for, or giving advice to, the Minister in relation to the protected information; or
- is otherwise permitted under an Act or other law.

New section 138ZLB ‘Confidentiality of other information obtained for screening purposes’ applies to a person who is or has been a Minister or a member of the Minister’s staff, or a public service employee employed in the department, and in that capacity, was given, or given access to, screening information. The person must not use the screening information, or disclose or give access to the screening information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (4). A maximum penalty of 100 penalty units applies for failing to comply. However, the person may use the screening information, or disclose or give access to the screening information to another person, if the use, disclosure or giving of access:

- is for the purpose of Part 5; or
- is for the purpose of obtaining advice for, or giving advice to, the Minister in relation to the screening information; or
- is for the purpose of performing a function under another law; or
- is for a proceeding in a court or tribunal; or
- is authorised under a regulation or another law; or

- happens with the consent of the person to whom the screening information relates; or
- is to protect a person with disability from abuse, neglect or exploitation.

New section 138ZLC ‘Disclosure by chief executive’ states the chief executive may disclose screening information to the NDIS commissioner if the chief executive is satisfied the disclosure would assist in the performance of the NDIS commissioner’s functions under the *National Disability Insurance Scheme Act 2013* (Cwlth). Further, the chief executive may disclose screening information to an entity responsible for the administration and enforcement of a corresponding law if the chief executive is satisfied the disclosure would assist in the performance of the entity’s functions under the corresponding law.

New section 138ZLD ‘Reports by chief executive’ states the chief executive may provide the Minister with a report relating to the administration of Part 5, including the performance and exercise of the chief executive’s functions and powers under the part. The chief executive must provide the Minister with a report of a type mentioned in subsection (1) if the Minister asks for it and a report under this section:

- may relate to matters generally or to a particular matter; or
- may include confidential information about a person obtained under Part 5, including—
 - protected information under section 138ZLA; and
 - screening information.

The chief executive must ensure the department’s annual report under the *Financial Accountability Act 2009* for a financial year includes information about the number of times the Minister asked the chief executive for a report under this section during the year.

Clause 24 omits section 227 (Confidentiality of police, disciplinary, mental health and other protected information), as this provision is no longer necessary because the Bill inserts the new section 138ZLA.

Clause 25 replaces section 228(1) (Confidentiality of other information) to provide that this section applies to confidential information other than protected information under section 138ZLA(3) or screening information.

Clause 26 amends section 239(2)(a) (Regulation-making power) to replace the reference to ‘arrangements between the chief executive and the chief executive (working with children)’ with ‘procedures, processes and systems’.

Clause 27 inserts into the DSA new Part 9, Division 14.

Division 15 deals with transitional provisions for the Bill.

New section 393 is inserted to provide transitional arrangements for dealing with confidential information received under former section 227 or 228 of the DSA.

Clause 28 inserts in Schedule 8 (Dictionary) of the Act a definition of ‘*screening information*’, to provide that it means confidential information obtained for the screening of a person under Part 5; but does not include confidential information that is protected information under section 138ZLA. The definition of ‘*working with children clearance*’ is also amended to replace the reference to ‘section 220(2)’ with ‘section 18A’.

Part 5 Amendment of Working with Children (Risk Management and Screening) Act 2000

Clause 29 states this part amends the *Working with Children (Risk Management and Screening) Act 2000*. Additionally, a note directs to see also the amendments in Schedule 1.

Clause 30 amends section 6 (Principles for administering this Act) by inserting after ‘wellbeing’ in paragraph (b) ‘, which for an Aboriginal child or Torres Strait Islander child includes recognising the importance of connection with the child’s family, community, culture, traditions and language’.

Clause 31 Amends section 8(a)-(b) (Chief executive’s main functions) to replace the reference to ‘chapters 7 and 8’ with ‘this Act’. This amendment will clarify that the role of the chief executive in auditing and monitoring compliance is no longer limited to Chapters 7 and 8 of the Act but all provision of the Act.

Clause 32 amends section 10 (What is employment) by replacing example 1 to state ‘a person engaged by a shopping centre to appear as Santa’.

Clause 33 inserts new section 12A ‘Matters about employment relating to State educational institutions’. New section 12A clarifies that if a person is employed at a State educational institution, for this Act, the principal of the State educational institution and the chief executive of the department in which the *Education (General Provisions) Act 2006* is administered are employing the person.

Clause 34 amends section 15 (What is a *serious offence*) by omitting ‘relating to the provision’ from subsection (1)(a) and inserting ‘, or is alleged to have been committed,’ in subsection 1(e) after ‘committed’.

New subsection (1A) is inserted to provide that, despite subsection (1), an offence is not a ‘*serious offence*’ if the offence was committed, or is alleged to have been committed, by a person when the person was a child. The provision clarifies that, if the conduct constituting or alleged to constitute an offence occurs between two dates, one on which the person was a child and one on which the person was an adult, the conduct is taken to occur when the person was an adult. Section 15(1A) to (2) is also renumbered as section 15(2) to (4).

Clause 35 amends section 16 (What is a *disqualifying offence*) by omitting ‘relating to the provision from subsection (1)(a)’ and inserting ‘or alleged to have been committed’ in subsection (1)(e) after ‘committed’.

New subsection (1A) provides that, despite subsection (1), an offence is not a ‘*disqualifying offence*’ if the offence was committed, or is alleged to have been committed, by a person when the person was a child. The provision clarifies that, if the conduct constituting or alleged to constitute the offence occurs between two dates, one on which the person was a child and one on which the person was an adult, that conduct is taken to occur when the person is an adult. Section 16(1A) to (2) are also renumbered as section 16(2) to (4).

Clause 36 amends section 17 (Who is a *disqualified person*) to remove references to the eligibility declaration process.

Clause 37 replaces section 18 (Who is a *relevant disqualified person*) with new sections 18 to 18D.

New section 18 ‘Meaning of working with children authority’, provides that a WWC authority means either a WWC clearance, or a WWC exemption.

New section 18A ‘Meaning of *working with children clearance*’ states a ‘*working with children clearance*’ is an authority issued by the chief executive to a person who made a WWCC (general) application and that indicates screening of the person has been undertaken under the Act and the person is authorised to engage in regulated employment or carry on a regulated business.

New section 18B ‘Meaning of *working with children exemption*’ provides that a ‘*working with children exemption*’ is an authority issued by the chief executive to a person who made a WWCC (exemption) application and that indicates screening of the person has been undertaken under the Act and the person is authorised to engage in regulated employment or carry on a regulated business outside the scope of the person’s responsibilities as a police officer or registered teacher.

New section 18C ‘Meaning of *negative notice*’ provides that a ‘*negative notice*’ is a declaration, issued by the chief executive to a person, that indicates screening of the person has been undertaken under this Act and the person is not authorised to engage in regulated employment or carry on a regulated business.

New section 18D ‘Meaning of *risk to safety of children*’ states that a reference in this Act to a ‘*risk to the safety of children*’ is a reference to a real and appreciable risk to the safety of children.

Clause 38 replaces section 156(4) (Regulated employment) to provide that, subject to subsections (5) and (6), the employment of a person is not regulated employment if the person is employed to work and works in the employment for not more than seven days in a calendar year, or if the person is a parent providing a service or activity on a voluntary basis to children and the children to whom the service or activity is provided include the person’s own child.

Additionally, the section clarifies that despite subsection (4)(b) a person is employed in regulated employment if the employment or the service or activity includes, or is likely to include, an overnight camp or excursion for children under Schedule 1, section 9.

Further, the provision states that, despite subsection (4)(b), a person is employed in regulated employment if the person is a parent providing a service or activity to a child that includes, or may include, close personal contact with a child other than the person’s own child. Examples of close personal contact with a child include assisting a child with toileting, bathing or dressing.

Clause 39 replaces sections 158 and 159 with a new section 158 ‘Special exemptions for emergency’ which provides for an emergency services worker deployed to Queensland from an interstate or overseas location to be exempted from requirements under the WWC Act in the following circumstances:

- to assist the response to a disaster situation; and
- to respond to a significant fire event.

The exemption applies—

- for a significant fire event—for the period of the state of fire emergency under the *Fire Services Act 1990*, section 145V; or
- for a disaster situation declared under the *Disaster Management Act 2003*:
 - section 64(1)—for the duration of the disaster situation under section 66 of that Act; or
 - section 69—for the duration of the disaster under section 71 of that Act.

Subsection (4) provides that the new section does not limit the frequency test under section 156(4)(a) of the Act.

Section 158(5) sets out definitions of disaster situation, emergency service, emergency services worker and significant fire event for the provision.

Clause 40 amends section 176H (Definitions for division), definition *restricted employment* by updating paragraph (b) to reflect changes to the parent volunteer exemption which has been removed from specific categories and is now captured by section 156. New subsection (2) is also amended to omit a now redundant note from paragraph (c).

