

Queensland



CHILDREN AND FAMILIES BILL 1997

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1997

A BILL

FOR

**An Act about the protection of children and the role of families in
their protection, and for other purposes**

The Parliament of Queensland enacts—

1

CHAPTER 1—PRELIMINARY

2

PART 1—INTRODUCTION

3

Short title

4

1. This Act may be cited as the *Children and Families Act 1997*.

5

Commencement

6

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

7

Definitions—the dictionary

8

3.(1) The dictionary in schedule 3 defines particular words used in this Act.¹

9

10

- (2) Key terms used in this Act are defined in part 3, division 1.

11

¹ In some Acts, definitions are contained in a dictionary that appears as the last schedule. The schedule forms part of the Act—see *Acts Interpretation Act 1954*, section 14(4).

Words defined elsewhere in the Act are generally signposted by entries in the dictionary. However, if a section has a definition applying only to the section, or a part of the section, it is generally not signposted by an entry in the dictionary and is generally set out in the last subsection of the section.

Signpost definitions in the dictionary alert the reader to the terms defined elsewhere in the Act and tell the reader where the definitions can be found. For example, the definition ‘**“harm”** see section 9.’, tells the reader there is a definition of harm in the section.

PART 2—PURPOSE AND ADMINISTRATION OF ACT

Purpose of Act

4. The purpose of this Act is to provide for the protection of children while at the same time recognising the role of families in the care and upbringing of their children.

Administration of Act

5.(1) This Act is to be administered in accordance with the following guiding principles—

- (a) every child has a right to protection from harm;
- (b) the welfare and best interests of a child are paramount;
- (c) families have the primary responsibility for the upbringing, protection and development of their children;
- (d) the preferred way of ensuring a child's wellbeing is through the support of the child's family;
- (e) powers conferred under this Act should be exercised in a way that is open, fair and respects the rights of people affected by their exercise, and, in particular, in a way that ensures—
 - (i) actions taken, while in the best interests of the child, maintain family relationships and are supportive of individual rights and ethnic, religious and cultural identity or values; and
 - (ii) the views of the child and the child's family are considered; and
 - (iii) the child and the child's parents have the opportunity to take part in making the decisions affecting their lives;
- (f) if a child does not have a parent able and willing to protect the child—the State has a responsibility to protect the child, but in protecting the child the State must not take action that is unwarranted in the circumstances;

-
- | | |
|--|----|
| (g) if a child is removed from the child's family— | 1 |
| (i) authorised officers' work with the child and the child's | 2 |
| family will aim to safely return the child home if possible; | 3 |
| and | 4 |
| (ii) the child's need to maintain family and social contacts, and | 5 |
| ethnic and cultural identity, must be taken into account; | 6 |
| (h) if a child is able to form and express views about his or her | 7 |
| care—the views must be given serious consideration, taking into | 8 |
| account the child's age and ability to understand; | 9 |
| (i) if a child does not have a parent able and willing to give the child | 10 |
| ongoing protection—the child has a right to long-term alternative | 11 |
| care. | 12 |

Provisions about Aboriginal and Torres Strait Islander children 13

6.(1) A decision of the chief executive or an authorised officer under this Act in relation to an Aboriginal child or a Torres Strait Islander child must be made only after consultation with the recognised Aboriginal or Torres Strait Islander agency for the child. 14
15
16
17

(2) However, if consultation is not practicable before making the decision because the agency is not available for consultation or urgent action is required to protect the child, the chief executive or an authorised officer must consult with the agency promptly after making the decision. 18
19
20
21

(3) If the chief executive, an authorised officer or the Childrens Court exercises a power under this Act in relation to an Aboriginal or Torres Strait Islander child, the chief executive, officer or court must have regard to— 22
23
24

- | | |
|--|----|
| (a) the views of the recognised Aboriginal or Torres Strait Islander | 25 |
| agency for the child and about Aboriginal traditions and Island | 26 |
| custom relating to the child ² ; and | 27 |
| (b) if consultation is not practicable—the views of members of the | 28 |
| community to whom the child belongs; and | 29 |
| (c) the general principle that an Aboriginal or Torres Strait Islander | 30 |

² The *Acts Interpretation Act 1954*, section 36, contains definitions of Aboriginal tradition and Island custom.

child should be cared for within an Aboriginal or Torres Strait
Islander community.

(4) As far as is reasonably practicable, an authorised person must try to
conduct consultations, negotiations, family meetings and other proceedings
involving an Aboriginal person or Torres Strait Islander (whether a child or
not) in a way and in a place that is appropriate to Aboriginal tradition or
Island custom.

Chief executive's functions

7.(1) For the proper and efficient administration of this Act, the chief
executive's functions are—

- (a) providing, or helping provide, information for parents and other
members of the community in relation to the development of
children and their safety needs; and
- (b) providing, or helping provide, preventative and support services
to strengthen and support families and to reduce the incidence of
harm to children; and
- (c) providing, or helping provide, services to families to protect their
children if a risk of harm has been identified; and
- (d) providing, or helping provide, services for the protection of
children and responding to allegations of harm to children; and
- (e) helping Aboriginal and Torres Strait Islander communities to
establish programs for preventing or reducing incidences of harm
to children in the communities; and
- (f) promoting a partnership between the State, local government,
non-government agencies and families in taking responsibility
for, and dealing with the problem of, harm to children; and
- (g) promoting and helping in developing coordinated responses to
allegations of harm to children; and
- (h) promoting and helping in coordinating responses to allegations of
harm to children and responses to domestic violence; and
- (i) providing, or helping provide, public education about child abuse
and neglect and to encourage people whose occupation involves

responsibility for children and members of the public to report suspected child abuse and neglect to the chief executive; and	1 2
(j) collecting and publishing, or helping collect and publish, information and statistics about harm to children; and	3 4
(k) promoting research into the causes and effect of harm to children; and	5 6
(l) encouraging tertiary institutions to provide instruction about harm to children and its prevention and treatment; and	7 8
(m) consulting with recognised Aboriginal and Torres Strait Islander agencies about the administration of this Act in relation to Aboriginal and Torres Strait Islander children.	9 10 11
(2) Also, the chief executive must cooperate with the children's commissioner in the commissioner's assessment or investigation of complaints under the <i>Children's Commissioner and Children's Services Appeals Tribunals Act 1996</i> .	12 13 14 15

PART 3—BASIC CONCEPTS 16

Division 1—Key terms 17

Who is a “child” 18

8. A “child” is an individual under 18 years. 19

What is “harm” 20

9.(1) “Harm”, to a child, is any detrimental effect of a physical, psychological or emotional nature on the child's wellbeing. 21
22

(2) It is immaterial how the harm is caused. 23

(3) Harm can be caused by— 24

-
- (a) physical, psychological or emotional abuse or neglect; or 1
 - (b) sexual abuse or exploitation. 2

Who is a “child in need of protection” 3

10. A “child in need of protection” is a child who— 4

- (a) has suffered harm, is suffering harm, or is at unacceptable risk of 5
suffering harm; and 6
- (b) does not have a parent able and willing to protect the child from 7
the harm. 8

Who is a parent 9

11.(1) A “parent” of a child is the child’s mother, father, guardian or 10
someone else (other than the chief executive) having parental responsibility 11
for the child. 12

(2) However, a person standing in the place of a parent of a child on a 13
temporary basis is not a parent of the child. 14

(3) A parent of an Aboriginal child also includes a person who, under 15
Aboriginal tradition, is regarded as a parent of the child. 16

(4) A parent of a Torres Strait Islander child also includes a person who, 17
under Island custom, is regarded as a parent of the child. 18

(5) A reference in this Act to the parents of a child or to 1 of the parents 19
of a child is, if the child has only 1 parent, a reference to the parent.³ 20

Division 2—Custody 21

What is effect of custody 22

12.(1) If an authorised officer or police officer takes a child into the chief 23

³ In some provisions, “parent” has a narrower meaning. The same meaning is given the term in chapter 2, part 2 (see section 21), chapter 2, part 3 (see section 31), chapter 2, part 4 (see section 41) and chapter 4 (see section 96).

executive's custody ⁴ , the chief executive has—	1
(a) the right to have the child's daily care; and	2
(b) the right and responsibility to make decisions about the child's daily care.	3
	4
(2) If the chief executive or someone else is granted custody of a child under an assessment order or child protection order, the chief executive or other person has—	5
	6
	7
(a) the right to have the child's daily care; and	8
(b) the right and responsibility to make decisions about the child's daily care; and	9
	10
(c) all the powers, rights and responsibilities in relation to the child that would otherwise have been vested in the child's guardian.	11
	12

CHAPTER 2—PROTECTION OF CHILDREN 13

PART 1—CHILDREN AT RISK OF HARM 14

Chief executive may investigate alleged harm 15

13.(1) If the chief executive becomes aware (whether because of notification given to the chief executive ⁵ or otherwise) of alleged harm or alleged risk of harm to a child, the chief executive must promptly—	16
	17
	18
(a) have an authorised officer investigate the allegation and assess the child's need of protection; or	19
	20
(b) take other action the chief executive considers appropriate.	21

⁴ Under section 16 a child at immediate risk of harm may be taken into custody.

⁵ Section 20 provides for protection from civil liability for persons, who, acting honestly, notify or give information about suspected harm to a child.

(2) If the chief executive reasonably believes alleged harm may have involved the commission of a criminal offence relating to the child, the chief executive must promptly give details of the alleged harm to the commissioner of the police service.

Child's parents to be told about allegation of harm

14.(1) An authorised officer or police officer who is investigating an allegation about harm, or risk of harm, to a child, or assessing the child's need of protection because of the allegation must give details of the alleged harm or risk of harm to at least 1 of the child's parents.

(2) However, the officer need only comply with subsection (1) to the extent the officer considers is reasonable and appropriate in particular circumstances if the officer reasonably believes—

- (a) someone may be charged with a criminal offence for the harm to the child and the officer's compliance with the subsection may jeopardise an investigation into the offence; or
- (b) compliance with the subsection may expose the child to harm.

Contact with child in immediate danger

15.(1) This section applies if—

- (a) an authorised officer or police officer is investigating an allegation about harm, or risk of harm, to a child; and
- (b) the officer has been denied contact with the child or cannot reasonably gain entry to the place where the officer reasonably believes the child is; and
- (c) the officer reasonably suspects the child—
 - (i) is in immediate danger; or
 - (ii) is likely to leave or be taken from the place and suffer harm if the officer does not take immediate action.

(2) The officer may exercise the following powers—

- (a) enter the place;
- (b) search the place to find the child;

(c) remain in the place, and have contact with the child, for as long as the officer considers necessary for investigating the allegation.	1 2
(3) The officer may exercise a power under subsection (2) with the help, and using the force, that is reasonable in the circumstances.	3 4
Child at immediate risk may be taken into custody	5
16.(1) This section applies if—	6
(a) an authorised officer or police officer is investigating an allegation about harm, or risk of harm, to a child; and	7 8
(b) the officer reasonably believes the child is at risk of harm and the child is likely to suffer harm if the officer does not take immediate action.	9 10 11
(2) The officer may take the child into the chief executive's custody.	12
(3) For subsection (2), the officer may enter the place where the officer reasonably believes the child is and search the place to find the child.	13 14
(4) On taking the child into the chief executive's custody, the officer may arrange reasonable medical examination of, or treatment for, the child.	15 16
(5) The officer may exercise a power under subsection (2) or (3) with the help, and using the force, that is reasonable in the circumstances.	17 18
(6) If the officer takes the child into the chief executive's custody, the chief executive's custody under this section ends on whichever is the earlier of the following to happen—	19 20 21
(a) 24 hours elapses after the child is taken into custody; or	22
(b) the child is returned to the place from which the child was taken under subsection (2);	23 24
(c) the child is returned to the custody of the child's parents;	25
(d) the child is taken to a safe place to which the child reasonably asks to be taken;	26 27
(e) the making of a temporary assessment order for the child;	28
(f) if an application for a court assessment order or child protection order is made for the child—the adjournment of the proceeding	29 30

for the application or, if the proceeding is not adjourned, the making of a decision on the application.

Effect of taking child into custody on existing custody order

17.(1) This section applies if—

- (a) an authorised officer or police officer takes a child into the chief executive's custody; and
- (b) a child protection order granting custody of the child to someone other than the chief executive is in force.

(2) The order, so far as it relates to the child's custody, ceases to have effect while the chief executive's custody of the child continues.

Officer's obligations on taking child into custody

18.(1) If an authorised officer or police officer takes a child into the chief executive's custody, the officer must, as soon as practicable—

- (a) take reasonable steps to tell at least 1 of the child's parents—
 - (i) that the child has been taken into custody and the reasons for the action; and
 - (ii) when the chief executive's custody ends under section 16(6); and
- (b) tell the child about his or her being taken into the chief executive's custody; and
- (c) tell the chief executive the child has been taken into the chief executive's custody and where the child has been taken.

(2) Subsection (1) does not require the officer to tell the child's parents in whose care the child has been placed.

Moving child to safe place

19.(1) This section applies if—

- (a) an authorised officer or police officer reasonably suspects a child is at risk of harm but does not consider it necessary to take the

child into the chief executive's custody to ensure the child's protection; and	1 2
(b) a parent or other adult member of the child's family is not present at the place where the child is, and, after reasonable inquiries, the officer cannot contact a parent or member of the child's family.	3 4 5
(2) The officer may, with the help that is reasonable in the circumstances, move the child to a safe place.	6 7
(3) As soon as practicable after moving the child, the officer must take reasonable steps to tell at least 1 of the child's parents or a family member of the child's whereabouts.	8 9 10
(4) The child may be cared for at the place until the child's parents or family members resume or assume the child's care.	11 12
(5) The moving of the child does not—	13
(a) prevent the child's parents or family members resuming or assuming care of the child; or	14 15
(b) affect existing parental rights for the child.	16
(6) This section does not apply if, because of a child's age and ability to understand, the child is capable of consenting to be moved.	17 18
Protection from liability for notification of, or information given about, alleged harm	19 20
20.(1) This section applies if a person, acting honestly—	21
(a) notifies the chief executive or another officer of the department that the person suspects a child has been, is being or is likely to be, harmed; or	22 23 24
(b) gives the chief executive, an authorised officer or police officer information about alleged harm to a child.	25 26
(2) The person does not incur civil liability for giving the notification or information.	27 28
(3) Also, the person cannot be held to have breached any code of professional etiquette or ethics or to have departed from accepted standards of professional conduct merely because of the giving of the notification or information.	29 30 31 32

PART 2—TEMPORARY ASSESSMENT ORDERS**Meaning of “parent”**

21. In this part—

“parent”, of a child, means the child’s guardian, and if the child is in a person’s custody under this Act, includes anyone else who would be the child’s guardian if the person did not have custody of the child.

