



Child Protection Act 1999

Child Protection Regulation 2023

Current as at 1 September 2023

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Queensland

Child Protection Regulation 2023

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Child Protection Regulation 2023

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Child Protection Regulation 2023*.

2 Commencement

This regulation commences on 1 September 2023.

3 Definitions

The dictionary in schedule 3 defines particular words used in this regulation.

Part 2 Protection of children—mandatory reporting

4 Information to be included in reports—Act, s 13G

For section 13G(2)(b) of the Act, the following information is prescribed—

- (a) the child's name, age and sex descriptor;
- (b) details of how to contact the child;

Examples of how to contact a child—

- the address at which the child usually lives
 - the name and address of the school the child attends
- (c) details of the harm to which the reportable suspicion relates;

- (f) the responsibilities of the chief executive and of the approved carer in the provision of dental, medical, therapeutic, schooling and other services to the child;
 - (g) information about any special needs of the child, including information about—
 - (i) any special health needs; and
 - (ii) any special behavioural management needs; and
 - (iii) the resources needed to meet the special needs;
 - (h) the amounts to be paid to the approved carer for the child’s care and maintenance;
 - (i) arrangements for ensuring the child’s connection with the child’s culture of origin;
 - (j) for an Aboriginal or Torres Strait Islander child—arrangements for ensuring the development and maintenance of a connection of the child with the child’s family, community, language and—
 - (i) for an Aboriginal child—Aboriginal tradition; or
 - (ii) for a Torres Strait Islander child—Island custom.
- (2) In this section—

notice provision means section 85(2) or 86(2) of the Act.

6 Matters to consider before telling or notifying parents—Act, s 85 or 86

- (1) For section 85(3) or 86(3) of the Act, this section prescribes the matters the chief executive must consider in relation to a relevant person for a child to whom that section applies.
- (2) The matters are whether the relevant person—
 - (a) has a history of violence relevant to the safety of the child or anyone else with whom the child is living; and
 - (b) has recently threatened to harm the child or anyone else with whom the child is living; and

- (c) is likely to behave in a way that is likely to frighten or intimidate the child or another child with whom the child is living; and
 - (d) is likely to attempt to intimidate or otherwise adversely influence the child in relation to any future court proceedings; and
 - (e) is likely to attempt to remove the child from the chief executive's custody or guardianship; and
 - (f) has previously engaged in violent behaviour, harassment or other harmful behaviour in response to an action taken to protect the child.
- (3) In this section—

relevant person, for a child to whom section 85 or 86 of the Act applies, means—

- (a) a parent of the child; or
- (b) a spouse of a parent of the child; or
- (c) another person closely associated with a parent of the child.

violence means—

- (a) physical violence; or
- (b) non-physical violence, including, for example, emotional or psychological abuse and coercion.

Part 4 Regulation of care

Division 1 Licensing of care services

7 Independent evaluation for grant or renewal of licence

- (1) The purpose of this section is to require the chief executive to obtain particular information about a care service to help the

chief executive decide under section 126(e) of the Act whether the chief executive is satisfied the standard of care provided by the care service complies, and will continue to comply, with the statement of standards.

- (2) Before granting an application for a licence, or renewal of a licence, the chief executive must—
 - (a) obtain, from an independent person, a written evaluation of the care service provided by the applicant; and
 - (b) give a copy of the evaluation to the applicant; and
 - (c) give the applicant an invitation to give the chief executive a submission about anything contained in the evaluation.
- (3) The invitation must—
 - (a) be in writing; and
 - (b) state a reasonable time, of at least 14 days after the day the invitation is given to the applicant, within which the applicant may make a submission about anything contained in the evaluation.
- (4) The chief executive must have regard to any submission given by the applicant within the time stated in the notice.
- (5) In this section—

independent person means a person who is independent of the applicant and the department.