Clause 41 omits Chapter 8, Part 1 (Restrictions on making working with children check applications), as this is no longer necessary with the amendments made by the Bill.

Clause 42 inserts new section 186 ‘Meaning of disclosable matter’ to provide that a *disclosable matter* is a matter relating to any of the following—

- a domestic violence order made, or police protection notice issued, against the person under the *Domestic and Family Violence Protection Act 2012*;
- an adverse interstate WWC decision;
- an allegation of harm caused by the person substantiated by the chief executive (child safety) or the chief executive of the department of another State administering a child welfare law of the State;
- a type of disciplinary action taken against the person that is prescribed by regulation;
- another matter relevant to whether the person poses a risk to the safety of children prescribed by regulation.

New subsection (2) directs to see the *Child Protection Act 1999*, schedule 3 for the meaning of child welfare law in this section.

Clause 43 replaces ‘(disability services)’ in section 187A(4) (Application combined with disability worker screening application) with ‘disability worker screening’.

Clause 44 amends section 188 (Form of application) by replacing subsection (4) to provide that the approved form may provide for the applicant to disclose whether particular police information or a disclosable matter exists in relation to the applicant. Maximum penalties are included for the failure to disclose:

- police information—a maximum penalty of 100 penalty units applies; and
- for a disclosable matter—a maximum penalty of 10 penalty units applies.

Clause 45 amends section 192 (Effect of application by disqualified person) as this provision is no longer necessary with the changes made by the Bill.

Clause 46 amends section 193 (Effect of application by negative notice holder) to insert new subsection (3A) which sets out additional matters a notice given to the applicant and each notifiable person under the section must state.

The clause also makes a consequential amendment to omit ‘relevant’ from subsection (4) and subsections (3A) and (4) are renumbered as subsection (4) and (5).

Clause 47 amends the heading to section 193A (Effect of interim bar imposed by chief executive (disability services)) by omitting ‘by chief executive (disability services)’ and inserting ‘under Disability Services Act 2006’. Section 193A(1)(b) is also amended to simplify language.

Clause 48 replaces section 194 (Application of part) to remove a reference to an eligibility declaration.

Clause 49 amends section 196A (Withdrawal of combined application) by replacing ‘(disability services)’ in subsection (5) with ‘(disability worker screening)’.

Clause 50 amends section 197 (Deemed withdrawal—identity can not be established) to update language by replacing ‘Deemed withdrawal’ in the heading with ‘Withdrawal by chief executive’ and to remove redundant references.

Clause 51 replaces section 198 (Deemed withdrawal—failure to comply with particular requests) to correct inconsistencies in the provision and remove irrelevant section references.

Clause 52 amends section 199 (Deemed withdrawal—applicant charged with serious offence or disqualifying offence etc.) by replacing ‘Deemed withdrawal’ in the heading with ‘Withdrawal by chief executive’ and to amend subsection (2)(b) to make clear the offence to employ, or continue to employ, an applicant in restricted employment sits with the employer or potential employer.

Clause 53 amends section 200 (Deemed withdrawal—applicant no longer police officer or registered teacher) to update language by replacing ‘Deemed withdrawal’ in the heading with ‘Withdrawal by chief executive’.

Clause 54 amends section 201 (Deemed withdrawal—adverse interstate WWC decision in effect) to update language by replacing ‘Deemed withdrawal’ in the heading with ‘Withdrawal by chief executive’. Subsection (2)(b) is also amended to make clear the offence to employ, or continue to employ, an applicant in restricted employment sits with the employer or potential employer.

Clause 55 amends the Chapter 8, Part 4 heading (Working with children clearances) to update a reference to ‘clearances’ to ‘authorities’.

Clause 56 replaces Chapter 8, Part 4, Divisions 9 and 10 to provide for the new decision-making framework under the Act.

New Division 9 ‘Dealing with and deciding applications’ sets out how WWCC applications are dealt with and decided.

New Subdivision 1 deals with preliminary matters.

New section 219 ‘Application of division’ provides that Division 9 applies in relation to a WWCC application made by a person if the application has not been withdrawn. A note directs to see section 294, which provides that the chief executive must decide certain matters under this division.

New section 220 ‘Assessable information in relation to applications’ states that the chief executive must consider each of the following types of information (*‘assessable information’*) of which the chief executive is aware about the person who made the application:

- police information;
- domestic violence information;
- disciplinary information;
- adverse interstate WWC information;
- other information about the person that the chief executive reasonably believes is relevant to deciding whether the person poses a risk to the safety of children.

New Subdivision 2 deals with WWCC (exemption) applications.

New section 221 ‘Definition for subdivision’ sets out what is *‘identifying information’*, in relation to a person for Subdivision 2.

New section 222 ‘Additional requirements for working with children check (exemption) application’ applies in relation to a WWCC (exemption) application made by a person. Before deciding the application, the chief executive must ask for information about the person:

- if the person claims to be a police officer—from the police commissioner; or
- if the person claims to be a registered teacher—from the college of teachers.

New subsection (3) clarifies that, for subsection (2), the chief executive’s request may include identifying information for the person and new subsection (4) states the police commissioner or the college of teachers must comply with the request.

New subsection (5) provides that, for the purposes of the application:

- a person is a police officer only if the police commissioner has advised the chief executive that the person is a police officer under this section; and
- a person is a registered teacher only if the college of teachers has advised the chief executive that the person is a registered teacher under this section.

New subsection (6) states the chief executive may decide the application under Division 9, Subdivision 3 only if the person is a police officer or a registered teacher.

New section 223 ‘Obtaining advice from police commissioner’ applies if a WWCC (exemption) application is for a person who is a police officer and the police commissioner has advised the chief executive under section 222 that the person is a police officer. Before deciding the application, the chief executive must ask the police commissioner to advise whether the chief executive may need to undertake further employment screening of the person. For subsection (2), the chief executive’s request may include identifying information for the person.

The police commissioner must comply with the request. However, the police commissioner may give advice under subsection (2) only if the police commissioner is aware:

- the person has been charged with an offence; and
- the charge has not been finally dealt with.

New section 224 ‘Obtaining advice from college of teachers’ applies if a WWCC (exemption) application is for a person who is a registered teacher and the college of teachers has advised the chief executive under section 222 that the person is a registered teacher.

New subsection (2) states that, before deciding the application, the chief executive must ask the college of teachers to advise the chief executive whether the chief executive may need to undertake further employment screening of the person. For subsection (2), the chief executive’s request may include identifying information about the person.

The provision further provides that the college of teachers must comply with the request. However, the college of teachers may give advice under subsection (2) only if the college is aware of any police information about the person. Additionally, the section clarifies that if the college of teachers gives advice under subsection (2), the chief executive must not, because the advice was given, make any adverse inference about the person’s police information or infer that a negative notice should be issued to the person. In this section ‘*police information*’ is defined per the *Education (Queensland College of Teachers) Act 2005*, schedule 3.

New section 225 ‘Further employment screening’ applies if the police commissioner or college of teachers advises the chief executive under section 223 or 224 that the chief executive may need to undertake further employment screening of the person. Before deciding the application, the chief executive must ask for information about the person under section 311.

New Subdivision 3 deals with deciding applications.

New section 226 ‘Chief executive to decide application and issue authority or notice’ states the chief executive must approve or refuse an application in accordance with Subdivision 3. If the chief executive approves an application, the chief executive must issue to the person:

- if the person made a WWCC (general) application—a WWC clearance; or
- if the person made a WWCC (exemption) application—a WWC exemption.

If the chief executive refuses an application, the chief executive must issue a negative notice to the person. The WWC authority or negative notice must be issued in writing.

New section 227 ‘Deciding application—no assessable information’ provides the chief executive must approve an application if the chief executive is not aware of any assessable information about the person who made the application. However, for a WWCC (exemption) application, the chief executive may approve the application only if the chief executive is also satisfied further employment screening is not required. A note directs to see sections 223 and 224.

New section 228 ‘Deciding application—disqualified person’ states, if the chief executive is aware the person who made the application is a disqualified person, the chief executive must refuse the application.

New section 229 ‘Deciding application—exceptional case’ provides that the chief executive must refuse an application if the applicant has been a disqualified person at any time but is no longer a disqualified person (other than a person who was a disqualified person by reason of a conviction, sentence or order that was set aside on appeal) or has been convicted of a serious offence at any time.

However, the chief executive may approve the application if the chief executive is satisfied it is an exceptional case in which the person would not pose a risk to the safety of children if a WWC authority were issued. Additionally, in deciding whether a case is an exceptional case, the chief executive must conduct a risk assessment.