Making of application for order

22.(1) An authorised officer or police officer may apply to a magistrate for an order under this part (a “**temporary assessment order**”) for a child.

(3) The application must—

(a) be sworn; and

(b) state the grounds on which it is made; and

(c) indicate the nature of the order sought; and

(d) if taking the child into, or keeping the child in, the chief executive’s custody is sought—the proposed arrangements for the child’s care.

(4) The magistrate may refuse to consider the application until the applicant 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 be given by statutory declaration.

Making of application by phone etc.

23.(1) An application for a temporary assessment order may be made by phone, fax, radio or another form of communication.

(2) Before applying for an order under this section, the person making the application must complete a written application for the order.

(3) The authorised officer or police officer may apply for the order before

the application is sworn.

(4) The magistrate to whom the application is made may presume—

(a) the applicant is entitled to make the application; and

(b) the applicant has properly completed a written application for the order.

Deciding application

24.(1) A magistrate may decide an application for a temporary assessment order without hearing the child's parents.

(2) The magistrate may make a temporary assessment order for the child only if the magistrate is satisfied—

(a) an investigation is necessary to assess whether the child is a child in need of protection; and

(b) the investigation cannot be properly carried out unless the order is made.

(3) However, in deciding the application, the magistrate must also be satisfied—

(a) reasonable steps have been taken to obtain the consent of the child's parents to the doing of the things sought to be authorised under the order or it is not practicable to take steps to obtain the consent; or

(b) the following subparagraphs apply—

(i) the child is at a school, child care centre or another place occupied by a person standing in the place of the child's parents; and

(ii) an authorised officer or police officer has been denied contact with the child; and

(iii) it is in the best interests of the child that the officer has contact with the child before the child's parents are told about the investigation.

Making and effect of temporary assessment order

25.(1) The magistrate may make a temporary assessment order for the child that provides for any 1 or more of the following the magistrate considers to be appropriate in the circumstances—

(a) authorising an authorised officer or police officer—

(i) to have contact with the child; and

(ii) if the magistrate is satisfied it is necessary to provide interim protection for the child while the investigation is carried out—to take the child into, or keep the child in, the chief executive’s custody while the order is in force;

(b) authorising the child’s medical examination or treatment;

(c) directing a parent not to have contact (direct or indirect)—

(i) with the child; or

(ii) with the child other than when a stated person or a person of a stated category is present.

(2) Also, the order may be made subject to the reasonable conditions the magistrate considers appropriate.

(3) If the magistrate is satisfied entry to a place is likely to be refused or it is otherwise justified in particular circumstances, including, for example, because the child’s whereabouts are not known, the order may also authorise an authorised officer or police officer to enter and search any place the officer reasonably believes the child is, to find the child.

(4) On entering a place, an authorised officer or police officer may remain in the place for as long as the officer considers necessary for exercising the officer’s powers under this section.

(5) An authorised officer or police officer may exercise powers under the order with the help, and using the force, that is reasonable in the circumstances.

Procedure after making order on application by phone etc.

26.(1) This section applies if the temporary assessment order is made on application made under section 23.

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- (2) After making the order, the magistrate must immediately fax a copy of it to the applicant if it is reasonably practicable to fax the copy. 1
2
- (3) If it is not reasonably practicable to fax a copy of the order to the applicant— 3
4
- (a) the magistrate must— 5
- (i) tell the applicant what the terms of the order are; and 6
- (ii) tell the applicant the date and time the order was signed; and 7
- (b) the applicant must write on a form of order (“**order form**”)— 8
- (i) the magistrate’s name; and 9
- (ii) the date and time the magistrate signed the order; and 10
- (iii) the order’s terms. 11
- (4) The facsimile order, or the order form properly completed by the applicant, authorises the exercise of powers under the order made by the magistrate. 12
13
14
- (5) The applicant must, at the first reasonable opportunity, send to the magistrate— 15
16
- (a) the sworn application; and 17
- (b) if the applicant completed an order form—the completed order form. 18
19
- (6) On receiving the documents, the magistrate must attach them to the order. 20
21

Police officers to notify chief executive of certain orders 22

27. If a temporary assessment order is made on the application of a police officer, the officer must promptly give copies of the application and order to the chief executive. 23
24
25

Duration of temporary assessment orders 26

28.(1) A temporary assessment order must state the time when it ends. 27

(2) The stated time must not be more than 3 days after the day the order is made. 28
29

(3) The order ends at the stated time unless it is extended.	1
(4) Regardless of subsections (1) to (3), the order ends when the child turns 18 years.	2 3
Extension of temporary assessment orders	4
29.(1) An authorised officer or police officer may apply to a magistrate for an order to extend the term of a temporary assessment order for a child.	5 6
(2) The application must be made before the order ends.	7
(3) This part applies, with all necessary changes, to the application as if it were an application for a temporary assessment order.	8 9
(4) The magistrate may, by order, extend the order until the end of the next business day after it would have otherwise ended if the magistrate is satisfied—	10 11 12
(a) the order has not ended; and	13
(b) the officer intends to apply for a court assessment order or child protection order for the child before the order ends.	14 15
(5) A temporary assessment order may not be extended more than once.	16
Effect of temporary assessment order on existing child protection orders	17 18
30. If a temporary assessment order is made for a child for whom a child protection order is already in force, the temporary assessment order prevails to the extent of any inconsistency between the orders.	19 20 21

PART 3—COURT ASSESSMENT ORDERS 22

Meaning of “parent” 23

31. In this part—	24
“parent”, of a child, means the child’s guardian, and if the child is in a	25

person's custody under this Act, includes anyone else who would be the child's guardian if the person did not have custody of the child.

Application for court assessment order

32.(1) An authorised officer or police officer may apply to the Childrens Court for an order under this part (a "**court assessment order**") for a child.

(2) The application is made by—

- (a) filing written notice with the registrar of the court; and
- (b) complying with applicable rules of court.

(3) The application must—

- (a) be sworn; and
- (b) state the grounds on which it is made; and
- (c) indicate the nature of the order sought.

Registrar to fix time and place for hearing

33. On the making of the application, the registrar of the Childrens Court must immediately fix a time and place for hearing the application having regard to the principle that it is in the best interests of the child for the application to be heard as soon as possible.

Notice of application

34.(1) As soon as practicable after the application is filed, the applicant must—

- (a) personally serve a copy of it on each of the child's parents; and
- (b) tell the child about the application.

(2) However, if it is not practicable to serve the copy personally a copy of the application may be served on a parent by leaving it at, or by sending it by post to, the parent's residential address last known to the applicant.

(3) The copy of the application must be accompanied by a notice stating—

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- | | |
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| (a) when and where the application is to be heard; and | 1 |
| (b) the application may be heard and decided even though the parent does not appear in court. | 2
3 |

Respondents to application 4

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| 35. The child and the child's parents are respondents to the application. | 5 |
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Hearing of application in absence of parents 6

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| 36. The Childrens Court may hear and decide the application in the absence of the child's parents only if— | 7
8 |
| (a) the parents have been given reasonable notice of the hearing; or | 9 |
| (b) it is satisfied it was not practicable to give the parents notice of the hearing. | 10
11 |

Making and effect of court assessment order 12

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| 37.(1) The Childrens Court may make a court assessment order only if the court is satisfied an investigation is necessary to assess whether the child is a child in need of protection and the investigation cannot be properly carried out unless the order is made. | 13
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| (2) The order may provide for any 1 or more of the following the court considers to be appropriate in the circumstances— | 17
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|--|----------------|
| (a) authorising an authorised officer or police officer to have contact with the child; | 19
20 |
| (b) authorising the medical examination, assessment or treatment of the child; | 21
22 |
| (c) if the court is satisfied it is necessary to provide interim protection for the child while the investigation is carried out—granting temporary custody of the child to the chief executive; | 23
24
25 |
| (d) making provision about the child's contact with the child's family during the chief executive's custody of the child; | 26
27 |
| (e) directing a parent not to have contact (direct or indirect)— | 28 |

(i) with the child; or	1
(ii) with the child other than when a stated person or a person of a stated category is present.	2 3
(3) Also, the order may be made subject to the reasonable conditions the court considers appropriate.	4 5
(4) In addition, the order may also authorise an authorised officer or police officer to enter any place the officer reasonably believes the child is, to find the child, if the court is satisfied—	6 7 8
(a) entry to a place has been, or is likely to be, refused, or it is otherwise justified in particular circumstances; and	9 10
(b) the entry is necessary for the effective enforcement of the order.	11
(5) On entering a place, an authorised officer or police officer may remain in the place for as long as the officer considers necessary for exercising the officer's powers under this section.	12 13 14
(6) An authorised officer or police officer may exercise the officer's powers under the order with the help, and using the force, that is reasonable in the circumstances.	15 16 17
Duration of court assessment orders	18
38.(1) A court assessment order for a child must state the time when it ends.	19 20
(2) The stated time must not be more than 12 weeks after the day the hearing of the application for the order is first brought before the court. ⁶	21 22
(3) The order ends at the stated time unless it is extended or earlier revoked.	23 24
(4) Regardless of subsections (1) to (3), the order ends when the child turns 18 years.	25 26

⁶ Under section 33, the registrar fixes the time and place for hearing the application.

Extension of court assessment orders	1
39.(1) An authorised officer may apply to the Childrens Court for an order to extend the term of a court assessment order.	2 3
(2) The application must be made before the order ends.	4
(3) This part applies, with all necessary changes, to the application as if it were an application for a court assessment order.	5 6
(4) However, the court must not extend a court assessment order to a date that is more than 12 weeks after it was made.	7 8
(5) Also, a court assessment order may not be extended more than once.	9

Variation and revocation of court assessment orders	10
40.(1) An authorised officer may apply to the Childrens Court for an order to vary or revoke a court assessment order.	11 12
(2) This part applies, with all necessary changes, to the application as if it were an application for a court assessment order.	13 14

PART 4—CHILD PROTECTION ORDERS 15

Meaning of “parent”	16
41. In this part—	17
“parent” , of a child, means the child’s guardian, and if the child is in a person’s custody under this Act, includes anyone else who would be the child’s guardian if the person did not have custody of the child.	18 19 20

Application for child protection order	21
42.(1) An authorised officer may apply to the Childrens Court for an order under this part (a “child protection order”) for a child.	22 23
(2) The application is made by—	24
(a) filing written notice with the registrar of the court; and	25

(b) complying with applicable rules of court.	1
(3) The application must—	2
(a) be sworn; and	3
(b) state the grounds on which it is made; and	4
(c) indicate the nature of the order sought.	5
Registrar to fix time and place for hearing	6
43. On the making of the application, the registrar of the Childrens Court must immediately fix the time and place for hearing the application having regard to the principle that it is in the best interests of the child for the application to be heard as early as possible.	7 8 9 10
Notice of application	11
44.(1) As soon as practicable after the application is filed, the applicant must—	12 13
(a) personally serve a copy of it on each of the child's parents; and	14
(b) tell the child about the application.	15
(2) However, if it is not practicable to serve the copy personally, a copy of the application may be served on a parent by leaving it at, or by sending it by post to, the parent's residential address last known to the applicant.	16 17 18
(3) A copy of the application must be accompanied by a notice stating—	19
(a) when and where the application is to be heard; and	20
(b) the application may be heard and decided even though the parent does not appear in court.	21 22
Respondents to hearing	23
45. The child and the child's parents are respondents to the application.	24
Hearing of application in absence of parents	25
46. The Childrens Court may hear and decide the application in the	26

absence of the child's parents only if—	1
(a) the parents have been given reasonable notice of the hearing; or	2
(b) it is satisfied it was not practicable to give the parents notice of the hearing.	3
	4
Making and effect of child protection order	5
47.(1) The Childrens Court may make a child protection order only if it is satisfied the child is a child in need of protection and the order is appropriate and desirable for the child's protection.	6
	7
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(2) Subject to section 48, ⁷ an order may provide for any 1 or more of the following the court considers to be appropriate in the circumstances—	9
	10
(a) directing a parent of the child, or the child, to do or refrain from doing something directly related to the child's protection;	11
	12
(b) directing a parent not to have contact (direct or indirect)—	13
(i) with the child; or	14
(ii) with the child other than when a stated person or a person of a stated category is present;	15
	16
(c) requiring the chief executive to supervise the child's protection in relation to the matters stated in the order;	17
	18
(d) granting custody (other than long-term custody) of the child to—	19
(i) a suitable person who is a member of the child's family (other than a parent); or	20
	21
(ii) the chief executive; or	22
	23
(e) granting long-term custody of the child to—	23
(i) a suitable person who is a member of the child's family (other than a parent); or	24
	25
(ii) another suitable person (other than a member of the child's family) nominated by the chief executive; or	26
	27
(iii) the chief executive.	28

⁷ Section 48 (Requirements for making child protection order)

(3) Also, the order may be made subject to the reasonable conditions the court considers appropriate.

Requirements for making child protection order

48.(1) Before making a child protection order, the Childrens Court must be satisfied—

- (a) a family meeting has been held or reasonable attempts to hold a family meeting have been made; and
- (b) if the making of the order has been contested—a conference between the parties has been held or reasonable attempts to hold a conference have been made; and
- (c) the child’s wishes or views (if able to be ascertained) have been made known to the court; and
- (d) the child’s protection is unlikely to be ensured by an order under this part on less intrusive terms.

(2) Before granting custody of a child to a person other than the chief executive, the court must have regard to any report given, or recommendation made, to the court by the chief executive about the person, including a report about the person’s criminal history, domestic violence history and traffic history.⁸

(3) Also, before making a child protection order granting long-term custody of a child, the court must be satisfied—

- (a) there is no parent able and willing to protect the child within the foreseeable future; or
- (b) the child’s need for emotional security will be best met in the long-term by making the order.

(4) In addition, the court must not grant long-term custody of a child to a person who is not a member of the child’s family unless the child is already in custody under a child protection order.