8 Suitability of selection, training and management methods

To help the chief executive decide whether the chief executive is satisfied under section 126(f) of the Act that the methods for the selection, training and management of people engaged in providing care services are suitable, the chief executive must have regard to the standards for the management of a licensed care service published by the department.

Note—

A copy of the standards is—

- (a) available for inspection, free of charge, at the offices of the department during normal business hours; and
- (b) published on the department’s website.

Division 2 Register of applicants, authority holders and former authority holders

9 Definitions for division

In this division—

identification information, for a person, means the following information—

- (a) the person’s full name, date of birth and residential address;
- (b) whether the person is an Aboriginal or Torres Strait Islander person.

relevant person, for a licensee or in relation to an application for the grant or renewal of a licence, means—

- (a) a director of the licensee or applicant; or
- (b) the nominee for the licence; or
- (c) a person who is, or will be, responsible for directly managing a care service provided by a licensed care service operated under the licence; or
- (d) a person who is, or will be, performing a risk-assessed role for a licensed care service operated under the licence.

working with children information, for a person, means the following information—

- (a) whether the person holds a working with children authority or negative notice;
- (b) if the person holds a working with children authority—the expiry date for the authority;
- (c) if the person does not hold a working with children authority—
 - (i) whether or not the person has made a working with children check application; and
 - (ii) if the person has made a working with children check application—
 - (A) the date of the application; and
 - (B) whether the application has been decided or withdrawn.

10 Prescribed particulars for applicants for authorities—Act, s 148F

- (1) This section applies in relation to an applicant for an authority if the application for the authority is refused, withdrawn or otherwise undecided.
- (2) For section 148F(2) of the Act, the following particulars are prescribed—
 - (a) the identification information for the applicant;
 - (b) the type of authority the applicant applied for;
 - (c) the working with children information for the applicant;
 - (d) the date the applicant applied for the authority;
 - (e) if the application was refused—
 - (i) the date of the decision to refuse the application; and
 - (ii) the reasons for the decision;
 - (f) if the application was withdrawn—

- (i) the date the application was withdrawn; and
 - (ii) the reason for the withdrawal;
 - (g) for an applicant for a licence—
 - (i) if the chief executive has assessed whether the applicant is a suitable entity to provide a care service—the outcome of the assessment; and
- Note—*
- See section 126(a) of the Act in relation to assessing whether an applicant for a licence is a suitable entity to provide care services.
- (ii) the identification information and working with children information for each relevant person for the application; and
 - (iii) if the chief executive has assessed whether a relevant person for the application is a suitable person—the outcome of the assessment; and
 - (iv) the personal history for the nominee for the licence; and
 - (v) the details of each licensed care service that will be operated under the licence if the licence is granted;
 - (h) for an applicant for a certificate of approval—
 - (i) the applicant's personal history; and
 - (ii) if the chief executive has assessed whether the applicant is a suitable person to be an approved carer—the outcome of the assessment; and
 - (iii) for each adult member of the applicant's household—
 - (A) the identification information for the member; and
 - (B) the member's domestic violence history and traffic history; and

- (C) the member's working with children information; and
 - (D) if the chief executive has assessed whether the member is a suitable person for associating on a daily basis with children or a particular child—the outcome of the assessment; and
 - (E) if the member becomes, or ceases to be, a member of the applicant's household—the date of the event; and
- (iv) if the applicant participates in the operation of, or is affiliated with, a licensed care service—details of the service.
- (3) In this section—
- personal history*, for an applicant for a certificate of approval, means—
- (a) the applicant's domestic violence history and traffic history; and
 - (b) if the applicant is a provisionally approved carer—the applicant's criminal history.

11 Prescribed particulars for authority holders—Act, s 148F

- (1) This section applies in relation to a holder of an authority.
- (2) For section 148F(2) of the Act, the following particulars are prescribed—
 - (a) the identification information for the holder;
 - (b) the type of authority the holder holds;
 - (c) the working with children information for the holder;
 - (d) the date the holder applied for the authority;
 - (e) for the holder of a licence—

- (i) if the chief executive has assessed whether the holder is a suitable entity to provide a care service—the outcome of the assessment; and

Note—

See section 126(a) of the Act in relation to assessing whether an applicant for a licence is a suitable entity to provide care services.