New section 230 ‘Deciding application—general assessment of risk posed’ applies if sections 227, 228 and 229 do not apply in relation to an application made by a person. The chief executive must approve the application unless the chief executive is satisfied the person poses a risk to the safety of children. In deciding whether the person poses a risk to the safety of children, the chief executive must conduct a risk assessment.

New Subdivision 4 deals with risk assessments.

New section 231 ‘Application of subdivision’ states Subdivision 4 applies if the chief executive is conducting a risk assessment under sections 229 or 230 in relation to a person who made an application.

New section 232 ‘How chief executive conducts risk assessment’ sets out how the chief executive conducts a risk assessment of a person. For the chief executive to decide under new section 232 that a person poses a risk to the safety of children, the chief executive:

- must be satisfied there is a real possibility that the person will pose a risk to the safety of children; and
- does not need to be satisfied that it is likely the person will pose a risk to the safety of children.

New section 233 ‘Reasonable person test’ states the chief executive may decide that a person does not pose a risk to the safety of children only if the chief executive is satisfied that a reasonable person would allow their child to have direct contact with the person whether supervised or unsupervised by another person and while the person is engaged in regulated employment or carries on a regulated business. The section defines ‘*direct contact*’.

New section 234 ‘Matters to consider in relation to particular conduct’ applies if the chief executive is aware of conduct by the person, including alleged conduct, in relation to which there is assessable information of which the chief executive is aware. The chief executive must consider the matters set out in the section in deciding whether the person poses a risk to the safety of children. These matters include the nature, gravity and circumstances of the conduct which forms the basis of the assessable information, whether the conduct indicates a pattern of concerning behaviour and the person’s conduct since the event.

For Aboriginal persons or Torres Strait Islander persons a factor that needs to also be considered is the effect of systemic disadvantage and intergenerational trauma and the historical context and limitations on access to justice.

New section 235 ‘Requirements before deciding person poses risk to safety of children’ provides that, if the chief executive is proposing to decide that a person poses a risk to the

safety of children, before deciding the person's application, the chief executive must give written notice of the matters set out in section 236 and consider any submissions made by the person about the matters set out in section 236(1)(c).

New section 236 'Requirements for notice' provides that a notice given to a person under section 235 must:

- include assessable information about the person of which the chief executive is aware; and
- state that the chief executive proposes to refuse the application and issue a negative notice to the person unless the chief executive is satisfied that:
 - the person does not pose a risk to the safety of children; and
 - the section 229 applies in relation to the person—there is an exceptional case for the person; and
- invite the person to make submissions to the chief executive about the following:
 - why the person does not pose a risk to the safety of children;
 - why the chief executive should issue a WWC authority to the person;
 - if section 229 applies in relation to the person—why there is an exceptional case for the person; and
- state the period within which the person may make the submissions, which must be a period of at least seven days after the chief executive gives the person the notice.

In this section '*exceptional case*' means exceptional case mentioned in section 229(3).

New section 237 'Submissions to chief executive' provides for a person invited to make submissions to the chief executive under section 236(1) to do so in writing or orally (if the chief executive considers it reasonable in the circumstances to receive oral submissions).

New Subdivision 5 deals with the term of an authority or negative notice.

New section 238 'Term of working with children authority' provides that, unless cancelled earlier under Part 5A, the term of a WWC authority issued to a person is three years unless the chief executive decides the term of the authority is the same as the term of a disability clearance issued to the person by the chief executive (disability worker screening), if the person made a combined application, or a disability clearance otherwise held by the person.

New Section 239 'Term of exemption' provides that, unless an event mentioned in subsection (4) happens earlier, the term of a WWC exemption issued to a person is the term decided by the chief executive under the section. Under subsection (4) each of the following is an event for a WWC exemption:

- the term of the exemption ends under section 350A because the holder of the exemption stops being a police officer or registered teacher;
- the exemption is cancelled under Part 5A.

New section 240 'Term of negative notice' provides that a negative notice remains in effect until it is cancelled under Part 5A.

New Subdivision 6 deals with advisory committees.

New section 241 ‘Definitions for division’ defines ‘*committee member*’ for the purpose of Subdivision 6 to mean a member of an advisory committee.

New section 242 ‘Establishment of advisory committees’ states the chief executive may establish one or more advisory committees.

New section 243 ‘Functions and powers’ states that an advisory committee has the following functions:

- reviewing information referred to the committee by the chief executive in relation to a risk assessment of a person;
- providing advice or recommendations to the chief executive about the risk assessment of a person based on the information referred to the committee.

The section clarifies that an advisory committee has power to do anything necessary or convenient to be done in performing its functions.

New section 244 ‘Chief executive referral to advisory committee’ provides that the chief executive may refer to an advisory committee all or any of aspect of a risk assessment that the chief executive considers will assist in making a decision.

New section 245 ‘Giving information to advisory committee’ states the chief executive may give information to an advisory committee about:

- a WWCC application made by a person; or
- a negative notice held by a person; or
- if a person holds a WWC authority—a change in assessable information about the person.

The section also clarifies that, before giving information to an advisory committee the chief executive must, by written notice, ask the person the subject of the risk assessment for written consent and state the reasons for the request to give the information. In this section, ‘*give*’, information, includes give access to information. Further, ‘*information*’ includes protected information under section 384 and confidential information to which section 385 applies.

New section 246 ‘Consent to give information not provided’ states, if a person does not consent to the chief executive giving information under section 245(3), the chief executive must not refer the risk assessment, or any aspect of the risk assessment, to an advisory committee or give information to an advisory committee.

New section 246A ‘Membership and procedures of advisory committees’ provides for the appointment of members to an advisory committee and for the chief executive to give each committee member written notice of the member’s appointment.

This section also provides that, if the chief executive decides a committee member is no longer eligible or suitable for membership of the committee, the chief executive must revoke the committee member’s appointment by written notice given to the committee member.

The provision further provides that a regulation may provide for matters that facilitate the effective operation of the committee, including membership, the scope of functions and the term of membership.

New section 246B ‘Investigations about suitability of advisory committee members’ states the chief executive may make inquiries to decide whether a person is suitable for appointments as, or to continue as, a committee member. The chief executive may ask the police commissioner for information about the person’s criminal history and a brief description of the circumstances of any conviction mentioned in the criminal history.

The police commissioner must comply with the chief executive’s request. However, the chief executive may make a request under subsection (2) only if the person has given the chief executive written consent for the request. The chief executive must ensure information given to the chief executive by the police commissioner is destroyed as soon as practicable after the information is no longer needed for the purposes for which the information was requested.

Additionally, the chief executive must give the person a copy of the information given to the chief executive. Under the section, *criminal history*, for a person, means the person’s criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

New section 246C ‘Conflicts of interest’ applies if a committee member has a direct or indirect interest in an issue being considered, or about to be considered, by the advisory committee that could conflict with the proper performance of the committee member’s duties about the consideration of an issue. As soon as practicable after the member becomes aware of the facts of the issue, the member must disclose the nature of the interest to the advisory committee and, unless the advisory committee otherwise directs, the committee member must not be present when the committee considers the issue or considers the advice or recommendations that the committee will give to the chief executive.

New Subdivision 7 deals with miscellaneous matters.

New section 246D ‘Expert advisors’ provides that the chief executive may appoint a person having specialist knowledge or skills to help the chief executive in conducting a risk assessment.

New section 246E ‘Risk assessment guidelines’ states the chief executive must make guidelines about how a risk assessment is conducted and that the guidelines must be consistent with the Act. The section also states the guidelines are a statutory instrument within the meaning of the *Statutory Instruments Act 1992* but are not subordinate legislation.

New Division 10 deals with steps after an application is decided.

New section 246F ‘Application of division’ states the division applies if the chief executive decides a WWCC application.

New section 246G ‘Issue of card’ provides that if the chief executive decides to issue a person with a WWC clearance or a WWC exemption, the chief executive must issue a WWC card to the person.

New section 246H ‘Issuing negative notice’ states, if the chief executive issues a negative notice to a person, the negative notice must be accompanied by a written notice stating the following—

- the chief executive has decided to issue the person a negative notice;
- the reasons for the chief executive’s decision to issue a negative notice to the person;

- the relevant review and appeal information;
- that it is an offence for a person who holds a negative notice to—
 - start regulated employment or restricted employment; or
 - continue in regulated employment or restricted employment; or
 - carry on a regulated business.

New section 246I ‘Persons to be notified of decision’ states the chief executive must give each notifiable person for the person a written notice stating whether the person was issued a WWC clearance, a WWC exemption or a negative notice.

The section further provides that, if the person is issued with a negative notice on the basis the person is or was a disqualified person and a notice about the person is given to the chief executive (child safety) under subsection (1), the notice must also state the provision of this part under which the negative notice was issued. A note directs to see sections 225 and 226 for circumstances in which a negative notice is issued to a person on the basis the person is or was a disqualified person.

