



Community Services Act 2007

Current as at 1 July 2014

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Queensland

Community Services Act 2007

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Community Services Act 2007

[as amended by all amendments that commenced on or before 1 July 2014]

An Act to provide for powers to safeguard funding for the delivery of products and services to the community and for other purposes

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Community Services Act 2007*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Division 2 Object and principles

3 Main object and achievement

- (1) The main object of this Act is to safeguard funding for the delivery of products or services to the community that—
 - (a) contribute to Queensland's economic, social and environmental wellbeing; and
 - (b) enhance the quality of life of individuals, groups and communities.

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- (2) This object is mainly achieved by providing clear and consistent powers that safeguard—
 - (a) funding provided to entities to deliver products or services; and
 - (b) the delivery of products or services that are provided with the funding.

4 Guiding principles

This Act is to be administered in a way that has regard to the following principles—

- (a) the use of public funds for products and services should—
 - (i) advance Queensland’s social, economic and environmental wellbeing; and
 - (ii) respond to the diverse needs of individuals, groups and communities;
- (b) the government should administer funding in a way that—
 - (i) is efficient and transparent; and
 - (ii) involves clear and timely communication; and
 - (iii) promotes excellence in the delivery of products and services; and
 - (iv) provides sustainable service delivery to communities;
- (c) the contractual arrangements between government and funded entities should reflect a clear and common understanding of—
 - (i) the purpose of the funding; and
 - (ii) the results to be achieved from the funded products and services; and
 - (iii) the intended recipients of the products or services;

- (d) ensuring accountability in the delivery of funded products and services will—
 - (i) protect the safety and interests of users of the products or services, including those who are at risk or are vulnerable; and
 - (ii) help to maintain public confidence about the use of public funds;
- (e) the government and funded entities should recognise each other's autonomy and accountabilities.

5 Finite resources available

In administering this Act, regard must be had to the following—

- (a) the State has finite resources available to provide as funding;
- (b) there is a need to ensure the State's resources provided as funding are used properly to deliver funded products and services.

Division 3 Interpretation

6 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

7 Meaning of *funded entity* and *funded product or service*

- (1) A *funded entity* is an entity that receives funding provided by a department to deliver a product or service.
- (2) A *funded product or service*, in relation to a funded entity, is a product or service required to be delivered by the funded entity with funding received by the funded entity.
- (3) For subsections (1) and (2), it does not matter whether—

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- (a) the entity received the funding from the department or from another entity that received the funding from the department; or
- (b) the entity has a funding agreement with the department about the funding; or
- (c) other funds or resources are also used by the entity to deliver the product or service.

8 Meaning of *funding* and *funding agreement*

- (1) A department provides *funding* if the department provides aid or support in the form of money or other assistance to an entity—
 - (a) to enable the entity to deliver a product or service to the community where the product or service has a social, environmental or economic benefit for Queensland; and
 - (b) on conditions that—
 - (i) require specified products or services to be delivered; and
 - (ii) require the entity to be accountable to the department for delivering the products or services and the use of the money or other assistance.

Examples of assistance other than money the department may provide—

- lease of a building
- transfer of land
- goods or services
- in-kind support

- (2) A *funding agreement* is a written agreement with an entity about a department providing funding to the entity.

9 References to Minister, chief executive and department

- (1) In a provision of this Act—

-
- (a) a reference to a Minister is a reference to a Minister who administers a department, or part of a department, providing funding; and
 - (b) a reference to a chief executive is a reference to the chief executive of a department providing funding; and
 - (c) a reference to a department is a reference to a department providing funding.
- (2) In a provision about a Minister, a reference to the department is a reference to a department, or part of a department, providing funding that is administered by the Minister.
 - (3) In a provision about a chief executive, a reference to the department is a reference to the department of which the person is the chief executive.
 - (4) The *Acts Interpretation Act 1954*, section 33(2), (7) and (11) does not apply.

Note—

The *Acts Interpretation Act 1954*, section 33 deals with references to Ministers, departments and chief executives. For the purposes of this Act, a reference to, for example, the chief executive is not limited to the chief executive of the public sector unit administering this Act.

Part 2 **General provisions about funding**

10 **Application of Act**

- (1) This Act applies in relation to funding provided by a department that is the subject of a funding declaration.
- (2) To remove any doubt, it is declared that, if the funding was not the subject of a funding declaration when it was provided, this Act applies in relation to the funding from when it becomes the subject of a funding declaration.

11 Act does not limit other remedies or powers

This Act does not limit—

- (a) a remedy available to a chief executive under a funding agreement; or
- (b) a chief executive's powers apart from this Act; or
- (c) the powers that may be exercised in relation to a funded entity under another Act.

12 Minister may declare funding to which this Act applies

- (1) A Minister may, by notice (a *funding declaration*) published on a Queensland Government website, declare funding to be funding to which this Act applies.
- (2) A funding declaration may relate to—
 - (a) funding provided, or available to be provided, under a program of funding administered by the department; or
 - (b) funding provided, or to be provided, to an entity on a one-off basis.
- (3) In deciding whether to make a funding declaration, the Minister may consider the following matters—
 - (a) the nature of—
 - (i) the product or service to be delivered with the funding; and
 - (ii) the service provider market; and
 - (iii) the entity or entities to be provided with the funding;
 - (b) the importance of the product or service to meeting the needs of individuals, groups and the community;
 - (c) the characteristics and vulnerability of the users, or intended users, of the product or service;

Examples—

- people with disability
 - children and young people
- (d) the amount of funding to be provided;
- (e) whether the funding is regulated under another law or an administrative scheme;
- (f) any other matter the Minister considers is relevant.

13 List of declared funding must be kept and published

- (1) A chief executive must keep a list of funding administered by the chief executive's department that is the subject of a funding declaration.
- (2) The chief executive must publish the list on a Queensland Government website.

14 Chief executive must notify funded entities about declaration

- (1) This section applies if, after a funded entity enters into a funding agreement or receives funding, the funding becomes the subject of a funding declaration.
- (2) The chief executive must give the funded entity notice of the funding declaration within 1 month after the declaration is made.
- (3) The notice must include information about the powers that can be exercised in relation to the funding under this Act.
- (4) Failure to comply with subsection (2) does not affect the validity of the funding declaration.

15 Cooperative approach

- (1) Before a chief executive or an authorised officer exercises a power under this Act in relation to a funded entity, the chief executive or authorised officer must consider whether it would be more appropriate, instead of exercising the power—

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- (a) to seek the cooperation of the funded entity; or
- (b) to use a remedy available under a funding agreement.

Examples of cooperation—

- requesting consent to inspect a funded entity's records
 - jointly developing and monitoring a remedial plan for breaches of the funding agreement
 - agreeing to reporting or monitoring requirements for an identified risk
- (2) Nothing in this Act limits the way in which a chief executive or authorised officer may cooperate with a funded entity in dealing with a matter in relation to which a power under this Act could be exercised.
- (3) The exercise of a power under this Act can not be challenged merely because the chief executive or authorised officer did not comply with subsection (1).

Part 3 Managing serious concerns

Division 1 Preliminary

16 Meaning of *serious concern*

A *serious concern* for funding received by a funded entity exists if any of the following happen or there is a serious risk that any of the following will happen—

- (a) the funding received by the funded entity is improperly used;

Examples of improper use of funding—

- funding is used for a dishonest or fraudulent purpose
- funding is used for a purpose other than providing a funded product or service

-
- (b) the funded entity significantly fails to deliver a funded product or service;

Example of significantly failing to deliver a product or service—

closing an emergency accommodation service delivered with funding where the service is required, under the funding agreement, to be continually open

- (c) an act done or omission made by the funded entity in providing a funded product or service results in harm to an individual;

Example—

an individual uses a funded service delivered by a funded entity and the individual suffers physical, psychological, emotional or financial harm as a result of neglect, abuse or exploitation by the funded entity

- (d) if the funded entity received the funding to deliver disability services to which the *Disability Services Act 2006* applies—the funded entity contravenes a provision of the *Disability Services Act 2006*.