(5) Further, the court must not grant long-term custody of a child to the

⁸ Section 72 deals with reports about the person’s criminal history, domestic violence history and traffic history.

chief executive if the court can properly grant custody to another suitable person.	1 2
Duration of child protection orders	3
49.(1) A child protection order for a child must state the time when it ends.	4 5
(2) The stated time for the order—	6
(a) if it grants long-term custody of the child—must be the day before the child turns 18 years; or	7 8
(b) if it grants custody (other than long-term custody) of the child—must not be more than 2 years after the day it is made; or	9 10
(c) if it does not grant custody of the child—must not be more than 1 year after the day it is made.	11 12
(3) The order ends at the stated time unless it is extended or earlier revoked.	13 14
(4) Regardless of subsections (1) to (3), the order ends when the child turns 18.	15 16
Extension of certain child protection orders	17
50.(1) An authorised officer may apply to the Childrens Court for an order to extend a child protection order for a child other than an order granting long-term custody of a child.	18 19 20
(2) The application must be made before the order ends.	21
(3) This part applies, with all necessary changes, to the application as if it were an application for a child protection order.	22 23
Variation and revocation of child protection orders	24
51.(1) An authorised officer or interested person may apply to the Childrens Court for an order to—	25 26
(a) vary or revoke a child protection order; or	27
(b) revoke a child protection order and make another child protection	28

- order in its place. 1
- (2) However, an interested person can not— 2
- (a) apply for an order to grant long-term custody of a child to replace 3
another child protection order for the child; or 4
- (b) without the leave of the court, apply for an order to vary or revoke 5
a child protection order if another application for an order by an 6
interested person to vary or revoke the order has been decided by 7
the court. 8
- (3) The court may grant leave only if it is satisfied the interested person 9
has new evidence to give to the court. 10
- (4) This part applies, with the changes prescribed in subsection (5) and 11
all necessary changes, to the application as if it were an application for a 12
child protection order. 13
- (5) If the application is made by an interested person— 14
- (a) other interested persons and the chief executive become 15
respondents to the proceeding; and 16
- (b) immediately after the application is made, the registrar must give 17
written notice to the chief executive of the time and place for 18
hearing the application; and 19
- (c) as soon as practicable after receiving the registrar's notice, the 20
chief executive must comply with section 44 except so far as it 21
relates to the applicant. 22
- (6) The court may revoke a child protection order only if it is satisfied the 23
order is no longer necessary to protect the child. 24
- (7) In this section— 25
- “interested person”**, for a child, means the child's parents, a person (other 26
than the chief executive) having custody of the child or the child. 27

PART 5—ADJOURNMENTS OF PROCEEDINGS AND COURT ORDERED CONFERENCES

Division 1—Adjournments of proceedings

Court may adjourn proceedings

52.(1) The Childrens Court may adjourn a proceeding for a court assessment order or child protection order for a child for a period decided by the court.

(2) However, for a court assessment order the total period of adjournments must not be longer than 12 weeks.

(3) In deciding the period, the court must take into account the principle that it is in the child's best interests for the application for the order to be decided as soon as possible.

(4) The court must state the reasons for the adjournment and may give directions to the parties to the proceeding about the things to be done by them during the adjournment.

Court's powers to make interim orders on adjournment

53.(1) On the adjournment of a proceeding for a court assessment order or child protection order, the Childrens Court may make an interim order—

(a) granting temporary custody of the child—

(i) for a court assessment order—to the chief executive; or

(ii) for a child protection order—to the chief executive or a suitable person who is a member of the child's family (other than a parent); or

(b) directing a parent not to have contact (direct or indirect)—

(i) with the child; or

(ii) with the child other than when a stated person or a person of a stated category is present.

(2) The order has effect for the period of the adjournment.

Court's other powers on adjournment of proceedings for child protection orders

54.(1) On the adjournment of a proceeding for a child protection order, the Childrens Court may also make 1 or more of the following orders—

- (a) an order requiring a written social assessment report about the child and the child's family be prepared and filed in the court;
- (b) an order authorising the medical examination of the child be carried out and a report of the examination be filed in the court;
- (c) an order about the child's contact with the child's family during the adjournment;
- (d) an order requiring an authorised officer to convene a family meeting;⁹
- (e) an order that a conference between the parties be held before the proceeding continues to decide the matters in dispute or to try to resolve the matters;
- (f) an order that the child be separately legally represented.

(2) If the court makes an order under subsection (1)(a) or (b), the court must state the particular issues the report must address.

(3) Subsection (2) does not limit the issues that may be addressed in the report.

(5) For subsection (1)(a) or (b), the order may also authorise an authorised officer to enter and search a stated place, and any other place the officer reasonably believes the child is if the court is satisfied entry to the place has been or is likely to be refused, to find the child.

(6) The officer may exercise the officer's powers under the order with the help, and using the force, that is reasonable in the circumstances.

⁹ See section 73 (Family meetings).

Division 2—Court ordered conferences**Registrar to appoint chairperson and convene conference**

55.(1) If the Childrens Court orders a conference be held between the parties to a proceeding, the registrar of the court must—

- (a) appoint a chairperson for the conference; and
- (b) convene the conference to be held as soon as practicable after the order is made.

(2) The chairperson must have the qualifications or experience prescribed under rules of court made under the *Childrens Court Act 1992*.

Attendance of parties

56.(1) The parties must attend, and may be represented by their legal representatives at, the conference.

(2) However, subsection (1) does not require the child to attend the conference.

(3) If the child is an Aboriginal or Torres Strait Islander child, a member of the recognised Aboriginal or Torres Strait Islander agency for the child may also attend the conference.

(4) However, no one else can attend the conference without the chairperson's approval.

Communications inadmissible in evidence

57. Anything said at the conference is inadmissible in a proceeding before any court.

Report of conference

58.(1) As soon as practicable after the conference is finished, the chairperson must file in the court a report of the conference containing the particulars prescribed under a regulation.

(2) If the report states the parties have reached an agreement in relation to

the application the subject of the proceeding and it is practicable for the application to be heard earlier than the adjournment date, the registrar must—

- (a) fix a new time and place for the hearing of the application; and
- (b) advise the chairperson and the parties accordingly.

(3) If the new time and place for the hearing of the application is not the same day the conference finished, the registrar must confirm the advice by written notice.

PART 6—OBLIGATIONS AND RIGHTS UNDER ORDERS

Explanation of orders

59.(1) Immediately after a temporary assessment order is made for a child, the applicant for the order must—

- (a) give a copy of, and explain the terms and effect of, the order to at least 1 of the child's parents; and
- (b) inform the parent about the parent's right of appeal against the decision to make the order; and
- (c) tell the child about the order.

(2) Also, because of the duration of the order, the applicant must inform the parent that, if the parent wishes to appeal against the order, an appeal should be started immediately.¹⁰

(3) As soon as practicable after a court assessment order or child protection order for a child is made, the chief executive must give to the parties to the application for the order—

- (a) a copy of the order; and

¹⁰ Under section 28, the duration of a temporary assessment order must be not more than 3 days.

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|--|---|
| (b) a written notice— | 1 |
| (i) explaining the terms and effect of the order; and | 2 |
| (ii) stating that a party may appeal against the decision within | 3 |
| 28 days after the order is made. | 4 |

Chief executive's obligations under orders (other than orders granting long-term custody)	5
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60.(1) If a child protection order is made for a child (other than an order granting long-term custody of the child), the chief executive must take steps to help the child's family meet the child's protection needs.	7
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(2) For subsection (1), the chief executive must have regular contact with the child and the child's parents or other appropriate members of the child's family.	10
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(3) However, the chief executive is not required to take steps that are not reasonable and practicable.	13
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Chief executive's additional obligations under assessment orders	15
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61.(1) If an assessment order is made for a child, the chief executive must give the child's parents written notice of the person in whose care the child is placed and where the child is living.	16
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(2) However, the chief executive may decide not to comply with subsection (1) if the chief executive is satisfied compliance with the subsection would constitute a significant risk to the safety of the child or anyone else with whom the child is living.	19
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Obligations of child's parents, and powers of authorised officers, under orders for supervision	23
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62.(1) If, under a child protection order for a child, the chief executive is required to supervise the child's protection in relation to matters stated in the order, the child's parents or other person with whom the child is living must—	25
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| (a) keep the chief executive informed about where the child is living; | 29 |
| and | 30 |

- (b) allow authorised officers to have reasonable contact with the child. 1
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(2) For subsection (1)(b), an authorised officer may enter the place where the child is living at any reasonable time to have contact with the child and to inquire about the child's care. 3
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(3) The officer may exercise the officer's powers under subsection (2) with the help, and using the force, that is reasonable in the circumstances. 6
7

Chief executive's powers in relation to orders for supervision 8

63.(1) This section applies if, under a child protection order for a child, the chief executive is required to supervise the child's protection in relation to matters stated in the order. 9
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(2) For giving effect to the order, the chief executive may, by written notice given to a parent of the child, direct the parent or child to do or refrain from doing something specifically relating to the stated matters. 12
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(3) The notice must state— 15

- (a) the reasons for the decision; and 16
- (b) that the parent or child given the direction may appeal to a tribunal against the decision within 28 days after the person receives the notice. 17
18
19

Obligations of family members to department under custody orders 20

64.(1) If, under a child protection order, a member of a child's family is granted custody (other than long-term custody) of the child, the family member must help the chief executive achieve the child's future protection, including, for example, by taking part in family meetings. 21
22
23
24

(2) The family member must— 25

- (a) keep the chief executive informed about where the child is living; and 26
27
- (b) allow authorised officers to have reasonable contact with the child. 28
29

Obligations of family members and other persons to child's parents

65.(1) If, under a child protection order for a child, a member of the child's family or another suitable person is granted custody of the child, the family member or person must—

- (a) tell the parents where the child is living; and
- (b) give them information about the child's care; and
- (c) provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances.

(2) However, if the Childrens Court is satisfied compliance with subsection (1) would constitute a significant risk to the safety of the child or anyone else with whom the child is living, the court may order that the subsection does not apply to the extent ordered.

Obligations of chief executive under all custody orders

66.(1) If, under a child protection order for a child, the chief executive is granted custody of the child, the chief executive must—

- (a) give the child's parents written notice of the person in whose care the child is placed and where the child is living; and
- (b) provide opportunity for contact between the child and the child's parents and appropriate members of the child's family as often as is appropriate in the circumstances; and
- (c) if the custody is long-term custody of the child—
 - (i) at least once every 2 years, review the arrangements in place for the child's protection under the order to ensure the arrangements are in the child's best interests; and
 - (ii) provide information about the outcome of the review to the child, the child's parents and the child's carer.

(2) However, the chief executive may decide not to comply with subsection (1)(a) if the chief executive is satisfied—

- (a) compliance with the subsection would constitute a significant risk to the safety of the child or anyone else with whom the child is living; or

- (b) it is not reasonably practicable for the chief executive to comply with the subsection because the child is placed in the person's care for a short term only.

(3) If the chief executive decides not to comply with subsection (1)(a) for a parent of the child because compliance with the subsection would constitute a significant risk to the safety of the child or anyone else with whom the child is living, the chief executive must give written notice of the decision to the parent.

(4) The chief executive may refuse to allow, or restrict or impose conditions on, contact between the child and the child's parents or members of the child's family, if the chief executive is satisfied it is in the child's best interests to do so or it is not reasonably practicable in the circumstances for the parent or family member to have the contact.

(5) If the chief executive refuses to allow, or restricts or imposes conditions on contact between the child and a person, the chief executive must give written notice of the decision to each person affected by the decision.

(6) If the chief executive decides to refuse a request by a parent of the child or a member of the child's family for information mentioned in subsection (1)(a) or to have contact with the child, the chief executive must give written notice of the decision to the parent or family member within 28 days after the request is made.

(7) If, within the 28 days, the chief executive has not granted the request and has failed to give notice of a decision to refuse the request—

- (a) the chief executive is taken to have decided to refuse the request; and
- (b) the parent or family member is taken to have received notice of the refusal at the end of the time.

(8) A notice under subsection (3), (5) or (6) must—

- (a) be given as soon as practicable after the decision to which it relates is made; and
- (b) state the reasons for the decision; and
- (c) state that the person may appeal to a tribunal against the decision within 28 days after the person receives the notice.

Chief executive's obligations about placing child in care

67.(1) This section applies if, under a child protection order for a child, the chief executive is granted custody of the child.

(2) In deciding in whose care the child will be placed, the chief executive must give first preference to placing the child with a member of the child's family or another person regarded by the child as a member of the child's family.

Additional obligations of chief executive for Aboriginal and Torres Strait Islander children

68.(1) If, under a child protection order for an Aboriginal or a Torres Strait Islander child, the chief executive is granted custody of the child, the chief executive must ensure the recognised Aboriginal or Torres Strait Islander agency for the child is consulted before a decision is made about where or with whom the child will live.

(2) However, if because of urgent circumstances it is not practicable to consult the agency before the decision is made, the chief executive must consult with the agency promptly after making the decision.

(3) In making a decision about the person in whose care the child should be placed, the chief executive must give proper consideration to placing the child, in order of priority, with—

- (a) a member of the child's family; or
- (b) a member of the child's community or language group; or
- (c) another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group; or
- (d) another Aboriginal person or Torres Strait Islander.

(4) Also, the chief executive must give proper consideration to—

- (a) the views of the recognised Aboriginal or Torres Strait Islander agency for the child; and
- (b) ensuring the decision provides for the optimal retention of the child's relationships with parents, siblings and other people of significance under Aboriginal tradition or Island custom.

Agreements to provide care for children

69.(1) If an approved care provider agrees to care for a child in the chief executive's custody, the care provider must enter into a written agreement with the chief executive for the child's care.

(2) The agreement must contain terms about—

- (a) allowing an authorised officer to have contact with the child at any reasonable time; and
- (b) allowing an authorised officer to enter, at any reasonable time, the premises where the child is living to make inquiries about the child's care.

(3) The agreement must allow for an authorised officer to have contact with the child in the absence of anyone else.

Management of child's property by public trustee

70.(1) This section applies if—

- (a) under a child protection order for a child, the chief executive is granted custody of the child; and
- (b) the child has an entitlement to property; and
- (c) the chief executive has powers and duties in relation to the property; and
- (d) the chief executive is satisfied it is in the child's best interests for the public trustee to manage the property.

(2) The chief executive may give written notice to the public trustee requiring the public trustee to manage the property for the child.

(3) On receipt of the notice, the public trustee becomes the manager of the property and has the powers and duties in relation to it under the *Public Trustee Act 1978*, part 6¹¹, as if the child were an incapacitated person.