Lastly, the chief executive may also give a potential employer for the person a notice mentioned in subsection (1).

New section 246J ‘Public sector entity to be given particular advice’ applies if the chief executive issues a WWC clearance to a person or a WWC exemption to a person; and the chief executive of another public sector entity (the *other chief executive*) proposes to start employing, or continue employing, the person in regulated employment; and the other chief executive asks the chief executive for advice under this section. The chief executive may advise the other chief executive that the other chief executive may need to undertake a further assessment of the person under the *Public Sector Act 2022*, Chapter 3, Part 5, Division 4 to decide whether the other public sector entity should employ, or continue employing, the person. A note under subsection (2) states the *Public Sector Act 2022*, chapter 3, part 5, division 4 does not apply in relation to the engagement of particular persons by a public sector entity and directs to see section 64 of that Act.

However, this section states further that the chief executive may give the advice mentioned in subsection (2) only if the chief executive is aware that the person has a criminal history. Additionally, if the chief executive gives advice under subsection (2), the advice must be accompanied by a written notice stating that no adverse inference about the person’s criminal history or suitability for employment, or continued employment, by the other public sector entity should be made because the advice was given.

Clause 57 omits Chapter 8, Part 5.

Clause 58 amends section 294 (Chief executive’s decisions under this part) by replacing subsection (1)(c) to state ‘whether to cancel a suspended authority under Part 5A, Division 2’. Subsection (2) is also replaced to state the chief executive must decide the matter as if it were a decision about a WWCC application and, for that purpose, Part 4, Division 9 applies. Subsection (3) is also amended to omit ‘The division mentioned in subsection (2)’ and insert ‘Part 4, division 9’. The changes ensure the continued effective operation of section 294 by reflecting changes made to the decision-making framework throughout the Bill.

Clause 59 amends section 295 (Application of division) by inserting new subsection (2) which extends application of the division to where—

- the chief executive becomes aware of assessable information about a person who holds a WWC authority that—
 - was not known to the chief executive when the chief executive decided to issue the authority; and
 - the chief executive reasonably believes is relevant, to deciding whether the person would pose a risk to the safety of children if the person continues to hold the authority, taking into account the reasonable person test in section 233 and the matters in section 234; and
- the chief executive considers that if the person were permitted to engage in, or continue to engage in, regulated employment or carry on a regulated business pending the determination the person’s continuing eligibility to hold an authority, the person would pose a risk to the safety of children.

Clause 60 Amends section 297 (Notifiable persons and potential employers notified about suspension) by inserting in subsection (1)(d) after ‘offence’, ‘for an employer’ to make clear the offence for allowing a person to perform work that is regulated employment or restricted employment while an authority is suspended sits with the employer.

Clause 61 amends section 298 (Effect of suspension of working with children authority) by replacing subsection (3) which now states a person’s employer or potential employer who is given a notice about the suspension must not allow the person to perform work that is regulated employment. The maximum penalty under subsection (3) is 200 penalty units or two years imprisonment. Subsection (4) is also amended to omit ‘who is given a notice about the suspension’ and insert ‘or potential employer who is given a notice about the suspension’ and subsection (5) updates references to ‘section 231(1) or 289(1)’ with references to ‘section 238(1) or 239(1)’.

Clause 62 amends section 299 (When suspension of authority ends) by inserting a note that states see section 300(4) to (6) for when a person’s authority continues to be suspended.

Clause 63 replaces section 300 (Chief executive’s decision about suspended authority) to provide that the chief executive may decide to—

- cancel a person’s WWC authority; or
- end the suspension of a person’s WWC authority; or
- if subsection (4) applies—take no action and continue the suspension of the authority.

New subsection (2) states the chief executive may make a decision under subsection (1) on the chief executive’s own initiative; or on the application of a person under section 300A. New subsection (3) provides the chief executive must not make a decision under subsection (1) if the chief executive is required to cancel the person’s WWC authority under section 303 or 303A. However, the chief executive is not required to decide a person’s application under section 300A—

- while a charge for an offence has not been dealt with; or
- if the person has been convicted of an offence and either the period allowed for an appeal relating to the person’s conviction or sentence has not ended or an appeal has started but has not been decided; or

- if the person is a registered teacher—while the person’s teacher registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 49; or
- if the person holds an interstate WWC authority—while the person’s authority is suspended under a corresponding WWC law; or
- if the person is an applicant for an interstate WWCC application—while the person is subject to an interstate interim bar in relation to the application.

New subsection (5) states, if the chief executive does not decide the application under subsection (4), the person’s authority continues to be suspended. New subsection (6) states that if subsection (5) applies, the chief executive must give the person a notice that states the reasons for the continued suspension of the person’s authority.

Clause 63 also inserts new section 300A ‘Application to chief executive to end suspension of authority’ to provide that, if a person’s WWC authority has been suspended for at least six months, the person may apply to the chief executive to end the suspension of the authority. The application must be made in the approved form and in an approved way.

Clause 64 amends section 301 (Chief executive decides to cancel suspended authority) by omitting ‘relevant’ from subsection (1)(c)(iv) and inserting in subsection (1)(d)(iii) after ‘offence’, ‘for an employer’.

Clause 65 amends section 302 (Chief executive decides not to cancel suspended authority) to simplify language by omitting ‘not to cancel suspended authority’ from the heading and inserting ‘to end suspension of authority’. Subsection (1) is also amended to omit ‘not to cancel’ and insert ‘to end the suspension of’.

Clause 66 amends section 303 (Cancelling authority if relevant disqualified person) by removing ‘relevant’ and inserting new subsection (1A) to state that this section also applies if—

- the chief executive becomes aware that a person who holds a WWC authority was convicted of a disqualifying offence prior to the issue of the authority; and
- the chief executive was not aware of the person’s conviction for the disqualifying offence at the time the authority was issued.

Additionally, section 303(1A) and (2) are renumbered as ‘section 303(2) and (3)’.

Clause 67 amends section 304 (Cancelling authority issued because of wrong or incomplete information) by replacing subsection (2) to provide that, if the chief executive requested submissions from a person under section 235 but was unable to be satisfied the person received the request, the chief executive may cancel the person’s authority without issuing a negative notice to the person.

Clause 68 amends section 304A (Cancelling authority because of subsequent information) by replacing subsection (1)(b) to clarify that ‘other information about the person includes information that chief executive reasonably believes is relevant to deciding whether the person continuing to hold the authority would pose a risk to the safety of children; or’. However, if the chief executive requested submissions from the person under section 235 but was unable to be satisfied the person received the request, the chief executive may cancel the person’s authority without issuing a negative notice to the person.

Clause 69 amends section 304B (Action after decision) by omitting ‘304A’ from subsections (1)(b) and (2) and inserting ‘304A(3)’, as well as omitting ‘relevant’ from subsection (2)(e). Lastly, references to ‘section 231(1) or 289(1)’ in subsection (4) are updated with references to ‘section 238(1) or 239(1)’.

Clause 70 amends section 304C (Notifiable persons and potential employers notified about cancellation) by omitting ‘304A’ from subsection (1)(b) and inserting ‘304A(3)’. Subsection (1)(c) is also replaced to state it is an offence for an employer to employ or continue to employ the person in regulated employment. Additionally, ‘or 304A(4)’ is inserted in subsection (2A) after ‘303A’ and the subsection also provides that a notice given under the subsection must state the person’s authority was cancelled and the section the authority was cancelled under.

Clause 71 amends section 304D (Request to cancel working with children authority) by replacing subsection (3) to provide that a request may be made orally or in writing.

Clause 72 amends section 304F (Notifiable persons and potential employers notified about cancellation) by inserting in subsection (1)(b) after ‘offence’, ‘for an employer’.

Clause 73 amends section 304G (Application to cancel negative notice) by omitting throughout references to ‘relevant’. It also replaces subsection (2)(a) to provide that an ‘application is made more than 3 years after the notice was issued’ rather than the existing ‘2 years’. New subsection (3) is also inserted to provide that subsection (4) applies if the person—

- applied for a review of the decision for the chief executive to cancel the negative notice and that application has been refused; and
- applies under Part 7, Division 3 for review of that decision and QCAT confirmed the decision.

New subsection (4) states despite subsection (2)(a), the person may only apply to the chief executive to cancel the negative notice if the application is made more than three years after the date QCAT confirmed the decision.

Clause 74 inserts after section 304H, new sections 304HA and 304HB.

New section 304HA ‘Chief executive may request further information’ provides that the chief executive may give a person who applies to cancel a negative notice a notice asking the person to give the chief executive, within a reasonable stated time—

- stated information that the chief executive reasonably needs to establish the person’s identity; or
- stated information, including by way of a submission, about a specified matter that the chief executive reasonably believes is relevant to the application.

However, a request under subsection (1) must state that, if the person does not comply with the request within the stated time, the person’s application will be withdrawn.