17 Report by authorised officer

Before deciding whether to take action under this part in relation to a funded entity, a chief executive may obtain a written report from an authorised officer appointed by the chief executive about whether a serious concern exists for funding received by the funded entity.

Division 2 Compliance notice

18 Application of div 2

- (1) This division applies if a chief executive reasonably believes—
- (a) a serious concern exists for funding received by a funded entity; and

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- (b) the serious concern is reasonably capable of being remedied; and
 - (c) it is appropriate to give the funded entity an opportunity to remedy the serious concern.
- (2) This division also applies if a chief executive reasonably believes a funded entity failed to comply with a requirement notice given to the entity by the chief executive.
- (3) This division applies to a funded entity even if funding provided under a funding agreement has been suspended.

19 Compliance notice

- (1) The chief executive may give the funded entity a notice (a ***compliance notice***) requiring the funded entity to remedy the serious concern or comply with the requirement notice.
- (2) The compliance notice must state the following—
- (a) that the chief executive reasonably believes—
 - (i) a serious concern exists; or
 - (ii) the funded entity has failed to comply with a requirement notice;
 - (b) the grounds for the chief executive's belief;
 - (c) an outline of the facts and circumstances forming the basis for the grounds;
 - (d) that the funded entity must remedy the serious concern or noncompliance within a stated reasonable time;
 - (e) that it is an offence to fail to comply with the compliance notice unless the funded entity has a reasonable excuse.
- (3) The compliance notice may also state—
- (a) the reasonable steps the chief executive is satisfied are necessary to remedy the serious concern or noncompliance; and

-
- (b) that the funded entity must report in writing to the chief executive after taking a step or steps.
 - (4) The funded entity must comply with the compliance notice unless the funded entity has a reasonable excuse.
Maximum penalty—100 penalty units.
 - (5) If the chief executive reasonably believes the funded entity has contravened subsection (4), the chief executive may decide—
 - (a) to suspend or stop the funding despite anything in a funding agreement about the funding; or
 - (b) to terminate the funding agreement to the extent it is about the funding.

Division 3 Interim manager

20 Chief executive may appoint interim manager

A chief executive may appoint a person as interim manager for the funding received by a funded entity.

Note—

Part 5 contains provisions that apply to the appointment of an interim manager under this section.

21 Basis of appointment

- (1) The chief executive may make the appointment only if the chief executive is satisfied—
 - (a) the appointment is reasonably necessary to remedy a serious concern for the funding; and
 - (b) it is essential for a funded product or service of the funded entity to continue to be delivered; and
 - (c) an administrator, liquidator or receiver has not been appointed for the funded entity.
- (2) In being satisfied under subsection (1), the chief executive—

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- (a) must have regard to the likely consequences for persons using the funded product or service if the funded product or service is not delivered or delivered when a serious concern exists; and
- (b) may have regard to the following—
 - (i) the type of funded product or service;
 - (ii) the amount of the funding;
 - (iii) whether funding has been suspended or stopped;
 - (iv) whether the funded entity received the funding from the department or from another entity that received the funding from the department;
 - (v) whether the funded entity is receiving money or other assistance, including funding, from another source;
 - (vi) the likely consequences of the appointment;
 - (vii) whether an administrator, liquidator or receiver is likely to be appointed for the funded entity before the interim manager is appointed;
 - (viii) any other relevant matter.

Division 4 Recovery of funding

22 Recovery of funding

- (1) This section applies if a funded entity has received, and not spent, funds (the *unspent funds*) and—
 - (a) the provision of funding to the funded entity has been suspended or stopped; or
 - (b) a funding agreement for the funds has ended.
- (2) This section also applies if a funded entity has used funds received by the funded entity for a purpose other than the purpose for which the funds were received (the *improperly used funds*).

- (3) The unspent funds or improperly used funds are a debt owing by the funded entity to the State.
- (4) This chief executive may recover the unspent funds or improperly used funds as a debt.
- (5) If there is more than 1 funded entity for the funds, the funded entities are jointly and severally liable for the debt.

Part 4 Monitoring and enforcement

Division 1 Preliminary

23 Purpose of pt 4

- (1) This part includes provisions for the appointment of authorised officers, and gives authorised officers particular powers.
- (2) The purpose of these provisions is to ensure a chief executive has available suitably qualified persons who can help the chief executive—
 - (a) deal with issues about compliance under this Act; and
 - (b) ensure the proper and efficient delivery of funded products and services.

24 Functions of authorised officers

An authorised officer has the following functions—

- (a) investigating, monitoring and ensuring compliance with this Act;
- (b) investigating or monitoring whether an occasion has arisen for the exercise of powers under this Act;
- (c) facilitating the exercise of powers under this Act;

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- (d) another function conferred on an authorised officer under this Act or another Act.

Division 2 Authorised officers

25 Appointment

- (1) A chief executive of a department (an *appointing chief executive*) may appoint any of the following persons as authorised officers—
 - (a) a public service employee or another employee of the department;
 - (b) for the purpose of investigating a particular matter—another person.
- (2) However, an appointing chief executive may appoint a person as an authorised officer only if—
 - (a) the chief executive is satisfied the person is appropriately qualified for appointment; and
 - (b) the person has the competencies, if any, prescribed under a regulation as relevant to the person's appointment.
- (3) A person may be appointed generally or for stated provisions of this Act or another Act.

26 Authorised officer subject to direction

In exercising a power given under this Act, an authorised officer is subject to the directions of the officer's appointing chief executive.

27 Appointment conditions and limit on powers

- (1) An authorised officer holds office on the conditions stated in—
 - (a) the authorised officer's instrument of appointment; or

- (b) a signed notice given to the authorised officer; or
 - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer's powers under this Act.
- (3) In this section—
- signed notice* means a notice signed by the authorised officer's appointing chief executive.

28 Issue of identity card

- (1) An appointing chief executive must issue an identity card to each person the chief executive appoints as an authorised officer.
- (2) The identity card must—
- (a) contain a recent photo of the authorised officer; and
 - (b) contain a copy of the authorised officer's signature; and
 - (c) identify the person as an authorised officer under this Act; and
 - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

29 Production or display of identity card

- (1) In exercising a power under this Act in relation to another person, an authorised officer must—
- (a) produce the authorised officer's identity card for the other person's inspection before exercising the power; or
 - (b) have the identity card displayed so it is clearly visible to the other person when exercising the power.

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- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the other person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised officer does not exercise a power in relation to another person only because the authorised officer has entered a place as mentioned in section 33(1)(b) or (2).

30 When authorised officer ceases to hold office

- (1) An authorised officer ceases to hold office if any of the following happens—
 - (a) the term of office stated in a condition of office ends;
 - (b) under another condition of office, the authorised officer ceases to hold office;
 - (c) the authorised officer's resignation under section 31 takes effect.
- (2) Subsection (1) does not limit the ways an authorised officer may cease to hold office.
- (3) In this section—

condition of office means a condition on which the authorised officer holds office.

31 Resignation

An authorised officer may resign by signed notice given to the officer's appointing chief executive.

