

Child Protection (Mandatory Reporting – Mason’s Law) Amendment Bill 2016

EXPLANATORY NOTES

**For amendments to be moved during consideration in detail by
The Honourable Shannon Fentiman MP
Minister for Communities, Women and Youth
Minister for Child Safety
Minister for Prevention of Domestic and Family Violence**

Title of the Bill

Child Protection (Mandatory Reporting – Mason’s Law) Amendment Bill 2016

Policy objectives and the reasons for them

The amendments to be moved during consideration in detail:

- give effect to the Queensland Government response to the Queensland Law Reform Commission (QLRC) report *Review of Child Protection Mandatory Reporting Laws for the Early Childhood Education and Care Sector*
- reflect the diversity of the early childhood education and care (ECEC) sector by expanding child protection mandatory reporting provisions under the *Child Protection Act 1999* to appropriate professionals in a way that is clear, consistent and embeds appropriate reporting practices across the sector
- provide flexibility as to when the changes take effect, providing the ECEC sector with sufficient lead-in time to enable effective implementation
- reflect feedback received from key stakeholders in the ECEC sector, who were in favour of linking the mandatory reporting requirement to particular roles within the sector rather than qualifications.

Achievement of policy objectives

The amendments reduce the overall complexity of the Child Protection (Mandatory Reporting – Mason’s Law) Amendment Bill 2016 so that the provisions are practical and workable for the sector. It is expected the simplified provisions will also mitigate the risk of ECEC professionals over-reporting child protection concerns.

Specifically, the amendments:

- ensure all references to ECEC services are to an approved service under the *Education and Care Services Act 2013* (ECS Act) or Education and Care Services National Law (Queensland) (ECS National Law)

- provide a single new category of mandatory reporter – ‘early childhood education and care professional’ defined by particular ECEC roles rather than qualifications.
- clarify the new category of mandatory reporter is limited to those individuals, other than a volunteer, who are aged 18 years or over and are an:
 - approved provider, supervisor or educator under the ECS Act or
 - approved provider, nominated supervisor, family day care coordinator, educator or family day care educator under the ECS National Law
- introduce an additional example under section 13H of the CPA ‘Conferrals with colleague’ which is tailored to the ECEC sector to provide guidance
- change the Bill to commence on a day to be fixed by proclamation.

Alternative Ways of Achieving Policy Objectives

The policy objectives can only be achieved by legislative amendment.

Estimated Cost for Government Implementation

Costs in relation to the Bill will be met from existing budget allocations.

Consistency with Fundamental Legislative Principles

The amendments to be moved during consideration in detail are consistent with fundamental legislative principles.

Consultation

Key stakeholders from the ECEC sector have been consulted on various occasions, including two targeted stakeholder sessions facilitated by the Department of Communities, Child Safety and Disability Services and the Department of Education and Training.

NOTES ON PROVISIONS

Amendment 1 amends clause 2 (Commencement) to change the commencement date of the Bill to a day to be fixed by proclamation.

Amendment 2 omits lines 13 to 24 in existing clause 4 (Amendment of s 13E (Mandatory reporting by persons engaged in particular work)) and inserts a new single category of child protection mandatory reporter - ‘early childhood education and care professional’.

This amendment simplifies the provision and is better aligned with the existing section 13E(1) of the *Child Protection Act 1999*.

Amendment 3 omits lines 2 to 11 in existing clause 4 (Amendment of s 13E (Mandatory reporting by persons engaged in particular work)) and inserts the definition of an ‘early childhood education and care professional’.

The new definition ‘early childhood education and care professional’ captures individuals, other than a volunteer or person under the age of 18, who serve in particular roles, as defined under the ECS Act or ECS National Law. This amendment provides greater clarity for ECEC professionals on the specific ECEC services and roles that are captured by the mandatory reporting obligation.

The insertion of ‘an individual’ within the definition limits the application of the provision so it does not capture associations, corporations or other entities (for example, voluntary parent management committees). Persons with management or control in relation to an education and care service, as defined under the ECS National Law, are not captured by the provision, unless they are also an individual who is an approved provider. This approach is consistent with the intent of the QLRC and recognises that only individuals who are in direct and frequent contact with children in ECEC services should be mandatory reporters and that volunteers are not captured.

Amendment 4 inserts a new clause 5 (Amendment of s 13H (Conferrals with colleague and related information sharing)) and provides an additional illustrative example under section 13H(1)(d) of the *Child Protection Act 1999*. This example is tailored to the ECEC sector to provide guidance and encourage ECEC professionals to confer, where appropriate.