¹¹ Part 6 (Management of estates of incapacitated persons)

Audit of trust by public trustee

71. This section applies if—

- (a) under a child protection order for a child, the chief executive is granted custody of the child; and
- (b) the child is a beneficiary in a trust.

(2) For the *Public Trustee Act 1978*, section 60,¹² the chief executive is a person interested in the trust.

PART 7—GENERAL**Report about person's criminal history etc.**

72.(1) This section applies if the chief executive intends, or is asked or required by the Childrens Court, to give a report, or make a recommendation, to the court about—

- (a) a child's parents; or
- (b) a person being granted custody of a child.

(2) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the parent's or other person's criminal history, domestic violence history and traffic history.

(3) Also, the commissioner of the police service may give the chief executive a written report about evidence obtained by the commissioner of the police service in relation to the commission or alleged commission of an offence by either of the parents or the other person against—

- (a) someone else; or
- (b) a provision of the *Drugs Misuse Act 1986*; or

¹² Section 60 (Public Trustee may direct audit of trusts)

(c) sections 137 to 140. ¹³	1
(4) Subsections (2) and (3) apply to the history or evidence in the commissioner's possession or to which the commissioner has access.	2 3
Family meetings	4
73.(1) This section applies if—	5
(a) the chief executive is satisfied a child is a child in need of protection and action should be taken to ensure the child's protection; or	6 7 8
(b) the Childrens Court orders a family meeting be convened.	9
(2) An authorised officer must—	10
(a) take reasonable steps to convene a family meeting with the child's parents and, if the officer considers it is in the child's best interests, the child and other family members, to provide an opportunity for decisions to be made to ensure, or contribute towards ensuring, the child's protection; and	11 12 13 14 15
(b) tell the child why the officer considers the child is a child in need of protection; and	16 17
(c) if the meeting is to be convened under subsection (1)(a)—give the child's parents a written statement of the reasons the chief executive considers the child is a child in need of protection.	18 19 20
(3) If the child is an Aboriginal or Torres Strait Islander child, a member of the recognised Aboriginal or Torres Strait Islander agency for the child may also attend the family meeting.	21 22 23
(4) The officer must record in writing the decisions made at the meeting about the child's protection and, as soon as practicable after the meeting, give a copy of the record to the child's parents and anyone else the officer considers appropriate.	24 25 26 27
(5) If the family meeting is convened under a court order, the officer must file the record in the court.	28 29

¹³ Section 139 (Offence to remove child from custody), section 140 (Offence to refuse contact with child in custody), section 141 (Offence for person to take child out of State) and section 142 (Offence not to comply with certain orders)

Carrying out medical examinations etc.

74.(1) This section applies if—

(a) an authorised officer or police officer—

(i) takes a child into the chief executive's custody; and

(ii) seeks medical examination or treatment for the child;¹⁴ or

(b) an order for a child authorises the child's medical examination, assessment or treatment.¹⁵

(2) A doctor may medically examine, assess or treat the child.

(3) Subsection (2) applies even though the child's parents or person having custody of the child has not consented to the examination, assessment or treatment.

(4) However, subsection (2) is subject to the rights the child has in relation to the examination, assessment or treatment.

(5) Also, the doctor may only carry out medical treatment that is reasonable in the circumstances.

(6) If this section applies under subsection (1)(a), the doctor must give the chief executive or commissioner of the police service a report about the medical examination, assessment or treatment.

(7) The doctor is not relieved from liability in relation to the carrying out of the examination, assessment or treatment that the doctor would have been subject to had it been carried out with the consent of the child's parents or person having custody of the child.

(8) However, the doctor does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence in carrying out the medical examination, assessment or treatment.

¹⁴ Under section 16(4), an authorised officer or police officer may arrange for a child's medical examination or treatment.

¹⁵ Under section 25(1)(b) a temporary assessment order may authorise the medical examination or treatment of the child. Also, under section 37(2)(b) a child protection order may authorise the medical examination, assessment or treatment of the child or the child's parents.

Carrying out social assessments

75.(1) If, on an application for a child protection order, the Childrens Court makes an order requiring a social assessment of the child and the child's family, an appropriately qualified practitioner may carry out the social assessment.¹⁶

(2) However, the practitioner does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence in carrying out the social assessment.

Chief executive's custody of child continues pending hearing of application for order

76. If a child is in the chief executive's custody under an order and before the order ends an application is made for the extension or variation of the order or for another order, the custody continues until the application is heard and decided by the Childrens Court unless the court orders an earlier end to the custody.

CHAPTER 3—CHILDRENS COURT PROCEEDINGS

PART 1—JURISDICTION

Court's jurisdiction when constituted by judge

77.(1) This section applies if the Childrens Court is constituted by a judge.

(2) The court has jurisdiction to hear appeals against decisions of the court constituted in another way.

¹⁶ See section 54(1)(a) (Court's other powers on adjournment of proceedings for child protection orders).

Court's jurisdiction when constituted by magistrate	1
78.(1) This section applies if the Childrens Court is constituted by a magistrate.	2 3
(2) The court has jurisdiction to decide applications for court assessment and child protection orders.	4 5
Court's jurisdiction when constituted by justices	6
79.(1) This section applies if the Childrens Court is constituted by 2 justices.	7 8
(2) The court has jurisdiction to—	9
(a) decide applications for court assessment orders; and	10
(b) make interim orders on applications for court assessment orders or child protection orders and adjourn the hearing of the applications.	11 12 13
(3) Subsection (2) has effect despite the <i>Justices of the Peace and Commissioners for Declaration Act 1991</i> , section 29(3) and (4). ¹⁷	14 15
Court's jurisdiction unaffected by pending criminal proceeding	16
80.(1) The Childrens Court's jurisdiction under this part is not affected merely because a criminal proceeding is pending against—	17 18
(a) the child concerned; or	19
(b) a parent of the child; or	20
(c) another party to the proceeding in the court; or	21
(d) anyone else.	22
(2) Subsection (1) applies whether or not the criminal proceeding has arisen out of the same or similar facts as those out of which the proceeding in the court has arisen.	23 24 25

¹⁷ Section 29 (Powers of justices of the peace and commissioners for declarations)

PART 2—PROCEDURAL PROVISIONS

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Division 1—Court's procedures

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Court's paramount consideration

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81. In exercising its jurisdiction or powers under this Act, the Childrens Court must regard the welfare and interests of the child as paramount.

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Evidence

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82.(1) In a proceeding under this Act, the Childrens Court is not bound by the rules of evidence, but may inform itself in any way it thinks appropriate.

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(2) If, on an application for an order, the Childrens Court or a magistrate is to be satisfied of a matter, the court or magistrate need only be satisfied of the matter on the balance of probabilities.

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Expert help

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83.(1) In a proceeding on an application for an order, the Childrens Court may appoint a person having a special knowledge or skill to help the court.

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(2) The court may act under subsection (1) on the court's own initiative or on the application of a party to the proceeding.

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Division 2—Right of appearance and representation at hearing

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Right of appearance and representation

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84. In a proceeding on an application for an order for a child, the child, the child's parents and the other parties may appear in person or be represented by an agent appointed in writing.

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Legal representation of child's parents

85.(1) If, in a proceeding on an application for an order for a child, a parent of the child appears in the Childrens Court but is not represented by a lawyer, the court may continue with the proceeding only if it is satisfied the parent has had reasonable opportunity to obtain legal representation.

(2) Subsection (1) does not prevent the court exercising powers under chapter 2, part 5, division 1.¹⁸

Child cannot be compelled to give evidence

86.(1) In a proceeding on an application for an order, a child may only be called to give evidence with the leave of the Childrens Court.

(2) The court may grant leave only if the child—

(a) is 12 years or more; and

(b) is separately represented by a lawyer; and

(c) agrees to give evidence.

(3) If the child gives evidence, he or she may be cross examined only with the leave of the court.

Court may hear submissions from non-parties to proceeding

87.(1) In a proceeding on an application for an order, the Childrens Court may hear submissions from the following persons—

(a) the chief executive;

(b) a member of the child's family;

(c) anyone else the court considers is able to inform it on any matter relevant to the proceeding.

(2) A submission may be made by a person's lawyer.

¹⁸ Chapter 2 (Protection of children), part 5 (Adjournments of proceedings and court ordered conferences), division 1 (Adjournments of proceedings)

Division 4—General**Transfer of proceedings**

88.(1) If a magistrate constituting the Childrens Court is of the opinion a proceeding before the magistrate should be heard by the court constituted by a magistrate at another place, the magistrate may order that the proceeding be transferred to the court constituted by a magistrate at the other place.

(2) A magistrate may act under subsection (1) on the magistrate's own initiative or on the application of a party to the proceeding.

Hearing of applications together

89.(1) The Childrens Court may hear 2 or more applications for orders together if, before any of the applications are decided, a party to the proceeding for any of the applications asks that the applications be heard together and the court considers that is in the interests of justice that the applications be heard together.

(2) Subsection (1) applies even though the parties, or all of the parties, to the proceedings are not the same.

Costs

90. The parties to a proceeding in the Childrens Court for an order must pay their own costs of the proceeding.

PART 3—COURT APPEALS**Who may appeal**

91.(1) The following persons may appeal to the appellate court against a decision on an application for a temporary assessment order for a child—

(a) the applicant;

(b) the child;

(c) the child's parents.	1
(2) A party to the proceeding for an application for a court assessment order or child protection order for a child may appeal to the appellate court against a decision on the application.	2 3 4
How to start appeal	5
92.(1) The appeal is started by filing a written notice of appeal with the registrar of the appellate court.	6 7
(2) The registrar must give the decision-maker a copy of the notice.	8
(3) The appellant must serve a copy of the notice on the other persons entitled to appeal against the decision.	9 10
(4) The notice of appeal must be filed within 28 days after the decision is made.	11 12
(5) The court may at any time extend the period for filing the notice of appeal.	13 14
(6) The notice of appeal must state fully the grounds of the appeal and the facts relied on.	15 16
Stay of operation of decisions	17
93.(1) The appellate court may stay a decision appealed against to secure the effectiveness of the appeal.	18 19
(2) A stay—	20
(a) may be given on the reasonable conditions the court considers appropriate; and	21 22
(b) operates for the period fixed by the court; and	23
(c) may be revoked or amended by the court.	24
(3) However, the period of a stay must not extend past the time when the court decides the appeal.	25 26
(4) An appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed.	27 28

Hearing procedures

94.(1) An appeal against a decision of a magistrate on an application for a temporary assessment order is not restricted to the material before the magistrate.

(2) An appeal against another decision must be decided on the evidence and proceedings before the Childrens Court.

(3) However, the appellate court may order that the appeal be heard afresh, in whole or part.

Powers of appellate court

95. In deciding an appeal, the appellate court may—

- (a) confirm the decision appealed against; or
- (b) vary the decision appealed against; or
- (c) set aside the decision and substitute another decision.

CHAPTER 4—INTERSTATE TRANSFERS OF GUARDIANSHIP AND CUSTODY OF CHILDREN

Meaning of “parent”

96. In this chapter—

“parent”, of a child, means the person who would be the child’s guardian if an order or interstate order was not in force for the child.

Transfers from other States

97.(1) This section applies if—

- (a) an interstate welfare authority is the guardian of a child under an interstate order; and
- (b) the child has entered, or is about to enter, Queensland.

(2) The chief executive may, by written declaration, assume custody of the child—	1 2
(a) if the interstate order is effective for less than 2 years—for not more than the remainder of the period stated in it; or	3 4
(b) if the interstate order is effective for 2 years or more—for the lesser of—	5 6
(i) the remainder of the period stated in it; or	7
(ii) 2 years; or	8
(c) if the interstate order is effective until the child turns 18 years—until the child turns 18 years.	9 10
(3) On the making of the declaration, the interstate order is taken to be a child protection order under the terms stated in the declaration.	11 12
(4) For subsection (3), the chief executive may declare the interstate order applies to the chief executive's custody only to the extent, or with the changes necessary, to make it consistent with this Act.	13 14 15
Restriction on making declaration	16
98. The chief executive may make the declaration only if the authority asks the chief executive to make the declaration.	17 18
Notice of declaration	19
99. As soon as practicable after making the declaration about assuming the custody of a child, the chief executive must—	20 21
(a) give a copy of the declaration to the child and the child's parents; and	22 23
(b) explain the terms and effects of the declaration to them.	24
Transfer to other States	25
100.(1) The chief executive may arrange for an interstate welfare authority to assume the guardianship of a child who is under the chief executive's custody under this Act.	26 27 28

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- (2)** Before making the arrangement, the chief executive must give written notice of the arrangement to—
- (a) the child and the child's parents; and
 - (b) if the child has a carer—the carer.
- (3)** The notice must—
- (a) state the grounds for the arrangement; and
 - (b) outline the facts and circumstances forming the basis for the grounds; and
 - (c) invite the child, child's parents and (if applicable) the carer, within a stated time of at least 14 days, to make written submissions to the chief executive about why the arrangement should not be made.
- (4)** If, after considering all submissions made within the stated time, the chief executive still considers grounds exist to make the arrangement, the chief executive may make the arrangement.
- (5)** The arrangement cannot take effect until—
- (a) the end of the time to appeal against the decision to make the arrangement; or
 - (b) if an appeal is made against the decision—the appeal is decided.
- (6)** The chief executive must give written notice of the chief executive's decision to the child, the child's parents and (if applicable) the carer.
- (7)** The notice must—
- (a) be given as soon as practicable after the decision is made; and
 - (b) state the reasons for the decision; and
 - (c) state that the child, child's parents and (if applicable) the carer may appeal to a tribunal against the decision to make the arrangement within 28 days after the notice is received.