32 Return of identity card

A person who ceases to be an authorised officer must return the person's identity card to the person's appointing chief executive within 21 days after ceasing to be an authorised officer unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 3 Powers of authorised officers

Subdivision 1 Entry of places

33 Power to enter places

- (1) An authorised officer may enter a place if—
 - (a) an occupier of the place consents to the entry; or
 - (b) it is a public place and the entry is made when it is open to the public; or
 - (c) it is not a home and the entry is made when the place is open for carrying on business or otherwise open for entry; or
 - (d) the entry is authorised by a warrant.
- (2) For the purpose of asking an occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—
 - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
 - (b) enter part of the place the officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Subdivision 2 Procedure for entry

34 Entry with consent

- (1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer or another authorised officer entering the place under section 33(1)(a).
- (2) Before asking for the consent, the authorised officer must tell the occupier—
 - (a) the purpose of the entry; and

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- (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state—
 - (a) that the occupier has been told—
 - (i) the purpose of the entry; and
 - (ii) that the occupier is not required to consent; and
 - (b) the purpose of the entry; and
 - (c) that the occupier gives the authorised officer consent to enter the place and exercise the powers under this part; and
 - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgment, the authorised officer must immediately give a copy to the occupier.
- (6) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

35 Application for warrant

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the

magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

36 Issue of warrant

- (1) The magistrate may issue a warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting that it is necessary to enter the place—
 - (a) to protect a person receiving a funded product or service from a funded entity at the place from risk of harm because of abuse, neglect or exploitation; or
 - (b) to check whether a funded entity has taken the steps required to comply with a compliance notice; or
 - (c) for a funded entity that has received funding to deliver disability services to which the *Disability Services Act 2006* applies—to check whether the funded entity has complied with a provision of that Act.
- (2) However, the magistrate may issue a warrant under subsection (1)(b) or (c) only if the magistrate is satisfied noncompliance may severely affect the delivery of a funded product or service.
- (3) The warrant must state—
 - (a) the place to which the warrant applies; and
 - (b) that a stated authorised officer may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for the entry; and
 - (ii) exercise the officer’s powers under this part; and
 - (c) particulars of the reason it is necessary to enter the place that the magistrate considers appropriate in the circumstances; and

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- (d) the hours of the day or night when the place may be entered; and
- (e) the magistrate's name; and
- (f) the date and time of the warrant's issue; and
- (g) the date, within 14 days after the warrant's issue, the warrant ends.

37 Application by electronic communication and duplicate warrant

- (1) An application under section 35 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer reasonably considers it necessary because of—
 - (a) urgent circumstances; or
 - (b) other special circumstances, including, for example, the authorised officer's remote location.
- (2) The application—
 - (a) may not be made before the authorised officer prepares the written application under section 35(2); but
 - (b) may be made before the written application is sworn.
- (3) The magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
 - (a) it was necessary to make the application under subsection (1); and
 - (b) the way the application was made under subsection (1) was appropriate.
- (4) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised officer, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised officer; or

- (b) otherwise—
 - (i) the magistrate must tell the authorised officer the date and time the warrant is issued and the other terms of the warrant; and
 - (ii) the authorised officer must complete a form of warrant, including by writing on it—
 - (A) the magistrate’s name; and
 - (B) the date and time the magistrate issued the warrant; and
 - (C) the other terms of the warrant.
- (5) The copy of the warrant mentioned in subsection (4)(a), or the form of *warrant* completed under subsection (4)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.
- (6) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
 - (a) the written application complying with section 35(2) and (3); and
 - (b) if the authorised officer completed a form of warrant under subsection (4)(b)—the completed form of warrant.
- (7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—
 - (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (8) Despite subsection (5), if—
 - (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;

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the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.

- (9) This section does not limit section 35.
- (10) In this section—

relevant magistrates court, in relation to a magistrate, means the Magistrates Court that the magistrate constitutes under the Magistrates Act 1991.

38 Defect in relation to a warrant

- (1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 35, 36 or 37, unless the defect affects the substance of the warrant in a material particular.

- (2) In this section—

warrant includes a duplicate warrant mentioned in section 37(5).

39 Warrants—procedure before entry

- (1) This section applies if an authorised officer named in a warrant issued under this part for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised officer's identity card or other document evidencing the appointment;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the authorised officer is permitted by the warrant to enter the place;
 - (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.

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- (3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.
 - (4) In this section—
warrant includes a duplicate warrant mentioned in section 37(5).

Subdivision 3 Powers after entry

40 General powers after entering a place

- (1) This section applies to an authorised officer who enters a place.
- (2) However, if an authorised officer enters a place to get an occupier's consent to enter the place, this section applies to the officer only if the consent is given or the entry is otherwise authorised.
- (3) The authorised officer may do any of the following—
 - (a) search any part of the place;
 - (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
 - (c) take a thing, or a sample of or from a thing, at the place for analysis or testing;
 - (d) copy a document at the place or take the document to another place to copy it;
 - (e) take into or onto the place any person, equipment and materials the officer reasonably requires for the exercise of a power under this part;
 - (f) confer alone with a person at the place;
 - (g) require a person at the place to give the authorised officer reasonable help to exercise the authorised

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officer's powers under paragraphs (a) to (f), including, for example, to give information;

- (h) require a person at the place to answer questions by the authorised officer to help the authorised officer ascertain whether this Act is being or has been complied with.
- (4) When making a requirement mentioned in subsection (3)(g) or (h), the authorised officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.
- (5) If an authorised officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.

41 Failure to help authorised officer

- (1) A person required to give reasonable help under section 40(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

42 Failure to answer questions

- (1) A person of whom a requirement is made under section 40(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) It is a reasonable excuse for the person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person.

Division 4 Power to require information

43 Power to require information

- (1) This section applies if a chief executive or an authorised officer reasonably believes—
 - (a) an offence against this Act has been committed or a serious concern exists; and
 - (b) an entity may be able to give information about the offence or serious concern.
- (2) The chief executive or authorised officer may, by notice given to the entity, require the entity to give the chief executive or authorised officer information related to the offence or serious concern within a stated reasonable time and in a stated way.
- (3) A requirement under subsection (2) is an *information requirement*.
- (4) For information that is an electronic document, compliance with the information requirement requires the giving of a clear image or written version of the electronic document.
- (5) The chief executive or authorised officer may keep information that is a document to copy it.
- (6) If the chief executive or authorised officer copies the document, or an entry in the document, the chief executive or authorised officer may require the entity who has possession or control of the document to certify the copy as a true copy of the document or entry.
- (7) A requirement under subsection (6) is a *certification requirement*.
- (8) The chief executive or authorised officer must return the document to the entity as soon as practicable after copying it.
- (9) When making an information requirement or certification requirement, the chief executive or authorised officer must warn the entity it is an offence not to comply with the requirement, unless the entity has a reasonable excuse.

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44 Offence to contravene information requirement or certification requirement

- (1) An entity of whom an information requirement or certification requirement is made must comply with the requirement unless the entity has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual or expose the individual to a penalty.
- (3) If a court convicts a person of an offence against subsection (1), the court may also order the person to give to a stated chief executive or authorised officer, within a stated time and in a stated way, the information to which the information requirement related.

Division 5 Other matters

45 Duty to avoid inconvenience and minimise damage

In exercising a power, an authorised officer must take all reasonable steps to cause as little inconvenience, and do as little damage, as possible.

46 Notice of damage

- (1) This section applies if—
 - (a) an authorised officer damages property when exercising or purporting to exercise a power; or
 - (b) a person (the *other person*) acting under the direction or authority of an authorised officer damages property.
- (2) The authorised officer must immediately give notice of particulars of the damage to a person who appears to the authorised officer to be an owner of the property.

- (3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the authorised officer's or other person's control, the authorised officer may state the belief in the notice.
- (4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
- (5) This section does not apply to damage the authorised officer reasonably believes is trivial.
- (6) In this section—
owner, of property, includes a person in possession or control of it.