- (ii) the identification information and working with children information for each relevant person for the holder; and
 - (iii) if the chief executive has assessed whether a relevant person for the holder is a suitable person—the outcome of the assessment; and
 - (iv) the personal history for the nominee for the licence; and
 - (v) the details of each licensed care service operated under the licence;
- (f) for the holder of a certificate of approval—
- (i) the holder’s domestic violence history and traffic history; and
 - (ii) if the chief executive has assessed whether the holder is a suitable person to be an approved carer—the outcome of the assessment; and
 - (iii) for each adult member of the holder’s household—
 - (A) the identification information for the member; and
 - (B) the member’s domestic violence history and traffic history; and
 - (C) the member’s working with children information; and
 - (D) if the chief executive has assessed whether the member is a suitable person for associating on a daily basis with children or

- a particular child—the outcome of the assessment; and
- (E) if the member becomes, or ceases to be, a member of the holder’s household—the date of the event; and
- (iv) if the holder participates in the operation of, or is affiliated with, a licensed care service—details of the service;
- (g) if the authority was amended or suspended—details of the amendment or suspension, including, for example, the reason for the amendment or suspension.

12 Prescribed particulars for former authority holders—Act, s 148F

- (1) This section applies in relation to a former holder of an authority.
- (2) For section 148F(2) of the Act, the following particulars, current immediately before the authority stopped having effect, are prescribed—
 - (a) the identification information for the former holder;
 - (b) the type of authority the former holder held;
 - (c) the working with children information for the former holder;
 - (d) the date the former holder applied for the authority;
 - (e) for the former holder of a licence—
 - (i) if the chief executive assessed whether the former holder was a suitable entity to provide a care service—the outcome of the assessment; and

Note—

See section 126(a) of the Act in relation to assessing whether an applicant for a licence is a suitable entity to provide care services.

- (ii) if the chief executive assessed whether a relevant person for the former holder was a suitable person—
 - (A) the identification information and working with children information for the relevant person; and
 - (B) the outcome of the assessment; and
 - (iii) the personal history for the person who was the nominee for the licence; and
 - (iv) the details of each licensed care service that was operated under the licence;
- (f) for the former holder of a certificate of approval—
- (i) the former holder’s domestic violence history and traffic history; and
 - (ii) if the chief executive assessed whether the former holder was a suitable person to be an approved carer—the outcome of the assessment; and
 - (iii) if the chief executive assessed whether an adult member of the former holder’s household was a suitable person for associating on a daily basis with children or a particular child—
 - (A) the identification information for the member; and
 - (B) the member’s domestic violence history and traffic history; and
 - (C) the member’s working with children information; and
 - (D) the outcome of the assessment; and
 - (iv) if the former holder participated in the operation of, or was affiliated with, a licensed care service—details of the service;

- (g) if the authority was amended, suspended, cancelled or surrendered—details of the amendment, suspension, cancellation or surrender, including, for example, the reason for any amendment, suspension or cancellation.

Part 5 Information sharing

13 Prescribed entity—Act, s 159M

For section 159M of the Act, definition *prescribed entity*, paragraph (g)(ii), the department in which the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003* are administered is prescribed.

Part 6 Confidentiality in relation to administration of Act

14 Approval to publish particular information

In deciding whether to give an approval to publish information under section 189 of the Act, the chief executive may have regard to the following in relation to a child mentioned in that section—

- (a) if the child is able to form and express views about the publication, the views of the child, taking into account the child's age or ability to understand;
- (b) the emotional support available to the child;
- (c) the likely effect of the publication on the child when the decision is made or in the future;
- (d) whether the publication would adversely affect the child's relationship with members of the child's family;
- (e) the way the information is proposed to be published;

Part 8 Suitable persons

17 **Definition for part**

In this part—

relevant principles means the principles for administering the Act stated in chapter 1, part 2, division 1 of the Act.