New section 304HB ‘Withdrawal by chief executive—failure to comply with particular requests’ states the chief executive must withdraw an application if—

- the chief executive gives a person a notice under section 304HA asking the applicant to provide stated information; and

- the notice includes a warning that, if the person does not comply with the notice, the application will be withdrawn; and
- the person does not comply with the request.

Clause 75 amends section 304I (Deciding application) by replacing subsection (2)(a) with ‘the application has been refused and the person’s negative notice continues in effect subject to section 240; and’.

Clause 76 amends section 304K (No longer relevant disqualified person) by omitting ‘relevant’.

Clause 77 amends section 304N (Action after making decision) by inserting in subsection (1) a requirement of the chief executive to give a person notice about a cancellation and replacing subsection (3)(a) with ‘the application has been refused and the person’s negative notice continues in effect subject to section 240; and’.

Clause 78 amends section 307 (Appeal against police commissioner’s decision that information is investigative information) by replacing subsection (1)(c) to state that, after the investigative information is given to the chief executive the person is issued a negative notice, whether the negative notice was issued because a WWC authority held by the person was cancelled. Subsection (3) is also amended to omit a redundant reference to an eligibility application.

Clause 79 amends section 309 (Consequence of decision on appeal) by replacing subsection (2) to clarify if the court sets aside the decision appealed against, the person may apply under section 304G for the negative notice, issued because of the information, to be cancelled on the grounds the decision to issue the notice was based on wrong information.

Clause 80 amends section 310 (Application of division) by omitting in paragraph (d) ‘section 300’ and inserting ‘section 300A’, as well as omitting paragraphs (f) and (g).

Clause 81 amends section 312 (Police commissioner to comply with request) to remove section 312(2), which is no longer necessary with the inclusion of new section 396 ‘Duty of police commissioner to comply with request for information’, and to consequently renumber section 312(3) and (4) as section 312(2) and (3).

Clause 82 amends section 313 (Information to be given about relevant disqualified person) by omitting ‘relevant’.

Clause 83 omits section 315A(6) (Chief executive’s request for domestic violence information about person), which is no longer necessary with the inclusion of new section 396 ‘Duty of police commissioner to comply with request for information’, and consequently renumbers section 315A(7) as section 315A(6).

Clause 84 amends section 316 (Use of information given to police commissioner) to clarify the definition *withdrawal* by replacing subsection (4)(b) with ‘an application to cancel a negative notice’.

Clause 85 amends section 317 (Notice of change in police information about a person) by omitting ‘relevant’ from subsections (1)(c) and (3)(b). Clause 85 also amends section 317 to omit section 317(6), which is no longer necessary with the inclusion of new section 396 ‘Duty

of police commissioner to comply with request for information’, and to consequently renumber section 317(7) to (9) as section 317(6) to (8).

Clause 86 omits section 322 (Effect of conviction for serious offence) which is no longer necessary as other mechanisms exist for dealing with a WWC authority held by a person who is convicted of a serious offence.

Clause 87 inserts in Chapter 8, Part 6, Division 5, new Subdivision 1 heading before section 321.

New Subdivision 1 deals with police information and serious offences.

Clause 88 inserts in Chapter 8, Part 6, Division 5 new Subdivision 2 heading before section 326.

New Subdivision 2 deals with ceasing to be a police officer or a registered teacher.

Clause 89 inserts in Chapter 8, Part 6, Division 5 new Subdivision 3 after section 328.

New section 328A ‘Definition for subdivision’ defines in this subdivision *relevant person* to mean the following persons—

- a person who has made a WWCC application that has not been decided or withdrawn;
- a person who holds a WWC authority;
- a person who holds a negative notice and has made an application for the notice to be cancelled that has not been decided or withdrawn.

New section 328B ‘Notification of change in information’ provides that a relevant person must give written notice to the chief executive of any changes within seven days after the change happens to the person’s name, their business information or a disclosable matter. It is an offence with a maximum penalty of 10 penalty units to not give written notice to the chief executive within seven days after the change happens.

The notice must be given in the approved form and in an approved way. Subsection (3) further clarifies that, for subsection (1)(a), a change in the person’s name includes if a person—

- changes the person’s name from the name the person has given to the chief executive; and
- starts to use a different name to the name the person has given to the chief executive.

Additionally, for subsection (1)(b), a change of business information includes—

- the person stops carrying on a business previously advised to the chief executive; or
- the person no longer intends to carry on a business previously advised to the chief executive; or
- the person starts carrying on a regulated business that has not previously been advised to the chief executive.

New section 328C ‘Change of contact details’ provides that a relevant person must give notice to the chief executive, either orally or in writing, of a change in contact details within seven days after the change happens. It is an offence with a maximum penalty of 10 penalty units to not give notice to the chief executive within seven days after the change happens.

This section clarifies that, for subsection (1), a change of contact details includes a change in the contact details from the contact details the person has given to the chief executive.

Clause 90 amends section 329 (Application of div 6) by replacing subsection (1) to provide that the division applies if—

- the chief executive is deciding whether a person who has been charged with or convicted of the following poses a risk to the safety of children—
 - a serious offence or a disqualifying offence; or
 - an offence, other than a serious offence or a disqualifying offence, relating to or involving a child; and
- the chief executive reasonably believes it is necessary to consider a report about the person’s mental health prepared under this division for deciding whether the person poses a risk to the safety of children.

Clause 91 amends section 330 (Chief executive may request person to undergo examination by registered health practitioner etc.) by replacing subsection (2)(e) to provide that the chief executive may consider a report about the person’s mental health prepared under this division in deciding whether the person poses a risk to the safety of children. Section 330 is further amended by omitting ‘or eligibility declaration’ from subsections (2)(f) and (2)(g)(i), as well as replacing ‘or not there is an exceptional case for the person’ in subsections (2)(g)(ii) and (3) with ‘the person poses a risk to the safety of children’. The note in subsection (3) is also amended to omit ‘and eligibility applications’.

Clause 92 amends section 332 (Registered health practitioner obtaining information from Mental Health Court) by replacing subsection (1)(a) to provide that this section applies if the person (*charged person*) has been charged with, but not convicted of a serious offence or a disqualifying offence; or an offence, other than a serious offence or a disqualifying offence, relating to or involving a child. Subsection (3)(b) is also amended to omit ‘or eligibility application’.

Clause 93 amends section 333 (Registered health practitioner obtaining information from Mental Health Review Tribunal) by replacing subsection (1)(a) to state this section applies if the person (*charged person*) has been charged with, but not convicted of a serious offence or a disqualifying offence; or an offence, other than a serious offence or a disqualifying offence, relating to or involving a child. Subsection (3)(b) is also amended to omit ‘or eligibility application’.

Clause 94 amends section 337 (Chief executive may obtain particular information from Mental Health Court) by replacing subsection (1)(a) to provide that this section applies if the chief executive is deciding whether a person who has been charged with, but not convicted of (a *charged person*) a serious offence, a disqualifying offence, or an offence, other than a serious offence or a disqualifying offence, relating to or involving a child, poses a risk to the safety of children. Subsections (3) and (4)(e) are also amended by omitting ‘or not there is an exceptional case for the charged person’ with ‘the charged person poses a risk to the safety of children’.

Clause 95 amends section 338 (Chief executive may obtain particular information from Mental Health Review Tribunal) to state this section applies if the chief executive is deciding whether a person (the ‘*charged person*’) who has been charged with, but not convicted of, one of the following, poses a risk to the safety of children: a serious offence; a disqualifying offence; or,

an offence, other than a serious offence or a disqualifying offence, relating to or involving a child; and

Subsections (3) and (4)(e) are also amended by replacing ‘or not there is an exceptional case for the charged person’ with ‘the charged person poses a risk to the safety of children’.

Clause 96 replaces section 343 (Chief executive must give information about particular persons to college of teachers) to provide that the section applies in relation to information about a person the chief executive is given or is given access to or in the chief executive’s possession in relation to an employment-screening decision about the person.

The section clarifies the chief executive may give information about the person to the college of teachers if the chief executive reasonably believes the information is relevant to the functions of the college under the *Education (Queensland College of Teachers) Act 2005*, Chapter 10, Part 1. Further, without limiting subsection (2), the information that may be given includes the following:

- information about a WWCC application made by the person;
- information about a WWC authority or negative notice held by the person;
- police information, domestic violence information, disciplinary information or adverse interstate WWC information about the person.

Clause 97 amends section 344 (Giving information to chief executive disability services) by replacing references to ‘(disability services)’ with ‘(disability worker screening)’.

Clause 98 inserts new Chapter 8, Part 6, Division 8A which deals with sharing information with a prescribed entity.