47 Compensation

- (1) If a person incurs loss or expense because of the exercise or purported exercise of a power under division 3, subdivision 1 or 3, the person may claim compensation from the State.
- (2) Without limiting subsection (1), compensation may also be claimed for loss or expense incurred in complying with a requirement made of the person under this part.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
 - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
 - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

48 False or misleading statements

A person must not state anything to a chief executive or an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

49 False or misleading documents

- (1) A person must not give a chief executive or an authorised officer a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

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

50 Obstructing an authorised officer

- (1) A person must not obstruct an authorised officer in the exercise of a power, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) If a person has obstructed an authorised officer and the officer decides to proceed with the exercise of the power, the officer must warn the person that—
- (a) it is an offence to obstruct the officer, unless the person has a reasonable excuse; and
 - (b) the officer considers the person's conduct an obstruction.

51 Impersonation of an authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty—40 penalty units.

Part 5 Interim manager

Division 1 Preliminary

52 Application of pt 5

This part applies to the appointment, by a chief executive under part 3, division 3, of an interim manager for the funding received by a funded entity.

Division 2 Appointment

53 Suitability of proposed appointee

- (1) The chief executive may make the appointment only if the chief executive is satisfied the proposed appointee is suitable for the appointment under this section.
- (2) In deciding whether a person is suitable for the appointment, the chief executive must have regard to the following matters—
 - (a) the type of funded product or service;
 - (b) the reason for the appointment;
 - (c) the person's expertise or experience relevant to the appointment;
 - (d) any conflict of interest that may arise in the course of the person acting as interim manager;

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- (e) any other relevant matter of which the chief executive is aware.
- (3) A person who has agreed to a proposed appointment must advise the chief executive, before the appointment is made, whether the person is aware of a conflict of interest that may arise in the course of the person acting as interim manager.
- Maximum penalty—40 penalty units.
- (4) Only an adult may be appointed as interim manager.

54 Terms of appointment

An appointment of a person as interim manager of a funded entity must state the following matters—

- (a) the person's name;
- (b) details of the funded entity;
- (c) the funded product or service to be delivered;
- (d) the way in which, or the extent to which the funded product or service is to be delivered;
- (e) details of the person's function as interim manager;
- (f) any limitations on the person's powers as interim manager;
- (g) the period of the appointment;
- (h) any conditions of the appointment;
- (i) anything else the chief executive considers appropriate.

55 Notice to funded entity about appointment

- (1) Immediately after appointing a person as interim manager for the funding received by a funded entity, the chief executive must give notice of the appointment to the funded entity.
- (2) The chief executive must also give notice of the appointment to any other funded entity, if any, for the funding.

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- (3) The notice must be accompanied by a copy of the appointment.

56 Informing particular persons about appointment

- (1) The chief executive may direct the interim manager to inform persons using a funded product or service of the funded entity about the appointment before the interim manager exercises a power under this part, for example, by—
- (a) giving them notice of the appointment; or
 - (b) posting notice of the appointment at the premises of the funded entity where they are likely to see it.
- (2) In this section—
appointment includes a variation of the appointment.

57 Initial period of appointment

An interim manager may be appointed for a period of not more than 3 months.

58 Variation of appointment

- (1) After an interim manager starts to carry out the manager's function, the chief executive may, by notice—
- (a) extend the period of the appointment; or
 - (b) vary the appointment in another way.
- (2) However, the chief executive must not vary the appointment to apply to other funding received by the funded entity.
- (3) The chief executive may extend the period of the appointment if the chief executive is satisfied the extension is reasonably necessary in all the circumstances.
- (4) The period of the appointment may be extended more than once.
- (5) However—

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- (a) the period of an extension must not be more than 3 months; and
 - (b) the total period of the initial appointment and any extension or extensions must not be more than 6 months.
- (6) The chief executive may vary the appointment in a way other than by extending the period of the appointment if the chief executive is satisfied the variation is appropriate, having regard to—
- (a) the matters stated in section 21; and
 - (b) the operation of the funded entity since the appointment started.
- (7) If the appointment is varied under this section, the chief executive must ensure notice of the variation is given to the funded entity.

59 Ending of appointment

- (1) The chief executive may, by notice given to an interim manager, end the manager's appointment at any time before the end of the period of appointment if the chief executive is satisfied the appointment is no longer appropriate, having regard to the matters stated in section 21.
- (2) The chief executive must, by notice given to an interim manager, end the interim manager's appointment if the chief executive becomes aware that the funded entity—
- (a) is insolvent; or
 - (b) is being wound up voluntarily.
- (3) Immediately after ending an appointment under subsection (1) or (2), the chief executive—
- (a) must give notice about the ending of the appointment to each funded entity given notice of the appointment under section 55; and

- (b) may inform persons using a funded product or service of the funded entity about the ending of the appointment in the way the chief executive considers appropriate.
- (4) In this section—
- insolvent*, in relation to a funded entity, means the funded entity is unable to pay all its debts as and when they become due and payable.

Division 3 Function and powers

60 Application of div 3

This division applies to a person appointed as interim manager of a funded entity.

61 Functions

The interim manager's functions are, to the extent stated in the instrument of appointment—

- (a) to remedy a serious concern for the funding received by the funded entity; and
- (b) to ensure a funded product or service of the funded entity continues to be delivered by the funded entity.

62 Powers

So far as is necessary to carry out his or her functions, the interim manager may—

- (a) enter any part of the funded entity's premises; and
- (b) use the facilities or things in the premises that it appears are intended for use, or are ordinarily used, to deliver a funded product or service of the funded entity; and
- (c) ask for and accept payments owing to the funded entity; and

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- (d) do anything in relation to the funded product or service, on behalf of the funded entity, that the funded entity is permitted or required to do.

63 Direction by chief executive

An interim manager is subject to the chief executive's direction in performing the interim manager's function and exercising the powers given under this part.

64 Other powers

The interim manager has the other powers of the funded entity that are necessary or convenient to carry out the manager's function.

Example—

It may be necessary for the interim manager to carry out repairs to the funded entity's property or direct staff of the funded entity in providing a funded product or service.

65 Limitation on powers under instrument of appointment

A power conferred on the interim manager under this part applies subject to any limitation stated in the instrument of appointment.

66 Production of instrument of appointment for inspection

- (1) This section applies if—
 - (a) the interim manager is exercising, or proposes to exercise, a power given under this part in relation to a person; and
 - (b) the person asks the manager to produce the manager's instrument of appointment for the person's inspection.
- (2) The manager must comply with the request.

67 Obstruction

- (1) A person must not obstruct an interim manager in the exercise of a power, unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- (2) If a person has obstructed an interim manager and the manager decides to proceed with the exercise of the power, the manager must warn the person that—
 - (a) it is an offence to obstruct the manager, unless the person has a reasonable excuse; and
 - (b) the manager considers the person's conduct an obstruction.

Division 4 Other matters

68 Access to information or documents

- (1) The interim manager may ask an executive officer of the funded entity for information or documents that the manager reasonably needs to carry out the manager's function.
- (2) The funded entity and the executive officer of the funded entity may disclose the information despite another provision in this or another Act.
- (3) The chief executive may disclose information to an interim manager, or give an interim manager access to documents, to the extent the chief executive considers appropriate for the purpose of the manager's appointment.

69 Confidentiality

- (1) This section applies to a person—
 - (a) who is, or has been, appointed as interim manager of a funded entity; and
 - (b) who, in the course of the appointment or because of an opportunity provided by the appointment, has gained or

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has access to confidential information about the funded entity or someone else.

- (2) The person must not disclose the information to anyone else or give access to the information to anyone else, other than—
 - (a) for a purpose of this part; or
 - (b) under section 72; or
 - (c) with the consent of the funded entity or other person to whom the information relates; or
 - (d) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
 - (e) if the person reasonably believes a serious concern exists—to report the person’s belief to an entity that can take appropriate action; or
 - (f) as expressly permitted or required by another Act.
- Maximum penalty—40 penalty units.

70 Remuneration

An interim manager is entitled to be paid the reasonable amount of remuneration agreed with the chief executive.