CHAPTER 5—REGULATION OF CARE

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PART 1—STANDARDS OF CARE

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Statement of standards

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101.(1) The chief executive must take reasonable steps to ensure a child who, for the purposes of this Act, is placed in the care of an approved care provider, licensed care service or departmental care service, is cared for in a way that meets the following standards (the “**statement of standards**”)—

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- (a) the child’s dignity and rights will be respected at all times; 8
- (b) the child’s needs for physical care will be met, including adequate food, clothing, and shelter; 9
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- (c) the child will receive emotional care which allows him or her to experience being cared about and valued and which contributes to the child’s positive self-regard; 11
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13
- (d) the child’s needs relating to his or her culture, religious beliefs and ethnic grouping will be met; 14
15
- (e) the child’s material needs relating to his or her schooling, physical and mental stimulation, recreation and general living will be met; 16
17
- (f) the child will receive education, training or employment opportunities according to the child’s age and ability; 18
19
- (g) the child will receive positive guidance when necessary to help him or her to change inappropriate behaviour; 20
21
- (h) the child will receive dental, medical and therapeutic services necessary to meet his or her needs; 22
23
- (i) the child will be given the opportunity to participate in positive social and recreational activities appropriate to his or her developmental level and age; 24
25
26
- (j) the child will be encouraged to maintain family and other significant personal relationships; 27
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- (k) if the child has a disability—the child will receive care and help appropriate to the child’s special needs. 1
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- (2) For subsection (1)(g), techniques for managing the child’s behaviour must not include corporal punishment or punishment that humiliates, frightens or threatens the child in a way that is likely to cause emotional harm. 3
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- (3) For subsection (1)(j), if the chief executive has custody of the child, the child’s carer must act in accordance with the chief executive’s reasonable directions. 7
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- (4) The application of the standards to the child’s care must take into account what is reasonable having regard to— 10
11
- (a) the length of time the child is in the care of the carer or care service; and 12
13
- (b) the child’s age and development; and 14
- (c) the resources available within the community in which the carer is living or the care service is provided. 15
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PART 2—LICENSING OF CARE SERVICES AND APPROVAL OF CARE PROVIDERS

Division 1—Preliminary

Purpose of part

102. The purpose of this part is to provide a system of licensing services, and approving individuals, to provide care for children to enable the chief executive to ensure the care of children in the chief executive’s custody meets the standards of care in the statement of standards.

Division 2—Licensing of care services**Individuals cannot hold licences**

103. An individual is not eligible to hold a licence.

Application for, or renewal of, licence

104.(1) An application for, or renewal of, a licence to provide care services must—

- (a) be made by a corporation; and
- (b) be made to the chief executive in the approved form; and
- (c) nominate an adult to be nominee for the licence; and
- (d) if the application is for renewal of a licence—be made at least 30 days before the licence ends.

(2) The application form approved by the chief executive may require the disclose of the criminal history, domestic violence history and traffic history of a person to whom section 121 applies.¹⁹

Restrictions on granting application

105. The chief executive must not grant the application unless the chief executive is satisfied—

- (a) the applicant is a suitable entity to provide care services; and
- (b) the persons who will be responsible for directly managing the service are suitable persons; and
- (c) the standard of care provided or to be provided complies or will comply with the statement of standards; and
- (d) the selection, training and management of people engaged in providing the services are suitable.

¹⁹ Section 121 (Inquiries about certain persons' suitability).

Grant of application	1
106.(1) If the chief executive decides to grant the application, the chief executive must issue and give to the applicant a licence.	2 3
(2) The licence must state—	4
(a) the licensed premises; and	5
(b) whether the licensee is authorised under the licence to exercise powers under divisions 3 and 4. ²⁰	6 7
(3) The licence may be issued subject to the reasonable conditions the chief executive considers appropriate.	8 9
Duration of licence	10
107. The licence or its renewal has effect for 3 years.	11
Refusal of application	12
108.(1) If the chief executive decides to refuse the application, the chief executive must give written notice of the decision to the applicant.	13 14
(2) The notice must—	15
(a) be given within 10 days after the decision is made; and	16
(b) state the reasons for the decision; and	17
(c) state that the person may appeal to a tribunal against the decision within 28 days after the notice is received.	18 19
Nominees	20
109.(1) The nominee for a licence is responsible for ensuring—	21
(a) the standard of care provided by the service complies with the statement of standards; and	22 23
(b) the persons engaged in the direct care of children for the service	24

²⁰ Division 3 (Approval of care providers), division 4 (Amendment, suspension and cancellation of authorities)

are suitable persons.

(2) An adult may be a nominee for more than 1 licence.

Division 3—Approval of care providers

Only individuals may hold certificates of approval

110.(1) Only an individual is eligible to hold a certificate of approval as an approved care provider.

(2) Two or more individuals may hold a certificate jointly.

Application for approval or renewal of approval

111.(1) An application for, or renewal of, a certificate of approval as an approved care provider—

- (a) must be made to an approving entity in the approved form; and
- (b) if the application is for renewal of a certificate of approval—must be made at least 30 days before the certificate ends.

(2) The application form approved by the chief executive may require the disclose of the criminal history, domestic violence history and traffic history of a person to whom section 121 applies.²¹

Restrictions on granting application

112. The approving entity must not grant the application unless the entity is satisfied the applicant—

- (a) is a suitable person to be an approved care provider, and all members of the applicant's household are suitable persons to associate on a daily basis with children; and
- (b) is able to meet the standards of care in the statement of standards; and

²¹ Section 121 (Inquiries about certain persons' suitability).

- (c) is able to help in appropriate ways towards achieving planning goals for a child in the applicant's care.

Grant of application

113.(1) If the approving entity decides to grant the application, the entity must issue and give to the applicant a certificate of approval as an approved care provider.

(2) The certificate must state the type of care approved to be provided.

(3) The certificate may be issued subject to the reasonable conditions the entity considers appropriate.

Duration of approval

114. The certificate of approval has effect for—

- (a) 1 year for an initial certificate; or
- (b) 2 years for the renewal of a certificate.

Refusal of application

115.(1) If the approving entity decides to refuse the application, the entity must give written notice of the decision to the applicant.

(2) The notice must—

- (a) be given within 10 days after the decision is made; and
- (b) state the reasons for the decision; and
- (c) state that the person may appeal to a tribunal against the decision within 28 days after the notice is given.

Division 4—Amendment, suspension and cancellation of authorities

Amendment of authority on application of holder

116.(1) A holder of an authority may apply to the approving entity for an amendment of the authority.

(2) The approving entity must consider the application and decide whether to grant or refuse it within 28 days after receiving it.	1 2
(3) If the approving entity is satisfied the amendment is necessary or desirable, the approving entity must grant the application.	3 4
(4) If the approving entity is not satisfied the amendment is necessary or desirable, the approving entity must—	5 6
(a) refuse the application; and	7
(b) give written notice to the applicant of the decision.	8
(5) The notice must—	9
(a) be given within 10 days after the approving entity decides to refuse the application; and	10 11
(b) state the reasons for the decision; and	12
(c) state that the applicant may appeal to a tribunal against the decision within 28 days after the notice is received.	13 14
Amendment of authority by approving entity	15
117.(1) The approving entity may amend an authority at any time if—	16
(a) the holder agrees to the amendment; or	17
(b) the approving entity considers it is necessary or desirable because—	18 19
(i) the holder is not meeting the standards required under the authority or another condition of the authority; or	20 21
(ii) the holder has contravened a provision of this Act; or	22
(iii) the authority was issued because of a materially false or misleading representation or declaration (made either orally or in writing); or	23 24 25
(iv) of another circumstance prescribed under a regulation.	26
(2) If the approving entity considers it necessary or desirable to amend an authority under subsection (1)(b), the approving entity must give the holder a written notice under this section.	27 28 29
(3) The notice must—	30

(a) state the proposed amendment and the grounds for the amendment; and	1 2
(b) outline the facts and circumstances forming the basis for the grounds; and	3 4
(c) invite the holder to make written representations to the approving entity to show why the authority should not be amended; and	5 6
(d) state the term (at least 28 days after the notice is given to the holder) within which the representations may be made.	7 8
(4) After the end of the term stated in the notice, the approving entity must consider the representations properly made by the holder.	9 10
(5) If the approving entity is satisfied the amendment is necessary or desirable, the approving entity must give written notice to the holder of the decision.	11 12 13
(6) The notice must—	14
(a) be given within 10 days after the decision is made; and	15
(b) state the reasons for the decision; and	16
(c) state that the holder may appeal to a tribunal against the decision within 28 days after the notice is received.	17 18
(7) If the approving entity is not satisfied the amendment is necessary or desirable, the approving entity must promptly give written notice to the holder of the decision.	19 20 21
Authority may be suspended or cancelled	22
118. An approving entity may suspend or cancel an authority on the following grounds—	23 24
(a) the holder is not meeting the standards required under the authority or another condition of the authority;	25 26
(b) the holder has contravened a provision of this Act;	27
(c) the authority was issued because of a materially false or misleading representation or declaration (made either orally or in writing);	28 29 30

- (d) it is inappropriate for the holder to continue to hold the authority because of a circumstance prescribed under a regulation.

Procedure for suspension or cancellation

119.(1) If the approving entity considers a ground exists to suspend or cancel the authority (the “**proposed action**”), the approving entity must give the holder written notice that—

- (a) states the proposed action; and
- (b) states the grounds for the proposed action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) if the proposed action is suspension of the authority—states the proposed suspension period; and
- (e) invites the holder (within a stated time of at least 28 days) to make written representations to show why the proposed action should not be taken.

(2) If, after considering all written representations made within the stated time, the approving entity still considers a ground to take the proposed action exists, the approving entity may—

- (a) if the proposed action was to suspend the authority for a stated period—suspend the authority for not longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the authority—either cancel the authority or suspend it for a period.

(3) The approving entity must inform the holder of the decision by written notice.

(4) The notice must be given within 10 days after the approving entity makes the decision.

(5) If the approving entity decides to suspend or cancel the authority, the notice must state—

- (a) the reasons for the decision; and
- (b) that the holder may appeal to a tribunal against the decision within

28 days after the notice is received.

(6) The approving entity must record particulars of the suspension or cancellation on the authority.

Amendment, suspension and cancellation of authorities

120.(1) This section applies if an approving entity—

- (a) grants an application to amend an authority or decides to amend an authority; or
- (b) decides to suspend or cancel an authority.

(2) The holder of the authority must, on receipt of written notice by the approving entity, give the authority to the approving entity within the period (not less than 7 days) stated in the notice.

(3) If a suspended authority is returned to the approving entity, the entity must return it to the holder at the end of the suspension.

(4) A suspension or cancellation takes effect on the later of—

- (a) the day on which the notice is given; or
- (b) if a later day is stated in the notice—the later day.

(5) If an authority is returned to the approving entity for amendment, the entity must—

- (a) cancel the existing authority; and
- (b) issue and give to the holder a new authority containing the amendment; and
- (c) give the holder written notice stating—
 - (i) the old authority has been cancelled; and
 - (ii) the way in which the new authority is different from the old authority.

(6) The new authority—

- (a) takes effect on the later of—
 - (i) the day on which the notice is given to the holder; or
 - (ii) if a later day is stated in the notice—the later day; and

-
- (b) has effect for the remainder of the term of the old authority. 1
- (7) In this section— 2
- “holder”, of an authority, includes a former holder of an authority. 3

Division 5—General 4

Inquiries about certain persons’ suitability 5

121.(1) This section applies— 6

(a) for a licence— 7

(i) to the person who will be or is responsible for directly 8
managing the service under the licence; and 9

(ii) to anyone else directly engaged in the care of children for the 10
service; and 11

(b) for a certificate of approval— 12

(i) to an applicant for, or holder of, the certificate; and 13

(ii) to another adult member of the household of an applicant 14
for, or holder of, the certificate. 15

(2) In considering the suitability of a person to which this section 16
applies— 17

(a) if the approving entity is the chief executive—the chief executive 18
may ask the commissioner of the police service for a written 19
report about the person’s criminal history, domestic violence 20
history and traffic history; and 21

(b) if the approving entity is a licensee authorised under the licensee’s 22
licence to exercise powers under divisions 3 and 4²²—the licensee 23
must ask the chief executive to ask the commissioner for a 24
written report about the person’s criminal history, domestic 25
violence history and traffic history. 26

(3) If asked by the chief executive, the commissioner must give the chief 27

²² Division 3 (Approval of care providers), division 4 (Amendment, suspension and cancellation of authorities)

executive a written report about the person's criminal history, domestic violence history and traffic history.

(4) Subsection (3) applies to the criminal history, domestic violence history and traffic history in the commissioner's possession or to which the commissioner has access.

(5) Subsection (2) does not limit the matters to which an approving entity may have regard in considering the suitability of the person.

(6) After consideration of a report about a person's criminal history, domestic violence history and traffic history obtained for a licensee in relation to an application for, or renewal of, a certificate of approval, the chief executive may direct the licensee to refuse to grant the application if the chief executive is satisfied the person is unsuitable.

(7) The chief executive may also direct the licensee to refuse to grant the application if the chief executive is satisfied the person is unsuitable because of information obtained from the department's records.

(8) A direction under subsection (6) or (7) must be made by written notice given to the licensee.

(9) If the chief executive directs the licensee to refuse the application and the applicant appeals against the decision to refuse the application, the chief executive is a respondent to the appeal.

Failure to decide applications taken to be refusal

122. If an approving entity fails to decide an application under this chapter within 90 days after it is properly made—

- (a) the approving entity is taken to have decided to refuse the application; and
- (b) the applicant is taken to have received notice of the decision at the end of the time.

Offence to contravene condition of licence or approval

123. A licensee, or holder of a certificate of approval, must not contravene a condition of the licence or approval.

Maximum penalty—50 penalty units.