18 **Custody or guardianship of child—Act, sch 3, def *suitable person*, para (a)**

For schedule 3 of the Act, definition *suitable person*, paragraph (a), a person is a suitable person for having the custody or guardianship of a child if the person—

- (a) does not pose a risk to the child’s safety; and
- (b) is able and willing to care for the child in a way that meets the standards of care stated in the statement of standards; and
- (c) is able and willing to protect the child from harm; and
- (d) understands and is committed to the relevant principles.

19 **Managing licensed care service—Act, sch 3, def *suitable person*, para (c)**

For schedule 3 of the Act, definition *suitable person*, paragraph (c), a person is a suitable person for managing a licensed care service if the person—

- (a) does not pose a risk to the safety of a child to whom, under the Act, the licensee is providing care services; and
- (b) is able and willing to manage the licensed care service in a way that—

- (i) assists the licensee to ensure the provision of care meets the standards of care stated in the statement of standards; and
- (ii) implements the methods mentioned in section 126(f) of the Act; and
- (c) understands and is committed to the relevant principles.

20 Director of applicant for licence or licensee—Act, sch 3, def *suitable person*, para (d)

For schedule 3 of the Act, definition *suitable person*, paragraph (d), a person is a suitable person to be a director of an applicant for a licence or a licensee for a licensed care service if the person—

- (a) does not pose a risk to the safety of a child to whom, under the Act, the applicant is to provide, or the licensee is providing, care services; and
- (b) is able and willing to manage the licensed care service, or ensure the licensed care service is managed, in a way that ensures the provision of care meets the standards of care stated in the statement of standards; and
- (c) understands and is committed to the relevant principles.

21 Nominee for licence—Act, sch 3, def *suitable person*, para (e)

For schedule 3 of the Act, definition *suitable person*, paragraph (e), a person is a suitable person to be the nominee for a licence if the person—

- (a) does not pose a risk to the safety of a child to whom, under the Act, the licensee is providing care services; and
- (b) is able and willing to fulfil the responsibilities of the nominee for the licence under section 130(1) of the Act.

22 Person performing risk-assessed role for licensed care service—Act, sch 3, def *suitable person*, para (f)

For schedule 3 of the Act, definition *suitable person*, paragraph (f), a person is a suitable person to be a person performing a risk-assessed role for a licensed care service if the person does not pose a risk to the safety of children.

23 Approved foster carer—Act, sch 3, def *suitable person*, para (g)

For schedule 3 of the Act, definition *suitable person*, paragraph (g), a person is a suitable person to be an approved foster carer for children if the person—

- (a) does not pose a risk to a child’s safety; and
- (b) is able and willing to protect a child from harm; and
- (c) understands and is committed to the relevant principles; and
- (d) has completed any training reasonably required by the chief executive to ensure the person is able to care properly for a child.

24 Approved kinship carer—Act, sch 3, def *suitable person*, para (h)

For schedule 3 of the Act, definition *suitable person*, paragraph (h), a person is a suitable person to be an approved kinship carer for a child if the person—

- (a) does not pose a risk to the child’s safety; and
- (b) is able and willing to protect the child from harm; and
- (c) understands and is committed to the relevant principles; and
- (d) has completed any training reasonably required by the chief executive to ensure the person is able to care properly for a child.

25 Provisionally approved carer—Act, sch 3, def *suitable person*, para (i)

For schedule 3 of the Act, definition *suitable person*, paragraph (i), a person is a suitable person to be a provisionally approved carer for a child if the person—

- (a) does not pose a risk to the child’s safety; and
- (b) is able and willing to protect the child from harm.

26 Associating on daily basis with children or particular child—Act, sch 3, def *suitable person*, para (j)

For schedule 3 of the Act, definition *suitable person*, paragraph (j), a person is a suitable person for associating on a daily basis with children or a particular child if the person does not pose a risk to the safety of children or the particular child.