71 Funded entity liable for remuneration and other costs

- (1) If an interim manager is appointed to a funded entity, the chief executive may give the entity a written demand for the amount of an administration cost.
- (2) The chief executive may recover the amount as a debt owed to the State.
- (3) In this section—

administration cost means the remuneration paid to the interim manager and any other reasonable cost incurred in carrying out the manager’s function.

72 Accounts and reports

- (1) An interim manager appointed to a funded entity must give to the chief executive—
 - (a) records of all amounts received or paid in the course of the appointment; and
 - (b) the other reports about the administration that the chief executive requires.
- (2) The records and other reports must be given as soon as possible after the end of the appointment or, if required by the chief executive at a time during the appointment, at that time.
- (3) The chief executive must give a copy of each record or report to the funded entity.

73 Compensation

- (1) A person may claim compensation from the State if the person incurs loss or damage because of the exercise or purported exercise of a power under this part.
- (2) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.
- (3) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.

Part 6 Reviews

Division 1 Reviewable decisions

74 Reviewable decisions

Schedule 1 states—

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- (a) decisions of a chief executive under this Act that are reviewable decisions; and
- (b) for each reviewable decision, the person who may seek to have the decision reviewed under this part (the *interested person*).

75 Chief executive must give notice after making reviewable decision

- (1) Immediately after making a reviewable decision, a chief executive must give to the interested person a notice stating—
 - (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that, within 28 days after receiving the notice, the interested person may apply to the chief executive for a review of the decision; and
 - (d) how the interested person may apply for the review.
- (2) Subsection (1) does not apply if the chief executive can not locate the interested person after making reasonable enquiries.

Division 2 Review of decision by chief executive

76 Application for review

- (1) This section applies to the interested person for a reviewable decision.
- (2) Within 28 days after the interested person receives a notice under section 75 from a chief executive about the decision, the interested person may apply to the chief executive to review the decision.
- (3) The chief executive may extend the time for applying for the review.

- (4) Also, the interested person may apply to the chief executive to review the decision if the chief executive has not given the interested person a notice under section 75 about the decision.
- (5) The application must be in the approved form and supported by enough information to enable the chief executive to decide the application.

77 Stay of operation of original decision

- (1) An application under section 76 for review of a decision does not stay the decision.
- (2) However, before the decision takes effect, the chief executive may, by notice given to the interested person, stay the operation of the decision for a stated period.
- (3) The chief executive may stay the decision to secure the effectiveness of the review.
- (4) The stay may be granted on conditions the chief executive considers appropriate and has effect for the period stated by the chief executive.
- (5) The period of the stay must not extend past the time when the chief executive makes the review decision.

78 Review decision

- (1) This section applies to an application under section 76 for review of a decision (the *original decision*).
- (2) Unless the chief executive made the original decision personally, the chief executive must ensure the application is not dealt with by—
 - (a) the person who made the original decision; or
 - (b) a person in a less senior office than the person who made the original decision.
- (3) Within 28 days after receiving the application, the chief executive must review the original decision and make a decision (the *review decision*)—

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- (a) confirming the original decision; or
 - (b) amending the original decision; or
 - (c) substituting another decision for the original decision.
- (4) Immediately after deciding the application, the chief executive must give the interested person a notice stating the decision and the reasons for the decision.
- (5) If the chief executive does not decide the application within 28 days after receiving it, the chief executive is taken to have made a review decision confirming the original decision.

Part 7 Legal proceedings

Division 1 Application

79 Application of pt 7

This part applies to a proceeding under this Act.

Division 2 Evidence

80 Appointments and authority

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

- (a) a chief executive's appointment;
- (b) an authorised officer's appointment;
- (c) the authority of a chief executive or an authorised officer to do anything under this Act.

81 Signatures

A signature purporting to be the signature of a chief executive or an authorised officer is evidence of the signature it purports to be.

82 Evidentiary provisions

- (1) A certificate purporting to be signed by a chief executive and stating any of the following matters is evidence of the matter—
 - (a) a stated document is 1 of the following things made, given, issued or kept under this Act—
 - (i) an appointment, approval or decision;
 - (ii) a notice or requirement;
 - (iii) a record, or an extract from a record;
 - (b) a stated document is another document kept under this Act;
 - (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);
 - (d) on a stated day, or during a stated period, an appointment as an authorised officer was, or was not, in force for a stated person;
 - (e) on a stated day, a stated person was given a stated notice under this Act;
 - (f) on a stated day, a stated requirement was made of a stated person.
- (2) In a complaint starting a proceeding, a statement that the matter of complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.

Division 3 Proceedings

83 Proceeding for offences

A proceeding for an offence against this Act must be taken in a summary way under the *Justices Act 1886*.

84 When proceeding may start

A proceeding for an offence against this Act must start within the later of the following periods to end—

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

85 Allegations of false or misleading information or document

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

86 Forfeiture on conviction

- (1) On conviction of a person for an offence against this Act, a court may order the forfeiture to the State of—
 - (a) anything used to commit the offence; or
 - (b) anything else the subject of the offence.
- (2) The court may make any order to enforce the forfeiture it considers appropriate.
- (3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

87 Dealing with forfeited thing

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the State as the State considers appropriate.
- (2) Without limiting subsection (1), the State may destroy the thing.

88 Responsibility for acts or omissions of representative

- (1) This section applies in a proceeding for an offence against this Act.
- (2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—
 - (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
 - (b) the representative had the state of mind.
- (3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.
- (4) In this section—

representative means—

 - (a) for a corporation—an executive officer, employee or agent of the corporation; or
 - (b) for an individual—an employee or agent of the individual.

state of mind of a person includes—

 - (a) the person's knowledge, intention, opinion, belief or purpose; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.

Part 8 Miscellaneous

89 Joint exercise of powers

- (1) This section applies if more than 1 department provides funding received by a funded entity.
- (2) The chief executive of 1 of the departments (the *first chief executive*) may exercise a power on behalf of any or all of the chief executives of the other departments in relation to the funding received by the funded entity.
- (3) The first chief executive may only act on behalf of a chief executive of another department with the written consent of the other chief executive.
- (4) The exercise of a power by the first chief executive on behalf of the chief executive of another department may be in relation to all or part of the funding provided by the other chief executive's department.
- (5) Nothing in this section limits the power of a chief executive under this Act.

90 Chief executive not required to notify particular funded entities

- (1) This section applies if, under this Act, a chief executive is required to give notice to a funded entity that has received funding.
- (2) The chief executive is not required to give the notice to the funded entity (the *first entity*) if—
 - (a) the first entity received the funding from another funded entity (the *second entity*); and
 - (b) the first entity is not an approved subcontractor of the second entity.
- (3) In this section—

approved subcontractor, of a funded entity, means an entity that may receive funding from the funded entity to deliver a funded product or service under—

- (a) a funding agreement about the funding; or
- (b) a written approval given by the chief executive.

91 Confidentiality of information about criminal history and related information

- (1) This section applies to a person who—
 - (a) is, or has been, the chief executive, a public service employee, or a selection panel member; and
 - (b) in that capacity acquired information, or gained access to a document, under previous part 10 about another person's criminal history or about an investigation relating to the possible commission of a serious offence by another person.

- (2) The person must not disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

- (3) Subsection (2) does not apply to the disclosure of information, or giving of access to a document, about a person—
 - (a) to the chief executive, a public service employee or selection panel member for the purpose of assessing the person's suitability to be, or continue to be, engaged by the department; or
 - (b) if the person is an adult—with the person's consent; or
 - (c) if the disclosure or giving of access is otherwise required under an Act.