Authorised officer may require production of licence, approval etc.	1
124.(1) An authorised officer may—	2
(a) require a licensee or holder of a certificate of approval to produce to the officer—	3
(i) the person's licence or certificate of approval; or	4
(ii) a document required to be kept by the person under this Act; and	5
(b) inspect, take extracts from, make copies of or keep a document produced to the officer under paragraph (a).	6
(2) An authorised officer—	7
(a) may keep a document under subsection (1)(b) only to take copies of it; and	8
(b) must, as soon as practicable after taking the copies, return it to the person who produced it.	9
Authorised officer may enter and inspect licensed premises	10
125.(1) An authorised officer may, at any reasonable time, enter and inspect licensed premises to ensure this Act is being complied with.	11
(2) The officer may be accompanied by a police officer and may talk to anyone involved in providing the care service.	12
	13
	14

CHAPTER 6—ADMINISTRATION 20

PART 1—AUTHORISED OFFICERS 21

Appointment 22

126.(1) The chief executive may appoint any of the following persons to	23
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be an authorised officer—	1
(a) an officer or employee of the department;	2
(b) a person included in a class of persons declared by regulation to be eligible for appointment as an authorised officer.	3 4
(2) However, the chief executive may appoint a person to be an authorised officer only if—	5 6
(a) in the chief executive's opinion, the person has the necessary expertise or experience to be an authorised officer; or	7 8
(b) the person has satisfactorily finished training approved by the chief executive.	9 10

Limitation of powers 11

127.(1) The powers of an authorised officer may be limited—	12
(a) under a regulation; or	13
(b) under a condition of appointment; or	14
(c) by written notice of the chief executive given to the officer.	15
(2) Notice under subsection (1)(c) may be given orally, but must be confirmed in writing as soon as practicable after it is given.	16 17

Conditions of appointment 18

128.(1) An authorised officer holds office on the conditions stated in the officer's instrument of appointment.	19 20
(2) An authorised officer—	21
(a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and	22 23
(b) may resign by signed notice of resignation given to the chief executive.	24 25

Identity card 26

129.(1) The chief executive must give each authorised officer an identity	27
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card.	1
(2) The identity card must—	2
(a) contain a recent photograph of the officer; and	3
(b) be signed by the officer; and	4
(c) identify the person as an authorised officer under this Act; and	5
(d) include an expiry date.	6
(3) A person who ceases to be an authorised officer must return his or her identity card to the chief executive within 21 days after the person ceases to be an authorised officer, unless the person has a reasonable excuse for not returning it.	7 8 9 10
Maximum penalty—40 penalty units.	11
(4) This section does not prevent the giving of a single identity card to a person for this Act and other Acts.	12 13

Production of identity card 14

130.(1) An authorised officer may exercise a power under this Act in relation to someone else (the “ other person ”) only if the officer first produces his or her identity card for the other person’s inspection.	15 16 17
(2) If, for any reason, it is not practicable to comply with subsection (1), the officer must produce the identity card for the other person’s inspection at the first reasonable opportunity.	18 19 20

Authorised officer to give notice of damage 21

131.(1) This section applies if an authorised officer damages property in the exercise of a power under this Act.	22 23
(2) The authorised officer must promptly give written notice of the particulars of the damage to the person who appears to the authorised officer to be the property’s owner.	24 25 26
(3) If the authorised officer believes the damage was caused by a latent defect in the property or other circumstances beyond the authorised person’s control, the authorised officer may state this in the notice.	27 28 29

(4) If, for any reason, it is not practicable to comply with subsection (2), the authorised officer must—

- (a) leave the notice at the place where the damage happened; and
- (b) ensure the notice is left in a reasonably secured way in a conspicuous position.

(5) This section does not apply to damage the authorised officer believes, on reasonable grounds, is trivial.

Compensation

132.(1) A person may claim from the State the cost of repairing or replacing property damaged in the exercise or purported exercise of a power under this Act.

(2) The cost may be claimed and ordered to be paid in a proceeding—

- (a) brought in a court of competent jurisdiction for the recovery of the amount claimed; or
- (b) for an offence against this Act brought against the person claiming the amount.

(3) A court may order an amount be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

PART 2—GENERAL

Delegation by chief executive

133. The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified officer or employee of the department.

Approved forms

1

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

2

Coordination

3

135.(1) Each service provider should take all reasonable steps to coordinate decision-making and delivery of services to children and families.

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5

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(2) The chief executive is responsible for—

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(a) ensuring ways exist to coordinate the roles and responsibilities of service providers in promoting the protection of children and child protection services; and

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9

10

(b) establishing ways to coordinate the roles and responsibilities of service providers to investigate particular cases of harm to children and to take action to secure the protection of children.

11

12

13

Maintenance allowances

14

136.(1) The chief executive may pay the allowance prescribed under a regulation to a child's carer for the child's care and maintenance.

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16

(2) Subsection (1) has effect subject to appropriation by Parliament of an amount for the purpose.

17

18

CHAPTER 7—ENFORCEMENT AND LEGAL PROCEEDINGS

PART 1—OFFENCES

Obstruction of authorised officer etc.

137. A person must not obstruct an authorised officer or police officer in the exercise of a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

Impersonation of authorised officer

138. A person must not pretend to be an authorised officer.

Maximum penalty—40 penalty units.

Offence to remove child from custody

139.(1) A person must not unlawfully remove a child from the custody of another person who has the custody under this Act.

Maximum penalty—150 penalty units or 18 months imprisonment.

(2) A person must not keep a child who has been taken in contravention of subsection (1).

Maximum penalty for subsection (2)—150 penalty units or 18 months imprisonment.

Offence to refuse contact with child in custody

140.(1) In this section—

“**child**” means a child in the chief executive’s custody under a child protection order.

(2) This section applies if an authorised officer reasonably asks a person for permission to enter premises for the purpose of having contact with a child in the premises to ensure the child's protection.

(3) The person must not refuse the officer's request unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—50 penalty units.

Offence for person to take child out of State

141. A person who has the care of a child in the chief executive's custody must not take the child out of the State with the intention of obstructing, preventing or defeating the administration or enforcement of this Act.

Maximum penalty—100 penalty units.

Offence not to comply with certain orders

142.(1) A child's parent must not knowingly contravene a provision of an order directing the parent not to have contact (direct or indirect)—

(a) with the child; or

(b) with the child other than when a stated person or a person of a stated category is present;

Maximum penalty—100 penalty units or 1 year's imprisonment.

(2) For subsection (1), a person who is in the Childrens Court when the order is made or is given notice of the order is taken to know the contents of the order.

PART 2—WARRANT OF APPREHENSION FOR CHILD

Application for warrant of apprehension for child

143.(1) An authorised officer or police officer may apply to a magistrate for a warrant of apprehension of a child who has been unlawfully removed

from a person's custody under this Act.

(2) The application must be sworn and state the grounds on which it is made.

(3) The magistrate may refuse to consider the application until the applicant 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 be given by statutory declaration.

Making of application by phone etc.

144.(1) An application for a warrant of apprehension may be made by phone, fax, radio or another form of communication.

(2) Before applying for a warrant under this section, the person making the application must complete a written application for the warrant.

(3) The authorised officer or police officer may apply for the warrant before the application is sworn.

(4) The magistrate to whom the application is made may presume—

(a) the applicant is entitled to make the application; and

(b) the applicant has properly completed a written application for the order.

Issue and effect of warrant

145.(1) If a magistrate is satisfied the child has been unlawfully removed from a person's custody under this Act, the magistrate may issue a warrant of apprehension of the child.

(2) The warrant authorises an authorised officer or police officer—

(a) to enter any 1 or more places the officer reasonably believes the child is; and

(b) to take the child to a safe place.

(3) The warrant must state the day (within 14 days after the warrant's

issue) when it ends.

(4) An authorised officer or police officer may exercise powers under the warrant with the help, and using the force, that is reasonable in the circumstances.

Procedure after issuing warrant on application by phone etc.

146.(1) This section applies if the warrant is issued on application made under section 144.

(2) After issuing the warrant, the magistrate must immediately fax a copy of it to the applicant if it is reasonably practicable to fax the copy.

(3) If it is not reasonably practicable to fax a copy of the warrant to the applicant—

(a) the magistrate must—

(i) tell the applicant what the terms of the warrant are; and

(ii) tell the applicant the date and time the warrant was signed; and

(b) the applicant must write on a form of warrant (“**warrant form**”)—

(i) the magistrate’s name; and

(ii) the date and time the magistrate signed the warrant; and

(iii) the warrant’s terms.

(4) The facsimile warrant, or the warrant form properly completed by the applicant, authorises the exercise of powers under the warrant made by the magistrate.

(5) The applicant must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the applicant completed a warrant form—the completed warrant form.

(6) On receiving the documents, the magistrate must attach them to the warrant.

PART 3—POWERS OF AUTHORISED OFFICERS AND POLICE OFFICERS

Division 1—Powers of police officers for certain offences

Police officers power of arrest etc.

147.(1) This section applies if a police officer reasonably believes a person is committing or has committed an offence against any of the following sections—

- section 139 (Offence to remove child from custody)
- section 141 (Offence for person to take child out of State)
- section 142 (Offence not to comply with certain orders).

(2) The officer may exercise any of the following powers—

- (a) arrest the person;
- (b) for an offence against section 140—return the child to the person entitled to lawful custody of the child;
- (c) enter and search any place for a purpose mentioned in paragraph (a) or (b).

(3) The officer may exercise the officer's powers under subsection (2) with the help, and using the force, that is reasonable in the circumstances.

(4) As soon as practicable after arresting the person, the police officer must take the person before justices to be dealt with according to law.

(5) Subsection (2) does not prevent the taking of a proceeding against the person by way of complaint and summons.

<i>Division 2—Powers of authorised officers and police officers</i>	1
<i>Subdivision 1—Preliminary</i>	2
Application of div 2	3
148. This division applies if an authorised officer or police officer enters a place under—	4 5
(a) section 15 or 16 ²³ in investigating an allegation about harm, or risk of harm, to a child; or	6 7
(b) an assessment order in investigating whether a child is a child in need of protection; or	8 9
(c) a warrant of apprehension of a child who, under section 139, has been unlawfully removed from a person’s custody. ²⁴	10 11
<i>Subdivision 2—Power of seizure of authorised officers and police officers</i>	12 13
Power of seizure	14
149. The authorised officer or police officer may seize a thing if the officer reasonably believes—	15 16
(a) the thing is evidence of an offence in relation to the officer’s investigation or the child’s unlawful removal from custody; and	17 18
(b) the seizure is necessary to prevent the thing being—	19
(i) hidden, lost or destroyed; or	20
(ii) used to commit, continue or repeat the offence.	21

²³ Section 15 (Contact with child in immediate danger) and section 16 (Child at immediate risk may be taken into custody)

²⁴ A warrant of apprehension for a child may be issued under part 2.

Procedure after seizure of thing

150.(1) As soon as practicable after seizing the thing, the authorised officer or police officer must give a receipt for it to the person from whom it was seized.

(2) If, for any reason, it is not practicable to comply with subsection (1), the officer must—

- (a) leave the receipt at the place of seizure; and
- (b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.

(3) The receipt must describe generally the seized thing and its condition.

(4) The officer must allow a person who would be entitled to the seized thing if it were not in the officer's possession, at any reasonable time—

- (a) to inspect it; or
- (b) if it is a document—to copy it.

(5) The officer must return the seized thing to the person—

- (a) at the end of 1 year; or
- (b) if a prosecution for an offence involving it is started within 1 year—at the end of the prosecution and any appeal from the prosecution.

(6) Despite subsection (5), the officer must return the seized thing to the person if the officer is satisfied its retention as evidence is no longer necessary.

Forfeiture of seized thing on conviction

151.(1) On the conviction of a person of an offence involving the seized thing, the court may order its forfeiture to the State.

(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.

Dealing with forfeited things etc.

152.(1) On forfeiture, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

(2) Without limiting subsection (1), the chief executive may destroy the thing.

Subdivision 3—Other powers of authorised officers and police officers on entry

Power to photograph

153. The authorised officer or police officer may photograph or film the place, or anyone or anything in or on the place.

PART 4—EVIDENCE**Evidentiary provisions**

154.(1) This section applies to a proceeding under or in relation to this Act.

(2) Unless a party, by reasonable notice, requires proof of—

(a) the appointment of an authorised officer under this Act; or

(b) the authority of an authorised officer to do an act under this Act;

the appointment or authority must be presumed.

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

(4) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

(a) a stated document is a copy of a licence, certificate of approval, notice, declaration or decision made, issued or given under this

Act;	1
(b) on a stated day, or during a stated period, a stated person was or was not the holder of a licence or certificate of approval;	2 3
(c) a licence or certificate of approval—	4
(i) was or was not issued or given for a stated term; or	5
(ii) was or was not in force on a stated day or during a stated period; or	6 7
(iii) was or was not subject to a stated condition;	8
(d) on a stated day, a licence or certificate of approval was suspended for a stated period or cancelled;	9 10
(e) on a stated day, a stated person was given a stated notice under this Act;	11 12
(f) the whereabouts of a child's parents could not be ascertained after stated reasonable inquiries;	13 14
(g) on a stated day, a family meeting or conference was held;	15
(h) a stated entity is a recognised Aboriginal or Torres Strait Islander agency for a particular Aboriginal or Torres Strait Islander child;	16 17
(i) another matter prescribed under a regulation.	18
Evidence about temporary assessment orders and warrants for apprehension	19 20
155.(1) This section applies if—	21
(a) a temporary assessment order for a child is made on an application made under section 23; or	22 23
(b) a warrant of apprehension of a child is made under section 145.	24
(2) Unless the contrary is proved, a court must presume a power exercised by an authorised officer or police officer was not authorised by a temporary assessment order for the child or a warrant of apprehension of the child if—	25 26 27 28
(a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a temporary assessment	29 30

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- | | |
|--|---|
| order for the child or a warrant of apprehension of the child; and | 1 |
| (b) the temporary assessment order or warrant of apprehension made | 2 |
| for the child is not produced in evidence. | 3 |

PART 5—CONFIDENTIALITY 4

Division 1—Preliminary 5

Definitions 6

156. In this part— 7

“publish”, for information, means to publish it to the public by way of 8
television, newspaper, radio or other form of communication. 9

“this Act” includes the *Children’s Services Act 1965*. 10

Division 2—Confidentiality in relation to administration of Act 11

Confidentiality of notifiers of harm 12

157.(1) This section applies if a person (the **“notifier”**) notifies the chief 13
executive, an authorised officer or police officer that the notifier suspects a 14
child has been, is being or is likely to be, harmed. 15

(2) The person who receives the notification, or a person who becomes 16
aware of the identity of the notifier, must not disclose the identity of the 17
notifier to another person unless the disclosure is made— 18

- | | |
|---|----|
| (a) in the course of performing functions under this Act to another | 19 |
| person performing functions under this Act; or | 20 |
| (b) to the Parliamentary Commissioner for Administrative | 21 |
| Investigations conducting an investigation under the | 22 |
| <i>Parliamentary Commissioner Act 1974</i> ; or | 23 |
| (c) by way of evidence given in a legal proceeding under | 24 |
| subsections (3) and (4). | 25 |