New section 344AAA ‘Definition for division’ states that, in Division 8A, ‘*prescribed entity*’ means an entity that is prescribed by regulation for this division and has entered into an arrangement with the chief executive to give the chief executive information under section 344AAB.

New section 344AAB ‘Arrangements with particular entities about asking for and giving information’ states the chief executive may enter into a written arrangement with an entity prescribed by regulation for Division 8A about asking for information under section 344AAC, or giving information under section 344AAD. Without limiting subsection (1), the arrangement may provide for information to be asked for or given electronically, including on a daily basis, and for information to be given by way of providing electronic access to the information. The section further clarifies that, if the arrangement provides for information to be given or accessed electronically and, under this Act or another law, there is a limitation on who may be given, or given access to, the information or the purposes for which the information may be used, the arrangement must provide for the limitation.

New section 344AAC ‘Request for information about relevant person from prescribed entities’ applies if the chief executive reasonably believes a prescribed entity has information relevant to whether a person poses a risk to the safety of children. This section further states the chief executive may, by notice, ask the prescribed entity for information and the prescribed entity may give the information about the person to the chief executive if the prescribed entity reasonably believes the information may help the chief executive to perform the chief

executive's functions under section 8. Additionally, this section applies subject to the *Child Protection Act 1999*, Chapter 6, Part 6, Division 2, Subdivision 1.

New section 344AAD 'Giving information about relevant person from prescribed entities' applies if a prescribed entity reasonably believes the prescribed entity has information relevant to whether a person poses a risk to the safety of children. The prescribed entity may give the information about the person to the chief executive if the prescribed entity reasonably believes the information may help the chief executive to perform the chief executive's main functions under section 8. However, this section applies subject to the *Child Protection Act 1999*, Chapter 6, Part 6, Division 2, Subdivision 1.

Clause 99 amends section 344AA(2)(b) (Chief executive to give notice to notifiable persons etc. about a change in police information) by replacing a reference to 'relevant disqualified person' with a reference to 'disqualified person'. Subsection (3)(c) is also amended to omit 'or part 5, division 8' and redundant cross references to omitted section 322.

Clause 100 inserts a new section 344A(1)(e) (Chief executive may give authorised entities particular information) to expand the definition of 'authorised entity' to include another person the chief executive accepts is authorised by the department to assist the chief executive in performing the chief executive's main functions under section 8(a).

Clause 101 replaces section 345C(3) (Giving information to interstate screening units) to provide that the chief executive must not give to an interstate screening unit a section 93A transcript or a recorded statement. However, this section clarifies that the chief executive may give to an interstate screening unit a written summary of a section 93A transcript or recorded statement, subject to subsection (2).

Clause 102 amends section 348 (Replacement card for change of name or contact details) by replacing subsections (1) and (2) with new subsection (1) to state the section applies to a person who holds a WWC authority and who notifies the chief executive of a change in the person's name under section 328B or a change in the person's contact details under section 328C. Subsections (3) and (4) are renumbered as subsections (2) and (3).

Clause 103 omits section 349 (Holder must notify change of regulated employment or regulated business) as this section is no longer required.

Clause 104 amends section 351 (False or misleading disclosure) by replacing the reference to 'or this chapter' with ', this chapter or chapter 10, part 1A'.

Clause 105 amends section 352(1) (False or misleading documents) by replacing the reference to 'or this chapter' with ', this chapter or chapter 10, part 1A'.

Clause 106 replaces section 353 (Definitions for div 3) to provide that, in this division, 'chapter 8 reviewable decision', about a person, means:

- a decision of the chief executive to issue the person a negative notice or refuse to cancel a negative notice issued to the person;
- a decision of the chief executive if:
 - the person's WWC authority was suspended under section 296; and

- the person has applied under section 300A for the chief executive to end the suspension of the person's WWC authority and that application has been decided under section 300; and
- the person claims the person is not the person the subject of the offence, action or other information that has triggered the suspension.

Additionally, '*prescribed period*', for a review of a chapter 8 reviewable decision about a person, means the period ending 28 days after the person is given notice of:

- for a chapter 8 reviewable decision mentioned in definition '*chapter 8 reviewable decision*', paragraph (a) or (b)—the decision; or
- for a chapter 8 reviewable decision mentioned in definition '*chapter 8 reviewable decision*', paragraph (c)—the decision on the application under section 300A about the suspension.

Clause 107 amends section 354 (Person may apply for review of chapter 8 reviewable decision) by inserting new subsection (1A) to state, despite subsection (1), a person may only apply for a review of a chapter 8 reviewable decision mentioned in section 353, definition '*chapter 8 reviewable decision*', paragraph (a) or (c) if the person is not a disqualified person.

Section 354 is further amended to omit the note from subsection (3) and to renumber subsections (1A) to (4) as subsections (2) to (5).

Clause 108 amends section 354A (Stay of operation of particular decisions on application for review) by omitting from subsection (1) 'an exceptional case decision' and inserting 'a decision of the chief executive', as well as omitting subsection (4).

Clause 109 inserts new section 354B 'Chief executive to give effect to decisions of QCAT' to provide that the section applies if, on an application for a review of a chapter 8 reviewable decision under section 354, QCAT decides that a person must be issued a WWC authority. Further, the chief executive may do any of the things necessary and otherwise permitted or required under this Act to give effect to the decision. The examples for subsection (2) provide the chief executive may:

- request information the chief executive reasonably needs to establish the applicant's identity; and
- undertake a check for a change in a person's criminal history.

Clause 110 amends section 357 (Disqualification order) by replacing subsection (1) with 'This section applies if a person is convicted of a serious offence committed in relation to, or otherwise involving, a child.'

Clause 111 inserts new Chapter 10, Part 1 which provides for the requirement to keep a register about persons employed in regulated employment.

New section 369 'Employer must keep register' provides that the section applies to a person (the '*employer*') who employs another person (the '*employee*') in regulated employment. The employer must keep a register that complies with subsection (3) about the employer's employees. It is an offence with a maximum penalty of 50 penalty units for failing to keep a register that complies with subsection (3).

Further, the register must include:

- the name and date of birth of each employee who has made a WWCC application; and
- for each employee who holds a WWC authority:
 - the name and date of birth of the employee; and
 - the day the term the employee’s authority ends; and
 - any reference or other identifying number given by the chief executive for the employee’s authority; and
- for each employee who is employed in restricted employment—
 - the name and date of birth of the employee; and
 - whether the employer considers the employee is a restricted person; and
- the name and date of birth of each employee who is not required to apply for a WWC authority.

New Part 1A deals with powers to audit and monitor for compliance.

New section 370 ‘Purpose of part’ states the purpose of Part 1A is to set out the powers the chief executive may use when exercising the function of auditing or monitoring compliance under section 8(b).

New section 370A ‘Application of part’ provides that Part 1A applies in relation to the following persons or entities:

- a person in regulated employment;
- a person or entity who employs another person in regulated employment;
- a regulated business;
- a person performing a child-related duty in a public sector entity;
- any other person the chief executive reasonably considers may hold information relevant to the chief executive’s main functions under section 8.

This section further provides that, in the section ‘*child-related duty*’ shares the same definition as the *Public Sector Act 2022*, section 57.

New section 370B ‘Obtaining information from persons’ states the chief executive may, by written notice, ask a person for information that the chief executive reasonably believes is necessary for the chief executive to exercise the function under section 8(b) of auditing or monitoring compliance with this Act. Further, the chief executive may specify the way the person must give the information to the chief executive, including that the information is given in a statement setting out the information related to the matters being audited or monitored; or as documents related to the matters being audited or monitored. Additionally, the person must comply with the request on or before the day stated in the notice unless the person has a reasonable excuse. However, failure to comply with the request is an offence with a maximum penalty of 50 penalty units.

New section 370C ‘Dealing with information obtained under part’ provides that the chief executive may, in relation to documents obtained under this part, keep the documents for the period necessary for the chief executive to exercise the function under section 8(b) of auditing and monitoring compliance with this Act; and make copies of, or take extracts from, the documents. Additionally, if the chief executive has possession of the documents, the chief

executive must permit a person who would be entitled to inspect the documents, if the chief executive did not have possession, to inspect the documents at all reasonable times.

Clause 112 replaces section 384(1)(a) (Confidentiality of protected information) to provide that this section applies to a person who is or has been a public service employee employed in the department, or a member of an advisory committee, or an expert advisor. The clause also amends section 345(1)(b)(vi) to replace ‘(disability services)’ with ‘(disability worker screening)’ and to insert a new section 384(4)(da) to state a person may also disclose or give access to protected information if the disclosure or giving of access ‘is for research purposes under section 398B’. Subsections (4)(da) to (e) are also renumbered as (4)(e) and (f).

Clause 113 amends section 385 (Confidentiality of other information) to clarify the section applies to a person who is or has been the Minister or a member of the Minister’s staff, a public service employee employed in the department, or a member of an advisory committee, or an expert advisor.