- (4) In this section—

criminal history, of a person, means—

[s 92]

- (a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act; and
- (b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act.

engaged by the department means engaged by the department within the meaning of section 100 of this Act as in force from time to time before the commencement of this definition.

previous part 10 means part 10 of this Act as in force from time to time before the commencement of this definition.

selection panel member means a member of a panel formed to make a recommendation to the chief executive about a person's engagement by the department.

serious offence means an offence that was a serious offence under section 103 of this Act as in force from time to time before the commencement of this definition.

92 Duty of confidentiality

- (1) This section applies to a person—
 - (a) who is, or has been, any of the following—
 - (i) a chief executive of a department providing funding;
 - (ii) a public service employee or another employee of a department providing funding;
 - (iii) an authorised officer; and
 - (b) who, in the course of administering this Act or because of an opportunity provided by involvement in administering this Act, has gained, gains or has access to, confidential information about an individual, other than information mentioned in section 91(1)(b).
- (2) The person must not disclose the information, or give access to the information, to anyone else, other than—

-
- (a) for administering, monitoring or enforcing compliance with this Act; or
 - (b) with the consent of the individual to whom the information relates; or
 - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
 - (d) as expressly permitted or required under an Act; or
 - (e) if the person reasonably believes a serious concern exists—to report the person’s belief to an entity that can take appropriate action.

Maximum penalty—40 penalty units.

93 Power to require information

- (1) A chief executive may, by notice (a *requirement notice*), require a funded entity to give the chief executive, within a stated reasonable time, information relating to the provision of a funded product or service by the funded entity.
- (2) The funded entity must comply with the requirement notice.
- (3) The funded entity may comply with the requirement by giving a copy of a document certified as a true copy of the document.

94 Protection from liability for giving information

- (1) This section applies to the giving of information to a chief executive by a funded entity under section 93.
- (2) A funded entity, or a person on behalf of the entity, may give the information despite any other law that would otherwise prohibit or restrict the giving of the information.
- (3) If a person, acting honestly on reasonable grounds, gives the information to the chief executive, the person is not liable, civilly, criminally or under an administrative process, for giving the information.

[s 95]

- (4) Also, merely because the person gives the information, the person can not be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (5) Without limiting subsections (3) and (4)—
 - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
 - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
 - (ii) is not liable to disciplinary action for giving the information.
- (6) In this section—

information includes a document.

95 Chief executive may share information about funded entity

- (1) A chief executive may give information about a funded entity to—
 - (a) a department if the funded entity receives funding the department has provided; or
 - (b) another entity if the chief executive considers the entity has an interest in the proper and efficient delivery of a funded product or service of the funded entity.
- (2) A chief executive may act under subsection (1) without the consent of the funded entity.

96 Delegation by Minister or chief executive

- (1) A Minister or a chief executive of a department may delegate the Minister's or chief executive's functions under this Act to an appropriately qualified person who is a public service employee or other employee of the department.
- (2) In this section—
function includes a power.

97 Protecting officials from liability

- (1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (2) Without limiting subsection (1), an interim manager is not civilly liable for a loss incurred by a funded entity unless the loss is attributable to the interim manager's dishonesty or negligence.
- (3) If subsection (1) or (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.
- (4) In this section—
official means—
 - (a) a Minister; or
 - (b) a chief executive; or
 - (c) an authorised officer; or
 - (d) a public service employee or other employee of a department; or
 - (e) an interim manager; or
 - (f) a person acting under the direction of an official.

98 Approval of forms

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

[s 99]

99 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation made under this Act may—
 - (a) prescribe fees payable under this Act and the matters for which fees are payable; and
 - (b) impose a penalty of not more than 20 penalty units for a contravention of a provision of a regulation.

Part 9 Savings and transitional provisions

Division 1 Provisions for Act No. 38 of 2007

100 Definition for div 1

In this division—

commencement means the commencement of this division.

Note—

The definitions *approved service provider*, *assistance*, *funded service provider*, *service agreement* and *service provider* were omitted from this Act by the *Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014*.

101 Certain service providers taken to be approved under pt 3 and to be funded service providers

- (1) This section applies to a service provider that, at the commencement, is providing community services with funding received by way of a grant from the department to the service provider under the *Family Services Act 1987*.

-
- (2) The service provider is, from the commencement, taken to be—
 - (a) an approved service provider for this Act; and
 - (b) a funded service provider for this Act.
 - (3) However, the service provider is not taken to be an approved service provider if the funding was one-off funding.

102 When grants under the Family Services Act continue

- (1) This section applies to a service provider that, at the commencement, is providing community services with funding received by way of a grant from the department to the service provider under the *Family Services Act 1987*.
- (2) Subject to subsections (3) and (6), the service provider may continue to receive the funding under this Act.
- (3) Subsection (2) does not apply if the funding was one-off funding.
- (4) Any conditions to which the grant was subject under the *Family Services Act 1987* continue to apply to the funding.
- (5) If the service provider has, before the commencement, signed an agreement in relation to a grant under the *Family Services Act 1987*, that agreement—
 - (a) is taken to be a service agreement under this Act; and
 - (b) is taken to include a show cause process for a breach of the agreement that allows the chief executive to suspend or stop the assistance under the agreement.
- (6) If the service provider has not signed an agreement in relation to a grant under the *Family Services Act 1987* before the commencement, funding must stop 1 year after the commencement unless—
 - (a) the Minister approves assistance under this Act; and
 - (b) a service agreement is signed by the service provider.
- (7) No compensation is payable to a service provider if assistance to the service provider stops under subsection (6).

[s 103]

103 Other matters

- (1) Nothing in this Act affects the operation of the *Family Services Act 1987*, section 11, in relation to a matter started, but not completed, before the commencement.
- (2) The matter may be completed as if the *Family Services Act 1987* continued to be administered by the Minister administering this Act.
- (3) Subsection (4) applies to a service provider that, at the commencement—
 - (a) is providing community services with funding received by way of a grant from the department to the service provider under the *Family Services Act 1987*; and
 - (b) has not signed an agreement in relation to the grant.
- (4) Until the service provider signs an agreement under this Act, the *Family Services Act 1987*, section 11 continues to apply as if that Act continued to be administered by the Minister administering this Act.

Division 2 Provisions for Criminal History Screening Legislation Amendment Act 2010

104 Definitions for div 2

In this division—

commencement means the commencement of this section.

engaged by the department means engaged by the department as defined under section 100 of the unamended Act.

police commissioner means the commissioner of the police service.

police information means a report or other information mentioned in section 108(2) of the unamended Act.

unamended Act means this Act as in force from time to time before the commencement.

105 Notice about change in criminal history not given at the commencement

- (1) This section applies if—
 - (a) before the commencement, there is a change in the criminal history of a person engaged by the department; and
 - (b) at the commencement, the person has not disclosed the details of the change to the chief executive as required by section 105 of the unamended Act.
- (2) Despite section 105 of the unamended Act, the person is no longer required to give the details to the chief executive under this Act.

Note—

See, however, the *Public Service Act 2008*, sections 155B and 257.

106 Request for police information not complied with at the commencement

- (1) This section applies if—
 - (a) the chief executive has, under section 108 of the unamended Act, asked the police commissioner for police information about a person; and
 - (b) at the commencement, the police commissioner has not given the police information to the chief executive.
- (2) Despite section 108(3) of the unamended Act, the police commissioner is no longer required to comply with the commissioner's request.

107 Particular police information obtained but not used before commencement

- (1) This section applies if—

[s 108]

- (a) before the commencement, the police commissioner gave the chief executive a person's police information under section 108 of the unamended Act; and
 - (b) at the commencement, the chief executive has not, in relation to the police information, made an assessment about the person's suitability to be, or continue to be, engaged by the department under section 110 of the unamended Act.
- (2) The chief executive must immediately—
- (a) destroy the police information; and
 - (b) stop making the assessment.