27 Other matters

In deciding if a person is a suitable person under this part, the chief executive or a court may also consider the following—

- (a) the person’s employment history;
- (b) the person’s physical or mental health;
- (c) any other matter relevant to deciding whether the person is a suitable person under this part.

Part 9 Provisions about procedures, records and returns

28 Licensee to prepare procedure for staff members

- (1) A licensee must—

- (a) prepare a procedure to facilitate the reporting of standards of care concerns of staff members of the licensee; and
 - (b) keep the procedure up to date; and
 - (c) ensure the staff members are aware of the procedure.
- (2) The procedure may include, for example, the following—
- (a) a statement that the licensee is supportive of staff members in reporting standards of care concerns;
 - (b) for a licence relating to a licensed residential facility, information for ensuring the staff members are aware of the obligation under section 13F(3) of the Act in relation to a child provided care in the facility;
 - (c) an address, phone number or other contact details, including for an office of the department, for reporting the concerns.

- (3) In this section—

standards of care concern, of a staff member of a licensee, means—

- (a) harm the staff member becomes aware, or reasonably suspects, has been caused to a child provided care services by a licensed care service operated under the licence; or
- (b) a concern the staff member has that care services provided under the licence no longer meet the standards of care stated in the statement of standards.

staff member, of a licensee, means a person—

- (a) employed in a licensed care service operated under the licence; or
- (b) who volunteers to assist or work at a licensed care service operated under the licence.

29 Licensee to keep particular records

- (1) A licensee must keep records under this section for each child receiving a care service from the licensee under the licence.
- (2) The records must include the following information in relation to a child mentioned in subsection (1)—
 - (a) the child’s name, date of birth and sex descriptor;
 - (b) the culture of origin of the child;
 - (c) the first and last days of each period during which the service is provided to the child;
 - (d) the name and address of—
 - (i) if the child is residing in a licensed residential facility—the facility; or
 - (ii) if the chief executive has placed the child in the care of an approved carer—the carer for the child;
 - (e) details of—
 - (i) any written complaint the licensee receives relating to the provision of the services to the child; and
 - (ii) any action the licensee takes in relation to the complaint;
 - (f) details of—
 - (i) any written concern the licensee receives that the standards of care stated in the statement of standards relating to the child’s care by a licensed care service operated under the licence are no longer being met; and
 - (ii) any action the licensee takes in relation to the concern;
 - (g) if the child is residing at a licensed residential facility, details of any significant event relating to the child that happened during the residency.

30 Licensee may be required to make return

- (1) The chief executive may, by notice given to a licensee, require the licensee to make a return about the details stated in the records the licensee is required to keep under section 29.
- (2) The notice must—
 - (a) be in writing; and
 - (b) state a time, not less than 30 days after the day the chief executive gives the notice, for making the return.
- (3) If a licensee is given a notice under subsection (1), the licensee must make the return—
 - (a) in the approved form; and
 - (b) within the time stated in the notice for making the return.

31 Licensee to allow inspection of particular records

A licensee must allow the chief executive to inspect, during normal office hours of the department, the records the licensee is required to keep under section 29.

32 Chief executive to keep records

- (1) The chief executive must keep records under this section.
- (2) The records must include—
 - (a) details of any report given to the chief executive in relation to a child placed in care under section 82(1) of the Act about—
 - (i) harm caused, or suspected to have been caused, to the child; or
 - (ii) any standards of care stated in the statement of standards not being met in relation to the child; and
 - (b) the results of any investigation of a matter mentioned in paragraph (a).

- (3) A record about a matter concerning a child must include information about the type of care provided to the child.
- (4) The records must be kept in a way that enables the chief executive to—
 - (a) access or collect information about a particular carer or care service; or
 - (b) analyse trends across all of the information recorded under this section.