Maximum penalty—40 penalty units.	1
(3) Subject to subsection (4)—	2
(a) evidence of the identity of the notifier or from which the identity of the notifier could be deduced must not be given in a proceeding before a court or tribunal without leave of the court or tribunal; and	3 4 5 6
(b) unless leave is granted, a party or witness in the proceeding—	7
(i) must not be asked, and, if asked, cannot be required to answer, any question that cannot be answered without disclosing the identity of, or leading to the identification of, the notifier; and	8 9 10 11
(ii) must not be asked to produce, and, if asked, cannot be required to produce, any document that identifies, or may lead to the identification of, the notifier.	12 13 14
(4) The court or tribunal must not grant leave unless—	15
(a) it is satisfied—	16
(i) the evidence is of critical importance in the proceeding; and	17
(ii) there is compelling reason in the public interest for disclosure; or	18 19
(b) the notifier agrees to the evidence being given in the proceeding.	20
(5) In deciding whether to grant leave, the court or tribunal must take into account—	21 22
(a) the possible effects of disclosure on the safety or welfare of the notifier and the notifier's family; and	23 24
(b) the public interest in maintaining confidentiality of notifiers.	25
(6) As far as practicable, an application for leave must be heard in a way that protects the identity of the notifier pending a decision on the application.	26 27
Confidentiality of information obtained by persons involved in administration of Act	28 29
158.(1) This section applies to a person who—	30

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|--|----------------------|
| (a) is or has been— | 1 |
| (i) a public service employee performing functions under or in relation to the administration of this Act; or | 2
3 |
| (ii) a licensee, the executive officer of a corporation that is a licensee or someone else employed or engaged by a licensee to perform functions under or in relation to the administration of this Act; or | 4
5
6
7 |
| (iii) the holder of a certificate of approval; or | 8 |
| (iv) a member of a recognised Aboriginal or Torres Strait Islander agency; and | 9
10 |
| (b) in that capacity acquired information about another person's affairs or has access to, or custody of, a document about another person's affairs. | 11
12
13 |
| (2) A person to whom this section applies must not disclose the information, or give access to the document, to anyone else. | 14
15 |
| Maximum penalty—100 penalty units or 2 years imprisonment. | 16 |
| (3) However, a person may disclose the information or give access to the document to someone else— | 17
18 |
| (a) to the extent necessary to perform the person's functions under or in relation to this Act; or | 19
20 |
| (b) if the disclosure is for purposes directly related to a child's protection or welfare; or | 21
22 |
| (c) if the disclosure or giving of access is otherwise required or permitted by law. | 23
24 |
| (4) Also, a person may disclose the information or give access to the document to another person if the information or document concerns the personal affairs of the other person. | 25
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27 |
| (5) In addition, the Minister or chief executive may disclose the information if the Minister or chief executive is satisfied the disclosure is appropriate and necessary in the circumstances for a child's protection or welfare. | 28
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31 |
| (6) Further, the chief executive may disclose the information, or give access to the document, to the children's commissioner for assessing or | 32
33 |

investigating a complaint under the *Children’s Commissioner and Children’s Services Tribunals Act 1996*.²⁵

Confidentiality of information given by persons involved in administration of Act to other persons

159.(1) This section applies if the chief executive, an authorised officer, police officer or anyone else in the course of performing duties under or in relation to the administration of this Act, gives a person (the “receiver”) information or a document about another person’s affairs.

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

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) However, the receiver may disclose the information or give access to the document to someone else—

- (a) if the disclosure is for purposes directly related to a child’s protection or welfare; or
- (b) if the disclosure or giving of access is otherwise required or permitted by law.

Prohibition of publication of information leading to identity of children subject to this Act

160. A person must not, without the chief executive’s written approval, publish information that identifies, or is likely to lead to the identification of, a child as—

- (a) a child the subject of an investigation of an allegation about harm or risk of harm; or
- (b) a child in the chief executive’s custody under this Act; or
- (c) a child for whom an order is in force.

Maximum penalty—100 penalty units or 2 years imprisonment.

²⁵ Under section 7(2), the chief executive is required to cooperate with the children’s commissioner in the commissioner’s assessment or investigation of complaints.

Division 3—Confidentiality in relation to proceedings**Production of department's records**

161.(1) This section applies if a party to a proceeding in a court or tribunal requires, under applicable rules—

- (a) the chief executive to produce to the court or party a document in the department's records under this Act in relation to a child or a child's carer; or
- (b) the children's commissioner to produce to the court or party a document mentioned in paragraph (a) that has been given to the commissioner under section 158.

(2) The requirement must describe the document to be produced—

- (a) by reference to the person or persons to whom it relates; and
- (b) by general reference to the circumstances to which it relates; and
- (c) the period to which the requirement relates.

(3) For subsection (2)(b), the requirement must show the circumstances to be relevant to the proceeding.

(4) A person must not, directly or indirectly, disclose or make use of information obtained under the requirement other than for a purpose connected with the proceeding.

Maximum penalty—100 penalty units or 2 years imprisonment.

(5) Despite any Act to the contrary, if a document in the department's records under this Act in relation to a child or a child's carer is produced in a proceeding in a court, an officer of the court must not make the document available for inspection to any person other than a party to the proceeding.

Maximum penalty for subsection (5)—100 penalty units or 2 years imprisonment.

Refusal of disclosure of certain information during proceeding

162.(1) A person engaged in the administration of this Act may refuse to disclose to a court or tribunal in a proceeding, or to a party to the proceeding, information obtained under or in relation to the administration

-
- of this Act, if— 1
- (a) its disclosure endangers, or is likely to endanger, a person's 2
safety or psychological health; or 3
 - (b) it identifies, or is likely to identify, the source of the information 4
and identification of the source is likely to prejudice the 5
achievement of the purpose of this Act; or 6
 - (c) it is a record of confidential therapeutic counselling with a child or 7
a member of the child's family and its disclosure would prejudice 8
the department's ability to provide counselling services; or 9
 - (d) it is personal information and the person reasonably believes it is 10
not materially relevant to the proceeding. 11
- (2) However, on the application of a party to the proceeding, the court or 12
tribunal may order the disclosure of the information if it is satisfied— 13
- (a) it is materially relevant to the proceeding; and 14
 - (b) its disclosure is, on balance, in the public interest. 15
- (3) To enable the court or tribunal to make a decision about the disclosure 16
of the information, the person must disclose the information to the judicial 17
officers of the court or tribunal. 18
- (4) In deciding whether or not the information should be disclosed, the 19
judicial officers must deal with the information in a way that ensures it is 20
not disclosed to anyone else. 21
- (5) If the court or tribunal refuses to order its disclosure, the judicial 22
officers must return any document containing the information produced to 23
them. 24
- (6) In this section— 25
- “judicial officers”**, for a court or tribunal, means the person or persons 26
constituting the court or tribunal. 27

Prohibition of publication of certain information for proceedings 28

163. A person must not publish— 29

- (a) information given in evidence in a proceeding under this Act in 30
the Childrens Court, or other court records, without the court's 31

approval; or	1
(b) information that identifies, or is likely to lead to the identification of, a person as a party to a proceeding under this Act.	2 3
Maximum penalty—100 penalty units or 2 years imprisonment.	4
Restrictions on reporting certain court proceedings	5
164.(1) If, in a proceeding for an offence of a sexual nature, a child is a witness or the person in relation to whom the offence is alleged to have been committed is a child, a report of the proceeding must not disclose prohibited matter relating to the child unless the court expressly authorises the matter to be included in the report.	6 7 8 9 10
(2) If, in another proceeding, a child is a witness or the person in relation to whom an offence is alleged to have been committed is a child, the court or justice may order that a report of the proceeding must not disclose prohibited matter relating to the child other than matter stated in the order.	11 12 13 14
(3) Also, a report of a proceeding to which subsection (1) or (2) relates must not disclose the name of an authorised officer or police officer involved in the proceeding unless the court or justice expressly authorises the officer's name to be included in the report.	15 16 17 18
(4) A person who makes or publishes a report of a proceeding in contravention of subsection (1), (2) or (3) commits an offence.	19 20
Maximum penalty—100 penalty units or 2 years imprisonment.	21
(5) However, subsections (1), (2) and (3) do not apply to—	22
(a) a record of evidence of the proceeding made under the <i>Recording of Evidence Act 1962</i> ; or	23 24
(b) a report made for the department or Queensland Police Service.	25
(6) In this section—	26
“film” includes a slide, video tape, video disc or other form of recording from which a visual image can be produced.	27 28
“proceeding” means a proceeding before a court in relation to an offence or before a justice taking an examination of witnesses for an indictable offence, but does not include a proceeding for a charge of an offence against a child.	29 30 31 32

-
- “prohibited matter”**, for a child, means— 1
- (a) the child’s name, address, school or place of employment, or 2
another particular likely to lead to the child’s identification; or 3
 - (b) a photograph or film of the child or of someone else that is likely 4
to lead to the child’s identification. 5
- “report”**, of a proceeding, includes a report of part of the proceeding. 6

Division 4—General 7

Release of information by health service employees 8

165. An officer, employee or agent of the department in which the 9
Health Services Act 1991 is administered may, for the purposes of this Act, 10
give the chief executive or the Childrens Court or an authorised officer or 11
police officer, information that— 12

- (a) is subject to confidentiality under the *Health Services Act 1991*, 13
section 63; and 14
- (b) is relevant to the protection of a child. 15

PART 6—GENERAL 16

Compliance with provisions about service of documents etc. 17

166.(1) This section applies if, under a provision of this Act, the chief 18
executive or an authorised officer or police officer is authorised or required 19
to explain the terms and effects of an order or declaration, or give 20
information or a notice, direction or other document, to— 21

- (a) a child; or 22
- (b) a child’s parents, each of a child’s parents or at least 1 of a child’s 23
parents; or 24
- (c) a child’s carer. 25

(2) The chief executive or officer need only comply with the provision to the extent that is reasonably practicable in the circumstances. 1
2

(3) Without limiting subsection (2), it is not, for example, reasonably practicable to comply with the provision in relation to a child's parents if, after reasonable inquiries, the parents or their whereabouts cannot be ascertained or, if ascertained, cannot be contacted. 3
4
5
6

(4) Also, so far as compliance relates to telling the child about a matter, the chief executive or officer need only comply with the provision to the extent that the chief executive or officer considers is appropriate in the circumstances having regard to the child's age and ability to understand the matter. 7
8
9
10
11

Exercise of powers and compliance with obligations by others 12

167. If, under a provision of this Act, an authorised officer or police officer is authorised or required to exercise a power or perform a function— 13
14

(a) the power may be exercised or the function performed by another authorised officer or police officer who could exercise or perform a power or function of the same type; and 15
16
17

(b) the officer is taken to have complied with the provision. 18

Protection from liability 19

168.(1) An official, does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act. 20
21

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State. 22
23

(3) In this section— 24

“official” means— 25

(a) the chief executive; or 26

(b) an authorised officer or police officer; or 27

(b) a person acting under the direction of a person mentioned in paragraph (a) or (b). 28
29

CHAPTER 8—MISCELLANEOUS

Appeals against appealable decisions

169. An aggrieved person for an appealable decision may appeal to a tribunal against the decision.²⁶

Regulation-making powers

170.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made for or about the following—

- (a) the suitability of persons involved in, and the use of premises for, providing care services;
- (b) fees;
- (c) the records to be kept and returns to be made by persons and the inspection of records;
- (d) the conduct of conferences and family meetings.

(3) A regulation may impose a penalty of not more than 20 penalty units for contravention of a provision of a regulation.

References to repealed Act

171. In an Act or document, a reference to the *Children's Services Act 1965* may, if the context permits, be taken to be a reference to this Act.

²⁶ Appeals are dealt with in the *Children's Commissioner and Children's Services Appeals Tribunals Act 1996*, part 5.

CHAPTER 9—REPEALS AND AMENDMENTS, SAVINGS AND TRANSITIONAL PROVISIONS

PART 1—REPEALS AND AMENDMENTS

Repeal of Children’s Services Act 1965

172. The *Children’s Services Act 1965* is repealed.

Acts amended

173. The Acts mentioned in schedule 1 are amended as shown in the schedule.

PART 2—SAVINGS AND TRANSITIONAL PROVISIONS

Definitions

174. In this part—

“**director**” means the director under the repealed Act.

“**existing care and protection order**”, for a child, means an order in force immediately before the commencement—

- (a) under section 49(4)(a)(iii) of the repealed Act admitting the child to the director’s care and protection; or
- (b) under section 61(4)(a)(iii) of the repealed Act admitting the child to the director’s care and control.

“**existing supervision order**”, for a child, means an order in force immediately before the commencement—

- (a) under section 49(4)(a)(ii) of the repealed Act ordering that the

director have protective supervision over and in relation to the child; or	1 2
(b) under section 61(4)(a)(ii) of the repealed Act ordering the director to exercise supervision over and in relation to the child.	3 4
“existing section 47 declaration” , for a child, means a declaration in force immediately before the commencement under section 47 of the repealed Act admitting the child to the director’s care and protection.	5 6 7
“existing section 134 declaration” , for a child, means a declaration in force immediately before the commencement under section 134(4) of the repealed Act admitting the child to the director’s care and protection.	8 9 10 11
“repealed Act” means the <i>Children’s Services Act 1965</i> .	12
Existing section 47 declarations and care and protection orders	13
175.(1) An existing section 47 declaration or existing care and protection order continues in force under this Act as if it were a child protection order granting the chief executive custody of the child.	14 15 16
(2) An existing section 47 declaration, or existing care and protection order made under 49(4)(a)(iii) of the repealed Act, and continued in force under subsection (1) ends—	17 18 19
(a) if, immediately before the commencement, the declaration or order had been in force for more than 3 years—when the child turns 18 years; or	20 21 22
(b) if, immediately before the commencement, the declaration or order had been in force for 1 or more years but not more than 3 years—3 years after it was originally made or, if the child earlier turns 18 years, when the child turns 18 years; or	23 24 25 26
(c) if, immediately before the commencement, the declaration or order had been in force for less than 1 year—2 years after it was originally made or, if the child earlier turns 18 years, when the child turns 18 years.	27 28 29 30
(3) An existing care and protection order made under section 61(4)(a)(iii) of the repealed Act and continued in force under subsection (1) ends 1 year	31 32

after the commencement or, if the child earlier turns 18 years, when the child turns 18 years.

Existing supervision orders

176.(1) An existing supervision order continues in force under this Act as if it were a child protection order requiring the chief executive to supervise the child's protection in relation to the matters stated in the order.

(2) An existing supervision order continued in force under subsection (1) ends 1 year after the commencement or, if the child earlier turns 18 years, when the child turns 18 years.

Existing section 134 declarations

177.(1) On the day of the commencement, the chief executive must, by written declaration, assume custody of each child the subject of an existing section 134 declaration.