Note—

Now see the following in relation to the engagement, or continued engagement, of the person by the department—

- (a) if the person is engaged in regulated employment—the *Working with Children (Risk Management and Screening) Act 2000*, chapter 8 and the *Public Service Act 2008*, chapter 5, part 6, division 3A;
- (b) otherwise—the *Public Service Act 2008*, chapter 5, part 6.

108 Notice not given by prosecuting authority at the commencement

- (1) This section applies if—
- (a) before the commencement, a person engaged by the department is charged with an indictable offence; and
 - (b) at the commencement, the police commissioner or director of public prosecutions (a ***prosecuting authority***) has not given information about the charge to the chief executive as required by section 109 of the unamended Act.
- (2) Despite section 109 of the unamended Act, the prosecuting authority is no longer required to give the information to the chief executive.

109 Use of particular information obtained before commencement

Section 110(2) of the unamended Act continues to apply in relation to information about a person received by the commissioner under part 10 of the unamended Act as if the *Criminal History Screening Legislation Amendment Act 2010* had not been enacted.

Division 3 Transitional provisions for Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014

Subdivision 1 Preliminary

110 Definitions for div 3

In this division—

amending Act means the *Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014*.

chief executive means the chief executive of the department administering this Act.

commencement means the commencement of the provision in which the term is used.

funded service provider see previous section 9(1).

interim manager means a person appointed as interim manager under previous section 69.

previous, for a provision of this Act, means the provision as in force immediately before the commencement.

service agreement see previous section 27(1).

service provider see previous section 7(1).

unamended Act means this Act as in force from time to time before the commencement.

[s 111]

Subdivision 2 Transitional provision for repealed Family Services Act 1987

111 Written agreements about grants continue in force

- (1) This section applies if a written agreement about a grant provided by a department to an entity under the repealed Act was in force immediately before the commencement.
- (2) The agreement continues in force despite the repeal of the repealed Act.
- (3) If, before the commencement, the agreement or a provision of the repealed Act related to the agreement was contravened, the repealed Act continues to apply for the contravention as if the repealed Act had not been repealed.
- (4) In this section—

repealed Act means the repealed *Family Services Act 1987*.

Subdivision 3 Other transitional provisions

112 Service agreements continue in force

- (1) This section applies if a service agreement between the chief executive and a service provider was in force immediately before the commencement.
- (2) The service agreement continues in force despite the repeal, under the amending Act, of provisions of this Act relating to service agreements.
- (3) However, on and from the commencement, a term of the service agreement requiring the funded service provider to obtain or maintain approval as an approved service provider is of no effect.
- (4) In this section—

approved service provider see previous section 8.

113 Obligation to enter agreement about assistance continues

- (1) This section applies if, immediately before the commencement, a service provider who received assistance after giving the written agreement mentioned in previous section 27(4)(a) has not complied with previous section 27(4)(b).
- (2) The chief executive must stop the assistance if the service provider does not enter into a funding agreement about the assistance within the time stated in the written agreement given under previous section 27(4)(a).
- (3) In this section—
assistance means assistance given to a service provider under previous part 4.

114 Contraventions of funding agreement or Act before commencement

- (1) This section applies if, before the commencement—
 - (a) a service agreement between the chief executive and a service provider was contravened; or
 - (b) a provision of the unamended Act related to the service agreement mentioned in paragraph (a) was contravened.
- (2) The unamended Act continues to apply for the contravention as if the amending Act had not been enacted.
- (3) Without limiting subsection (2)—
 - (a) an authorised officer may exercise, or continue to exercise, powers under the unamended Act; and
 - (b) a magistrate may hear and decide, or continue to hear and decide, an application for a warrant for a place under previous part 7, division 3, subdivision 2; and
 - (c) the chief executive may give the funded service provider a compliance notice; and

[s 115]

- (d) if the service provider contravenes a compliance notice—
 - (i) the service provider may be prosecuted for an offence against previous section 32(6); or
 - (ii) the chief executive may suspend or cancel funding to the service provider under previous section 32(8); and
 - (e) an interim manager may be appointed for the service provider; and
 - (f) the chief executive may act under previous section 38 to recover all or some of the funding.
- (4) In this section—
compliance notice see previous section 32(3).

115 Authorised officers

- (1) A person who, immediately before the commencement, held office as an authorised officer is taken to be an authorised officer appointed under section 25 by the chief executive administering this Act until the person stops holding office under section 30.
- (2) A person who, immediately before the commencement, held office as an authorised officer under the *Disability Services Act 2006* is taken to be an authorised officer appointed under section 25 by the chief executive administering that Act until the person stops holding office under section 30.

116 Interim managers

- (1) This section applies if—
 - (a) immediately before the commencement, a person was appointed as an interim manager for a funded service provider; or
 - (b) an interim manager is appointed for a funded service provider under section 114.

- (2) The interim manager may exercise, or continue to exercise, a power under the unamended Act in relation to the service provider.
- (3) For the purposes of subsection (2), the unamended Act continues to apply to the interim manager's appointment as if the amending Act had not been enacted.

117 Reviews

- (1) This section applies to a decision of the chief executive under this Act if—
 - (a) before the commencement the decision was a reviewable decision; and
 - (b) after the commencement the decision is not a reviewable decision.
- (2) The unamended Act continues to apply to the decision despite the enactment of the amending Act.
- (3) Without limiting subsection (2)—
 - (a) an interested person for the review decision made by the chief executive under previous section 96 may apply to QCAT for a review of the decision under previous section 97; and
 - (b) QCAT may hear and decide, or continue to hear and decide, an application for a review of the review decision under previous section 97.

Subdivision 4 Renumbering of Act

118 Renumbering of Act

- (1) On the commencement, the provisions of this Act are amended by numbering and renumbering them in the same way as a reprint may be numbered and renumbered under the *Reprints Act 1992*, section 43.

[s 118]

- (2) Each reference in the following to a provision renumbered under subsection (1) is amended, when the renumbering happens, by omitting the reference to the previous number and inserting the new number—
 - (a) this Act;
 - (b) the *Disability Services Act 2006*—
 - (i) part 10A, division 4, subdivision 3, heading, note; and
 - (ii) part 10A, division 8, subdivision 2, heading, note.
- (3) This section does not limit the operation of the *Acts Interpretation Act 1954*, section 14H(2).
- (4) This subdivision expires the day after the commencement of the last numbering or renumbering of a provision done under the section.
- (5) This section does not limit the *Reprints Act 1992*.

Schedule 1 Reviewable decisions

section 74

| Interested person | Reviewable decision |
|---|--|
| funded entity whose funding is suspended or stopped | to suspend or stop assistance to a funded entity or terminate a funding agreement for not complying with a compliance notice (s 19(5)) |
| funded entity for which interim manager appointed | to appoint an interim manager for a funded entity (s 20) |

Schedule 2 Dictionary

section 6

appointing chief executive see section 25(1).

approved form means a form approved by the chief executive under section 98.

authorised officer means a person appointed as an authorised officer under section 25.

commencement—

(a) for part 9, division 1—see section 100; or

(b) for part 9, division 2—see section 104.

certification requirement see section 43(7).

compliance notice see section 19(1).

confidential information includes information about an individual's affairs but does not include—

(a) information already publicly disclosed unless further disclosure of the information is prohibited by law; or

(b) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom the information relates.

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

engaged by the department, for part 9, division 2, see section 104.

executive officer, of a corporation, means any person, by whatever name called and whether or not the person is a director of the corporation, who is concerned or takes part in the management of the corporation.

funded entity see section 7(1).

funded product or service see section 7(2).

funding see section 8(1).

funding agreement see section 8(2).

funding declaration see section 12(1).

home means premises used as a private residence.

information includes a document.

information requirement see section 43(3).

interested person, for a reviewable decision, see section 74(b).

interim manager means a person appointed as interim manager under section 20.

notice means a written notice.

obstruct includes hinder and attempt to obstruct or hinder.

place includes premises and vacant land.

police commissioner, for part 9, division 2, see section 104.

police information, for part 9, division 2, see section 104.

premises includes—

- (a) a building or other structure; and
- (b) a part of a building or other structure; and
- (c) a vehicle; and
- (d) a caravan.