Part 10 Transitional provisions

33 Definitions for part

In this part—

2011 regulation means the expired *Child Protection Regulation 2011*.

expired, for a provision, means the provision of that number of the 2011 regulation.

34 Independent evaluation obtained before commencement

- (1) This section applies if an application mentioned in section 125(1) of the Act was made but not decided before the commencement.
- (2) A written evaluation obtained under expired section 4(2)(a) in relation to the application is taken to be obtained under section 7(2)(a).
- (3) A copy of the written evaluation given to the applicant under expired section 4(2)(b) is taken to be given under section 7(2)(b); and
- (4) A written invitation given to the applicant under expired section 4(2)(c) is taken to be given under section 7(2)(c).

- (5) A submission given by the applicant to the chief executive in accordance with expired section 4(2)(c) is taken to be given under section 7(2)(c).

35 Procedure prepared before commencement

A procedure prepared under expired section 6 is taken to be a procedure prepared under section 28.

36 Records kept before commencement and under s 29

- (1) A record kept under expired section 7 is taken to be a record for section 29.
- (2) The requirement, under section 29(2), for records to include information in relation to the culture of origin of a child does not apply until 1 March 2024.

37 Notice given before commencement

- (1) This section applies to a notice given under expired section 9 that—
- (a) was given before the commencement; and
 - (b) has not been complied with on the commencement.
- (2) The notice is taken to have been given under section 30(1).

38 References to 2011 regulation

In an instrument, a reference to the 2011 regulation may, if the context permits, be taken to be a reference to this regulation.

Schedule 1 Child welfare laws

section 15

State	Child welfare law
Australian Capital Territory	<i>Children and Young People Act 2008</i> (ACT) other than chapters 4 to 9, 20 and 21
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW)
New Zealand	<i>Oranga Tamariki Act 1989</i> (NZ) other than parts 4 and 5
Northern Territory	<i>Care and Protection of Children Act 2007</i> (NT)
South Australia	<i>Children and Young People (Safety) Act 2017</i> (SA)
Tasmania	<i>Children, Young Persons and Their Families Act 1997</i> (Tas) other than parts 9 and 10
Victoria	<i>Children, Youth and Families Act 2005</i> (Vic), chapters 1 to 4
Western Australia	<i>Children and Community Services Act 2004</i> (WA) other than part 7

Schedule 2 Participating States, interstate laws and interstate officers

section 16

Participating State	Interstate law	Interstate officer
Australian Capital Territory	<i>Children and Young People Act 2008 (ACT)</i> , chapter 17	Director-General, Community Services Directorate
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> , chapter 14A	Secretary, Department of Communities and Justice
New Zealand	<i>Oranga Tamariki Act 1989 (NZ)</i> , part 3A	Secretary for Children and Chief Executive, Oranga Tamariki Ministry for Children
Northern Territory	<i>Care and Protection of Children Act 2007 (NT)</i> , chapter 2, part 2.4	Chief Executive Officer, Territory Families, Housing and Communities
South Australia	<i>Children and Young People (Safety) Act 2017 (SA)</i> , chapter 10	Chief Executive, Department for Child Protection
Tasmania	<i>Children, Young Persons and Their Families Act 1997 (Tas)</i> , part 8	Secretary, Department for Education, Children and Young People
Victoria	<i>Children, Youth and Families Act 2005 (Vic)</i> , chapter 4, part 4.12	Secretary, Department of Families, Fairness and Housing

Participating State	Interstate law	Interstate officer
Western Australia	<i>Children and Community Services Act 2004</i> (WA), part 6	Director-General, Department of Communities

Schedule 3 Dictionary

section 3

identification information, for part 4, division 2, see section 9.

relevant person, for part 4, division 2, see section 9.

relevant principles, for part 8, see section 17.

sex descriptor means—

- (a) ‘male’; or
- (b) ‘female’; or
- (c) any other descriptor of sex.

Examples—

‘agender’, ‘genderqueer’, ‘non-binary’

working with children information, for part 4, division 2, see section 9.