Clause 114 amends section 393 (Protection from liability) by expanding the definition of ‘official’ for the section to include a member of an advisory committee or an expert advisor. The clause omits the reference in current section 393 of the Act to public service employees as civil liability protections for public service employees are also provided for under the *Public Sector Act 2022*.

Clause 115 inserts new section 396 ‘Duty of police commissioner to comply with request for information’ to provide that if a provision of the Act imposes a duty on the police commissioner to comply with a request for information the duty applies only to information in the commissioner’s possession or to which the commissioner has access.

Clause 116 amends section 398A (Chief executive may arrange for use of information system) subsection (1)(b)(i)-(iii) to provide that the chief executive may approve an information system to assist with generating a decision of the chief executive, other than:

- a decision about whether the person poses a risk to the safety of children;
- a decision about whether to issue a WWC authority; or
- another decision prescribed by regulation.

Clause 117 inserts new section 398B ‘Access and use of information for research purposes’ to provide that the chief executive may give access to de-identified data collected under this Act about WWC checks, WWC authorities and negative notices if the chief executive is satisfied that a person or public sector entity given access to the data:

- is conducting research that is consistent with the objects of this Act or a function of the chief executive under this Act (*‘approved research’*);
- has appropriate qualifications or experience to carry out the approved research; and
- in the chief executive’s opinion, the data is reasonably necessary for the approved research.

Additionally, the chief executive may impose conditions on the use of the data and a person must comply with a condition imposed by the chief executive, unless the person has a reasonable excuse. Failure to comply with a condition imposed by the chief executive is an offence with a maximum penalty of 100 penalty units. Further, the chief executive may publish guidelines about the matters mentioned in subsection (1).

Clause 118 amends section 401(2)(a) (Regulation-making power) to replace a reference to ‘arrangements between the chief executive and the chief executive (disability services)’ with ‘procedures, processes and systems’.

Clause 119 omits Chapter 11, Parts 1 to 12, 14 and 15 (transitional provisions).

Clause 120 inserts new Chapter 11, Part 22 to provide transitional provisions for the Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2024, as follows:

- new Division 1 deals with Preliminary matters:
 - new section 602 sets out definitions for new Part 22;
 - new section 603 provides for dealing with references a former provision or a new provision in Part 22;
- new Division 2 deals with existing WWC authorities and negative notices:
 - new section 604 provides for the continuation of existing WWC authorities and negative notices;
- new Division 3 deals with existing eligibility applications and declarations:
 - new section 605 provides for an existing eligibility application for a person who is no longer a disqualified person to be taken to be a WWC application;
 - new section 606 provides for an existing eligibility application by a person who is a disqualified person after commencement to be withdrawn;
 - new section 607 provides for existing eligibility declarations to end and the relevant offence to instead be considered a serious offence;
- new Division 4 deals with the change to the period for an application to issue a negative notice:
 - new section 608 provides for an application to cancel a negative notice made by a disqualified person to be withdrawn;
 - new section 609 provides for an application to cancel a negative notice that has not been decided to be decided under new Chapter 8, Part 4, Division 9;
 - new section 610 provides for existing holders of negative notices to apply to cancel the negative notice more than two years after the notice is issued;
- new Division 5 deals with regulated employment and regulated businesses:
 - new section 611 includes a definition of ‘*amusement park*’ for the division;
 - new section 612 provides a 12-months grace period for new regulated employment—legal support;
 - new section 613 provides a six-months grace period for new regulated employment—for (child accommodation services) overnight camps and excursions;
 - new section 614 provides a six-months grace period for new regulated employment—gyms and play facilities;
 - new section 615 provides a 12-months grace period for new regulated employment—employment taking place at an amusement park;
 - new section 616 provides a six-months grace period for new regulated employment—entertainment, beauty and photography services;

- new section 617 provides a 12-months grace period for new regulated businesses—legal support services;
- new section 618 provides a six-months grace period for new regulated businesses—educational services and activities conducted at a school;
- new section 619 provides a six-months grace period for new regulated businesses—(child accommodation services) for overnight camps;
- new section 620 provides a six-months grace period for new regulated businesses—gyms and play facilities;
- new section 621 provides a 12-months grace period for new regulated businesses—business taking place at an amusement park;
- new section 622 provides a six-months grace period for new regulated businesses—entertainment, beauty and photography services;
- new section 623 provides for proceedings to be continued for offences against sections 176I and 176J for particular types of restricted employment;
- New Division 6 deals with reviews and appeals:
 - new section 624 provides for a right of appeal against a QCAT decision relating to a chapter 8 reviewable decision that had not been started on commencement to be heard and decided;
 - new section 625 provides for undecided reviews and appeals in relation to a negative notice to be heard and decided;
 - new section 626 provides for an application to the chief executive for a fresh decision in relation to a chapter 8 reviewable decision on whether there is an exceptional case;
- New Division 7 deals with other provisions relating to the WWC framework:
 - new section 627 provides for amended section 16 to apply in relation to disqualifying offences and new section 15 to apply in relation to serious offences committed before the commencement;
 - new section 628 provides that a disclosable matter occurring before commencement is a disclosable matter under section new section 186;
 - new section 629 provides for proceedings for offences against former section 176K or section 176L to be continued;
 - new section 630 provides for existing applications to be decided under new Chapter 8, Part 4, Division 9;
 - new section 631 provides for the use of information by the chief executive relevant to whether to suspend authority about relevant event or change before commencement;
 - new section 632 provides for an application to cancel a suspended authority to be taken to be an application under the new Act and to be decided under the new Act;
 - new section 633 provides for a person to apply under new section 300A to end the suspension of the person’s authority;
 - new section 634 provides for the chief executive to continue under the new Act a decision started under Chapter 8, Part 5A;
- New Division 8 deals with miscellaneous matters:
 - new section 635 provides a transitional regulation-making power to provide that a regulation may make provision about a matter for which:

- it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as in force before its amendment by the amendment Act to the operation of this Act as in force from the commencement; and
- the Act does not provide or sufficiently provide.

Clause 121 omits Schedule 1, section 1(2) (Residential facilities), as the subsection is not necessary.

Clause 122 replaces Schedule 1, section 3 (Schools—employees other than teachers and parents) to provide that employment is regulated employment if any of the usual functions of the employment:

- take place in an area of a school—
 - in which children are being educated and cared for; or
 - that is accessible to children; and
- at a time when children are ordinarily present.

However, employment mentioned in subsection (1) is not regulated employment if:

- the employee is an approved teacher; or
- the employment involves undertaking work:
 - that is not directed towards children; and
 - the nature of which does not permit or facilitate contact with children, other than incidental contact.

To the extent of an inconsistency between Schedule 1, section 3 and section 4(1)(b) of Schedule 1, section 3 prevails.

Clause 123 omits Schedule 1, section 4(4) (Education and care services and similar employment) as the matters in the subsection are now addressed in a broad exemption for parent volunteers.

Clause 124 omits Schedule 1, section 4A(2) (Child care and similar employment) as the matters in the subsection are now addressed in a broad exemption for parent volunteers.

Clause 125 inserts in Schedule 1, new section 4B ‘Justice and detention services’ to provide that employment is regulated employment if any of the usual functions of the employment:

- are carried out, or are likely to be carried out, at a detention centre established under the *Youth Justice Act 1992*, section 262; or
- include, or are likely to include, supervising and monitoring a child on any of the following orders that may be made or imposed by a court under the *Youth Justice Act 1992*:
 - a community-based order;
 - a supervised release order;
 - any other order made or imposed by a court under that Act.

The new category will not impact on the exemptions from WWCC requirements prescribed under Schedule 1, Part 3 of the Act. For example, the new category will not impact on the

exemption under Schedule 1, section 26 for persons who are engaged by the Queensland Police Service and are performing a function mentioned in section 2.3 of the *Police Service Administration Act 1990*.

Clause 126 replaces Schedule 1, section 5 (Churches, clubs and associations involving children) to provide that employment is regulated employment if:

- the usual functions of the employment include, or are likely to include:
 - providing services directed mainly towards children; or
 - conducting activities mainly involving children; or
 - engaging in decision-making in relation to children as a member of an executive committee; and
- the services are provided, the activities are conducted, or the decision-making is engaged in, by or within a church, club, association or similar entity.

In the section, ‘*executive committee*’ means the group or body of people, by whatever name called, that manages the affairs of the church, club or association relating to children.

The net effect of the changes to the category are to clarify requirements for decision-makers, otherwise the category remains largely unchanged.

Clause 127 amends Schedule 1, section 6 (Health, counselling and support services) by replacing the examples for paragraph (d) to state:

- a support service providing emotional support for child victims or witnesses in connection with court or other legal proceedings;
- a person who is an Australian lawyer providing a support service to a child in connection with court or other legal proceedings.