Queensland Government website means—

- (a) a website with a URL that contains ‘qld.gov.au’, other than the website of a local government; or
- (b) another website prescribed under a regulation.

requirement notice see section 93(1).

reviewable decision means a decision stated in schedule 1.

review decision, for part 6, see section 78(3).

serious concern see section 16.

unamended Act, for part 9, division 2, see section 104.

Endnotes

1 Index to endnotes

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2 Key

Key to abbreviations in list of legislation and annotations

| Key | Explanation | Key | Explanation |
|--------|--------------------------------|---------|---|
| AIA | = Acts Interpretation Act 1954 | (prev) | = previously |
| amd | = amended | proc | = proclamation |
| amdt | = amendment | prov | = provision |
| ch | = chapter | pt | = part |
| def | = definition | pubd | = published |
| div | = division | R[X] | = Reprint No. [X] |
| exp | = expires/expired | RA | = Reprints Act 1992 |
| gaz | = gazette | reloc | = relocated |
| hdg | = heading | renum | = renumbered |
| ins | = inserted | rep | = repealed |
| lap | = lapsed | (retro) | = retrospectively |
| notfd | = notified | rv | = revised version |
| num | = numbered | s | = section |
| o in c | = order in council | sch | = schedule |
| om | = omitted | sdiv | = subdivision |
| orig | = original | SIA | = Statutory Instruments Act 1992 |
| p | = page | SIR | = Statutory Instruments Regulation 2012 |
| para | = paragraph | SL | = subordinate legislation |
| prec | = preceding | sub | = substituted |
| pres | = present | unnum | = unnumbered |
| prev | = previous | | |

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

| Reprint No. | Amendments included | Effective | Notes |
|-----------------|---------------------|------------------|-------------------------|
| 0A | none | 30 November 2007 | pts 14, 16–17 commenced |
| 1 | 2008 Act No. 5 | 31 March 2008 | |
| 1A | 2008 Act No. 55 | 1 December 2008 | |
| 1B | 2009 Act No. 24 | 1 December 2009 | |
| 1C | 2010 Act No. 5 | 1 April 2010 | |
| 1D | 2009 Act No. 17 | 1 July 2010 | |
| 1E | 2010 Act No. 33 | 1 October 2010 | |
| Current as at | Amendments included | | Notes |
| 1 November 2013 | 2013 Act No. 51 | | |
| 1 July 2014 | 2014 Act No. 12 | | RA s 43 |
| | 2014 Act No. 28 | | Act renumbered |

4 List of legislation

Community Services Act 2007 No. 38

date of assent 29 August 2007

ss 1–2 commenced on date of assent

pts 14, 16–17 commenced 30 November 2007 (2007 SL No. 287)

remaining provisions commenced 31 March 2008 (2008 SL No. 72)

amending legislation—

Local Government and Industrial Relations Amendment Act 2008 No. 5 ss 1–2(1), pt 4 div 1A

date of assent 6 March 2008

ss 1–2 commenced on date of assent

Endnotes

remaining provisions commenced 13 March 2008 immediately after pt 3 commenced (see s 2(1))

Criminal Code and Other Acts Amendment Act 2008 No. 55 ss 1–2, 150 sch

date of assent 23 October 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2008 (2008 SL No. 386)

Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2010 (2010 SL No. 122)

Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 2 pt 5

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

Criminal History Screening Legislation Amendment Act 2010 No. 5 pts 1, 6

date of assent 4 March 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 April 2010 (2010 SL No. 53)

Child Protection and Other Acts Amendment Act 2010 No. 33 ss 1, 2(3), pt 4

date of assent 8 September 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2010 (2010 SL No. 272)

Directors' Liability Reform Amendment Act 2013 No. 51 ss 1–2(1), pt 9A

date of assent 29 October 2013

ss 1–2 commenced on date of assent

remaining provisions commenced 1 November 2013 (see s 2(1))

Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014 No. 12 pts 1–2, s 77 sch 1

date of assent 9 April 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2014 (2014 SL No. 95)

Child Protection Reform Amendment Act 2014 No. 28 ss 1, 2(2), 105 sch 1

date of assent 28 May 2014

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2014 (see s 2(2))

5 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 6.

Long title amd 2014 No. 12 s 4

Main object and achievement

s 3 sub 2014 No. 12 s 5

Guiding principles

s 4 sub 2014 No. 12 s 5

Finite resources available

s 5 sub 2014 No. 12 s 5

Definitions

s 6 amd 2014 No. 12 s 6

Meaning of *funded entity* and *funded product or service*

s 7 amd 2008 No. 5 s 32B
sub 2014 No. 12 s 7

Meaning of *funding* and *funding agreement*

s 8 sub 2014 No. 12 s 7

References to Minister, chief executive and department

s 9 sub 2014 No. 12 s 7

PART 2—GENERAL PROVISIONS ABOUT FUNDING

pt hdg sub 2014 No. 12 s 8

Application of Act

s 10 sub 2014 No. 12 s 8

Act does not limit other remedies or powers

s 11 sub 2014 No. 12 s 8

Minister may declare funding to which this Act applies

s 12 sub 2014 No. 12 s 8

List of declared funding must be kept and published

s 13 sub 2014 No. 12 s 8

Chief executive must notify funded entities about declaration

s 14 sub 2014 No. 12 s 8

Cooperative approach

s 15 sub 2014 No. 12 s 8

PART 3—MANAGING SERIOUS CONCERNS

pt hdg sub 2014 No. 12 s 8

Division 1—Preliminary

div hdg sub 2014 No. 12 s 8

Meaning of *serious concern*

s 16 sub 2014 No. 12 s 8

Report by authorised officer

s 17 sub 2014 No. 12 s 8

Division 2—Compliance notice

div hdg sub 2014 No. 12 s 8

Application of div 2

s 18 sub 2014 No. 12 s 8

Compliance notice

s 19 sub 2014 No. 12 s 8

Division 3—Interim manager

div hdg sub 2014 No. 12 s 8

Chief executive may appoint interim manager

s 20 sub 2014 No. 12 s 8

Basis of appointment

s 21 sub 2014 No. 12 s 8

Division 4—Recovery of funding

div hdg sub 2014 No. 12 s 8

Recovery of funding

s 22 amd 2009 No. 17 s 331 sch 1
sub 2014 No. 12 s 8

PART 4 —ASSISTANCE TO SERVICE PROVIDERS

pt hdg prev pt 4 hdg om 2014 No. 12 s 8

Purpose of pt 7

s 23 prev s 23 om 2014 No. 12 s 8
pres s 23 sub 2014 No. 12 s 9

Functions of authorised officers

s 24 prev s 24 om 2014 No. 12 s 8
pres s 24 sub 2014 No. 12 s 9

Appointment

s 25 prev s 25 om 2014 No. 12 s 8
pres s 25 sub 2014 No. 12 s 10

Authorised officer subject to direction

s 26 prev s 26 om 2014 No. 12 s 8
pres s 26 sub 2014 No. 12 s 10

Appointment conditions and limit on powers

s 27 prev s 27 om 2014 No. 12 s 10
pres s 27 amd 2014 No. 12 s 77 sch 1

Issue of identity card

s 28 prev s 28 om 2014 No. 12 s 8
pres s 28 amd 2014 No. 12 s 11

Prescribed requirements

s 29 prev s 29 om 2014 No. 12 s 8

Funded service provider must not contravene prescribed requirements

s 30 prev s 30 om 2014 No. 12 s 8

Resignation

s 31 prev s 31 om 2014 No. 12 s 8
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