Further, the definition of ‘*support service*’ in subsection (3) is replaced with ‘*support service* means a service that provides emotional support, legal support, mentoring or pastoral care.’

Clause 128 replaces Schedule 1, section 9 (Child accommodation services including home stays) to provide that employment is regulated employment if:

- the usual functions of the employment include, or are likely to include, a child accommodation service; or
- the employment includes providing services or conducting activities at an overnight camp or excursion for children.

If accommodation constituting a child accommodation service is provided, or is to be provided, by a home stay provider, each adult residing in the home stay provider’s home, other than the home stay provider, is taken to be a volunteer who is engaged in regulated employment.

For section 9(1)(b), an overnight camp or excursion is regulated employment regardless of the type of accommodation or how many children are involved. However, employment mentioned in subsection (1)(a) or (2) is not regulated employment if the home stay provider is a relative of the child who receives the child accommodation service to which the employment relates.

Also, employment mentioned in subsection (1)(b) is not regulated employment if the employee's functions are limited to providing:

- services for the maintenance and repair or ongoing operation of the site at which the service is provided; and
- the employment involves undertaking work, the nature of which does not permit or facilitate contact with children, other than incidental contact.

In this section, '*home*' of a person, includes the person's principal place of residence and any holiday home of the person. '*Home stay provider*' means a person who provides an accommodation service in the person's home.

The net effect of the changes to the category are to expand it to include an overnight camp or excursion for children, otherwise the category remains largely unchanged.

Clause 129 replaces Schedule 1, section 11 (Sport and active recreation) with new section 11 'Sport, active recreation, gyms and play facilities' to provide that employment is regulated employment if both:

- the usual functions of the employment include, or are likely to include:
 - providing services directed mainly towards children; or
 - conducting activities mainly involving children; and
- the services are provided, or the activities are conducted, as part of sport or active recreation; or
- the services are provided, or the activities are conducted, in relation to a gym or play facility directed mainly towards children.

However, employment mentioned in subsection (1) is not regulation employment if:

- the employee's functions are limited to providing food, beverages or equipment; and
- there is no further contact with children by the employee.

Clause 130 inserts in Schedule 1, new section 11A 'Entertainment, beauty and photography services' to provide that employment is regulated employment if:

- the usual functions of the employment include, or are likely to include:
 - providing services directed mainly towards children; or
 - conducting activities mainly involve children; and
- the services are provided, or the activities are conducted, in relation to one of the following:
 - an entertainment or party service (for example, a person appearing as Santa or another costumer character directed at entertaining children);
 - a beauty or talent program;
 - a photography service.

However, employment mentioned in section 11A(1)(b)(i) is not regulated employment if the employee's functions are limited to providing food, beverages or equipment and there is no further contact with children by the employee.

Clause 131 amends Schedule 1, section 14 (Care of children under Child Protection Act 1999) to remove an approved kinship carer so that approved kinship carers will no longer be considered to be in regulated employment under the WWC Act. This clause removes the requirement for approved kinship carers under the *Child Protection Act 1999* to hold a WWC authority to care for a child to whom they are kin.

Clause 132 amends Schedule 1, section 16 (Health, counselling and support services) by omitting section 16(2), replacing the definition of ‘*support service*’ with ‘*support service* means a service that provides emotional support, legal support, mentoring or pastoral care’ and renumbering section 16(3) as section 16(2).

Clause 133 inserts in Schedule 1 new sections 18B ‘Justice and detention services’ and 18C ‘Educational services and activities conducted inside school’ as new regulated business categories.

New section 18B ‘Justice and detention services’ states that a business is a regulated business if any of the usual activities of the business:

- are carried out, or are likely to be carried out, at a detention centre established under the *Youth Justice Act 1992*, section 262; or
- include, or are likely to include, supervising and monitoring a child on any of the following orders that may be made or imposed by a court under the *Youth Justice Act 1992*:
 - a community based order;
 - a supervised release order;
 - any other order made or imposed by a court under that Act.

New section 18C ‘Educational services or activities conducted inside school’ states that a business is a regulated business if the usual activities of the business take place:

- in an area of a school:
 - in which children are being educated and cared for; or
 - that is accessible to children; and
- at a time when children are ordinarily present.

However, a business mentioned in subsection (1) is not a regulated business if the activities of the business:

- are not directed towards children; and
- are of a nature that does not permit or facilitate contact with children, other than incidental contact.

Clause 134 replaces Schedule 1, sections 21 (Child accommodation services including home stays) and 22 (Sport, active recreation, gyms and play facilities).

Replacement section 21 (Child accommodation services) provides that a business is a regulated business if:

- the usual activities of the business include, or are likely to include a child accommodation service, and:

- the person who carries on the business provides the accommodation that constitutes the child accommodation service in the person's home; or
- the person who carries on the business provides the child accommodation service under an arrangement organised by a government entity or a local government; or
- the business includes providing an overnight camp or excursion for children.

For subsection (1)(b), an overnight camp or excursion is a regulated business regardless of the type of accommodation or how many children are involved. Also, a business mentioned in subsection (1)(b) is not a regulated business if:

- the activities of the business are limited to providing services for the maintenance and repair or ongoing operation of the site at which the service is provided; and
- the activities of the business are of a nature that does not permit or facilitate contact with children, other than incidental contact.

In this section, '*home*', of a person, includes the person's principal place of residence and any holiday home of the person.

The net effect of the changes to the category are to expand it to include an overnight camp or excursion for children, otherwise the category remains largely unchanged.

Replacement section 22 'Sport, active recreation, gyms and play facilities' states that a business is a regulated business if the usual activities of the business include, or are likely to include:

- sport or active recreation activities directed mainly towards children or involving children; or
- carrying on the business of a gym or play facility directed mainly towards children.

However, a business mentioned in subsection (1) or (2) is not a regulated business if:

- the business is carrying out activities limited to providing food, beverages or equipment; and
- there is no further contact with children by an employee of the business.

New section 22A 'Entertainment, beauty and photography services' states that a business is a regulated business if:

- the usual activities include, or are likely to include:
 - providing services directed mainly towards children; or
 - conducting activities mainly involving children; and
- the business relates to one of the following areas:
 - an entertainment or party service (for example a business providing for a person to appear as Santa or another costumed character directed at entertaining children);
 - a beauty or talent program;
 - a photography service.

However, a business mentioned in subsection (1)(b)(i) is not a regulated business if the business is carrying out activities limited to providing food, beverages or equipment and there is no further contact with children by an employee of the business.

Clause 135 omits Schedule 1, section 28A (Employment of lawyers) to remove the exemption under the WWC Act for a person who is an Australian lawyer who may engage in legal practice in Queensland under the *Legal Profession Act 2007*, to the extent the person is engaging in legal practice.

Clause 136 replaces Schedules 2 and 3 with new Schedules 2 and 3.

New Schedule 2 includes a list of current serious offences.

New Schedule 3 lists repealed or expired serious offences.

Clause 137 amends Schedule 4 (Current disqualifying offences) by omitting ‘relating to the provision of the Act’ from the heading in column 3. The entry for the Criminal Code, section 215 in column 3 is also amended to insert ‘only if an imprisonment order is or was imposed for the offence’.

Clause 138 amends Schedule 5 (Repealed or expired disqualifying offences) by omitting ‘relating to the provision of the Act’ from the heading in column 3. New item 209 ‘Attempted sodomy’ is also inserted in Schedule 5, entry for Criminal Code.

Clause 139 amends Schedule 7 (Dictionary) by omitting unnecessary terms and inserting a range of new definitions.

In particular, Schedule 7 is amended to insert a definition of *carer applicant* to mean a person who has applied to be issued with a certificate under the *Child Protection Act 1999*, Chapter 4, Part 2, Division 3 if the application has not been decided. Schedule 7 also inserts a definition of ‘*foster and kinship care service*’ to mean an entity that is funded by the State to provide services supporting approved carers, or carer applicants, under a contract with the chief executive (child safety).

Similarly, the definition of ‘*notifiable person*’, paragraph (a)(ix) is replaced with new subparagraphs (ix), (x) and (xi). New subparagraphs (ix), (x) and (xi) define the following to be a notifiable person in relation to a foster and kinship care service, if the chief executive is aware that:

- the person performs a risk-assessed role but is not an employee of the licensed care service—the licensee of the licensed care service under the *Child Protection Act 1999*; or
- a person is an approved carer or an adult member of the approved carer’s household—a foster and kinship care service supporting the person; or
- a person is a carer applicant or is an adult member of the carer applicant’s household—a foster and kinship care service supporting the person.

Part 6 Other amendments

Clause 140 provides that Schedule 1 amends the legislation it mentions.

Schedule 1 lists consequential amendments to other legislation.