(2) The declaration may assume custody of the child for—

(a) if the interstate order for the child states it ends after a stated period—the lesser of—

(i) the remainder of the stated period; or

(ii) 2 years; or

(b) if the interstate order for the child states it ends when the child turns 18 years—not more than 2 years or, if the child earlier turns 18 years, until the child turns 18 years.

(3) On the making of the declaration, the interstate order is taken to be a child protection order under the terms stated in the declaration.

(4) For subsection (3), the chief executive may declare the interstate order applies to the chief executive's custody only to the extent, or with the changes necessary, to make it consistent with this Act.

(5) To remove any doubt, it is declared that the declaration may be made even if the interstate order has ended before the commencement.

(6) The declaration is taken—

-
- | | |
|---|---|
| (a) to be a declaration under section 97; ²⁷ and | 1 |
| (b) to have had effect from the commencement. | 2 |

Licensed institutions under repealed Act	3
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178.(1) A licence issued by the Minister under part 4 of the repealed Act for an institution, and in force immediately before the commencement, continues in force as if it were a licence to provide care services under this Act.	4 5 6 7
--	------------------

(2) For this Act, the governing authority of the institution is taken to be the licensee and the person in charge of the institution is taken to be the nominee.	8 9 10
---	--------------

(3) A licence continued in force under subsection (1) ends on the anniversary of its issue in the third year after the commencement.	11 12
---	----------

Approved foster parents	13
--------------------------------	----

179.(1) The holder of an approval to act as a foster parent under part 10 of the repealed Act, and in force immediately before the commencement, continues in force as if it were a certificate of approval as an approved care provider under this Act.	14 15 16 17
---	----------------------

(2) An approval continued in force under subsection (1) ends on the anniversary of its issue in the second year after the commencement.	18 19
--	----------

Existing applications and proceedings for care and protection orders	20
---	----

180. An application under the repealed Act for an order that a child be admitted to the chief executive's care and protection, and a proceeding in the Childrens Court for the application, not finally dealt with at the commencement, may be continued and dealt with under this Act as if it were an application for a child protection order.	21 22 23 24 25
--	----------------------------

²⁷ Section 97 (Transfers from other States)

Applications to revoke or substitute certain orders under repealed Act

181.(1) In this section—

“existing section 49 order”, for a child, means an order in force immediately before the commencement under section 49(4)(a)(ii) or (iii) of the repealed Act—

- (a) ordering the chief executive have protective supervision over and in relation to the child; or
- (b) admitting the child to the chief executive’s care and protection.

(2) An application under the repealed Act to revoke or substitute an existing section 49 order for a child not finally dealt with at the commencement may be continued and dealt with under this Act as if it were an application to vary or revoke a child protection order for the child.

SCHEDULE 1

1

**APPEALABLE DECISIONS AND AGGRIEVED
PERSONS**

2

3

section 169 and schedule 3, definitions **“aggrieved person”** and
“appealable decision”

4

5

Appealable decisions**Aggrieved person**

Directing a parent or child in
relation to a supervision matter
stated in a child protection order
(section 63)

The parent or child given the
direction

6

7

8

Not informing a child’s parents of
person in whose care the child is
and where the child is living
(section 66(2))

A parent given the notice

9

10

11

Refusing to allow, restricting, or
imposing conditions on, contact
between a child and the child’s
parents or a member of the child’s
family (section 66(4))

A person affected by the decision

12

13

14

15

Arranging for an interstate welfare
authority to assume custody of a
child (section 100)

The child’s parents, child or child’s
carer

16

17

Refusing application for, or renewal
of, a licence (section 108)

The applicant or licensee

18

Refusing application for, or renewal
of, a certificate of approval
(section 115)

The applicant or certificate holder

19

20

Refusing an application for an
amendment of authority
(section 116)

The authority holder

21

22

SCHEDULE 1 (continued)

Amending (section 117)	an	authority	The authority holder	1	
Suspending authority (section 119)	or	cancelling	an	The authority holder	2
					3

SCHEDULE 2

AMENDMENT OF ACTS

section 173

ADOPTION OF CHILDREN ACT 1964

1. Section 6, definition “Director”—

omit, insert—

‘ “**director**” means the chief executive of the department in which the *Children and Families Act 1997* is administered.’.

2. Section 19(7)—

omit, insert—

‘(7) Despite section 23, if, under the *Children and Families Act 1997*, the director has custody of a child, it is not necessary for the director’s consent to the child’s adoption to be evidenced by an instrument of consent.’.

3. Section 20(3), from ‘Where’ to ‘1965’—

omit, insert—

‘If the director has custody of the child under a child protection order under the *Children and Families Act 1997*,’.

4. Section 27(3)(a)—

omit, insert—

‘(a) to a child in the director’s custody under a child protection order under the *Children and Families Act 1997*; or’.

SCHEDULE 2 (continued)

5. Section 27(4), from ‘a child in care’—	1
<i>omit, insert—</i>	2
‘in the director’s custody under a child protection order under the	3
<i>Children and Families Act 1997.</i> ’.	4
6. After section 34—	5
<i>insert—</i>	6
‘Effect of interim orders on custody orders	7
‘34A.(1) If an interim order is made for a child for whom a custody	8
order is in force, the custody order does not have effect while the interim	9
order is in force.	10
‘(2) In this section—	11
“custody order” , for a child, means a child protection order under the	12
<i>Children and Families Act 1997</i> granting the director custody of the	13
child.’.	14
7. Section 35(1)—	15
<i>omit.</i>	16
8. Section 62—	17
<i>omit.</i>	18
CHILD CARE ACT 1991	19
1. Section 13(1)(b)—	20
<i>omit.</i>	21

SCHEDULE 2 (continued)

- | | |
|---|----|
| 2. Section 13(1)(c), ‘or (b)’— | 1 |
| <i>omit.</i> | 2 |
|
3. Section 13(1)(c)— | 3 |
| <i>renumber</i> as section 13(1)(b). | 4 |
|
4. Section 14(1)(g), after ‘1965,’— | 5 |
| <i>insert—</i> | 6 |
| ‘the <i>Children and Families Act 1997</i> ,’. | 7 |
|
5. Section 14(1)(h), after ‘1965’— | 8 |
| <i>insert—</i> | 9 |
| ‘, or an assessment order or child protection order under the <i>Children</i> | 10 |
| <i>and Families Act 1997</i> ,’. | 11 |
|
6. Section 32(2)(c), after ‘1965’— | 12 |
| <i>insert—</i> | 13 |
| ‘or an assessment order or child protection order has been made under | 14 |
| the <i>Children and Families Act 1997</i> ,’. | 15 |

CHILDREN’S COMMISSIONER AND CHILDREN’S	16
SERVICES APPEALS TRIBUNALS ACT 1996	17

- | | |
|----------------------------|----|
| 1. After section 7— | 18 |
| <i>insert—</i> | 19 |

SCHEDULE 2 (continued)

‘Application of Financial Administration and Audit Act 1977	1
‘7A. The commission is a statutory body under the <i>Financial Administration and Audit Act 1977</i> .’.	2 3
2. Section 8(c), ‘foster homes’—	4
omit, insert—	5
‘care services’.	6
3. Schedule, definition “children’s services legislation”, paragraph (c)—	7 8
omit, insert—	9
‘(c) <i>Children and Families Act 1997</i> ; or’.	10
4. Schedule, definition “foster home”—	11
omit.	12
5. Schedule, definition “reviewable decision”, paragraph (c)—	13
omit, insert—	14
‘(c) an appealable decision under the <i>Children and Families Act 1997</i> .’.	15 16

CHILDRENS COURT ACT 1992	17
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1. Section 3, definition “appellate court”—	18
omit.	19

SCHEDULE 2 (continued)

2. Section 20(1)(g)—	1
omit, insert—	2
‘(g) if the child is an Aboriginal or Torres Strait Islander—	3
(i) a representative of an entity whose principal purpose is to	4
provide welfare services to Aboriginal and Torres Strait	5
Islander children and families; or	6
(ii) a representative of the recognised Aboriginal or Torres Strait	7
Islander agency for the child under the <i>Children and</i>	8
<i>Families Act 1997</i> ; or’.	9
 3. Section 20(2)(c), ‘<i>Children’s Services Act 1965</i>, part 6 or 7’—	10
omit, insert—	11
‘ <i>Children and Families Act 1997</i> ’.	12
 4. Part 4A—	13
omit.	14
 5. After section 30—	15
insert—	16
‘Transitional provision for Children and Families Act 1997	17
‘31.(1) This section applies if, before the commencement of the <i>Children</i>	18
and <i>Families Act 1997</i> , chapter 3, part 3 ²⁸ —	19
(a) a person appealed, under part 4A, against a supervision order or	20
care order; and	21
(b) the appeal has not been finally decided.	22
‘(2) The appeal may be dealt with under the <i>Children and Families Act</i>	23

²⁸ Chapter 3 (Childrens court proceedings), part 3 (Court appeals)

SCHEDULE 2 (continued)

1997.	1
‘(3) In this section—	2
“care order” means an order under the <i>Children’s Services Act 1965</i> , section 49(4)(a)(iii) or section 61(4)(a)(iii).’.	3 4
“supervision order” means an order under the <i>Children’s Services Act</i> 1965, section 49(4)(a)(ii) or section 61(4)(a)(ii).’.	5 6

COMMONWEALTH POWERS (FAMILY	7
LAW—CHILDREN) ACT 1990	8

1. Schedule 1, ‘ <i>Children’s Services Act 1965</i> ’—	9
omit, insert—	10
‘ <i>Children and Families Act 1997</i> .’.	11

CRIMINAL CODE	12
---------------	----

1. Section 145A(b)—	13
omit, insert—	14
‘(b) the custody of a child under a court assessment order or child protection order under the <i>Children and Families Act 1997</i> .’.	15 16

SCHEDULE 2 (continued)

**CRIMINAL LAW (REHABILITATION OF
OFFENDERS) ACT 1986**

1. Section 9A, table, column 1, item 6(1)—

omit, insert—

‘6.(1) A person registered, licensed or approved under the *Child Care Act 1991* or the *Children and Families Act 1997*; or’.

CRIMINAL LAW (SEXUAL OFFENCES) ACT 1978

1. Section 8(1)(c), ‘*Children’s Services Act 1965*’—

omit, insert—

‘Children and Families Act 1997’.

DRUGS MISUSE ACT 1986

1. Section 48(7), ‘*Children’s Services Act 1965*, section 138’—

omit, insert—

‘Children and Families Act 1997, sections 163 and 164²⁹’.

²⁹ Section 163 (Prohibition of publication of certain information for proceedings) and section 164 (Restrictions on reporting certain court proceedings)

SCHEDULE 2 (continued)

EVIDENCE ACT 1977

- 1. Schedule 2, entry for ‘*Children’s Services Act 1965*’—**
omit.

FAMILY SERVICES ACT 1987

- 1. Section 2—**
omit.
- 2. Section 4, definitions “certificate of approval”, “criminal history”,
“foster care”, “foster care agent”, “foster parent”, “licensee”,
“parent”, “premises” and “residential care”—**
omit.
- 3. Section 4—**
insert—
‘ “**agent**” means an agent under a contract entered into under section 9.
“**honorary officer**” means a person holding appointment as an honorary
officer under section 8.’.
- 4. Sections 6 and 7—**
omit.

SCHEDULE 2 (continued)

5. Section 10(1)(c) and (d)—	1
<i>omit, insert—</i>	2
‘(c) an honorary officer; or	3
(d) an agent.’.	4
6. Section 11—	5
<i>omit, insert—</i>	6
‘Advisory committees	7
‘ 11.(1) The Minister may establish as many advisory committees as the	8
Minister considers appropriate for the administration of this Act.	9
‘ (2) An advisory committee has the functions the Minister decides.	10
‘ (3) A member of an advisory committee is entitled to be paid the fees	11
and allowances that may be decided by the Governor in Council.’.	12
7. Sections 12(1) and (2)—	13
<i>insert—</i>	14
‘Maximum penalty—40 penalty units or 2 years imprisonment.’.	15
8. Section 12(2)(a) and (b), ‘, visiting justice’—	16
<i>omit.</i>	17
9. Section 12(2), ‘, justice’—	18
<i>omit.</i>	19
10. Section 56 to 58—	20
<i>omit.</i>	21

SCHEDULE 2 (continued)

11. Section 59—	1
<i>omit, insert—</i>	2
‘Evidentiary provisions	3
‘ 59.(1) This section applies to a proceeding under or in relation to this Act.	4 5
‘ (2) Unless a party, by reasonable notice, requires proof of—	6
(a) the appointment of an honorary officer under this Act; or	7
(b) the authority of an honorary officer to do an act under this Act;	8
the appointment or authority must be presumed.	9
‘ (3) A signature purporting to be the signature of the chief executive or an honorary officer is evidence of the signature it purports to be.	10 11
‘ (4) A certificate purporting to be signed by the chief executive stating a stated document is a copy of a notice or approval given under this Act is evidence of the matter.’.	12 13 14
12. After section 68—	15
<i>insert—</i>	16
‘Numbering and renumbering of Act	17
‘ 69. In the next reprint of this Act produced under the <i>Reprints Act 1992</i> , the provisions of this Act must be numbered and renumbered as permitted by the <i>Reprints Act 1992</i> , section 43.’.	18 19 20
 FREEDOM OF INFORMATION ACT 1992	 21
1. Schedule 1, ‘Children’s Services Act 1965, section 144’—	22
<i>omit, insert—</i>	23

SCHEDULE 2 (continued)

‘Children and Families Act 1997, section 158 (Confidentiality of information obtained by persons involved in administration of Act)’. 1
2

HEALTH ACT 1937 3

1. Section 31A(9), from ‘affect’— 4
omit, insert— 5
‘affect the Registration of Births, Deaths and Marriages Act 1962.’. 6

2. Section 100H(3), from ‘affect’— 7
omit, insert— 8
‘affect the Registration of Births, Deaths and Marriages Act 1962.’. 9

MAINTENANCE ACT 1965 10

1. Section 9(3), from ‘part—’ to ‘under the *Children’s Services Act 1965*;’— 11
omit, insert— 12
‘part for a child in custody.’. 14

2. Section 9(3), from ‘such a’— 15
omit, insert— 16
‘a child in custody.’. 17

SCHEDULE 2 (continued)

3. Section 9—	1
<i>insert—</i>	2
‘(4) In this section—	3
“child in custody” means a child in the custody of the chief executive for	4
child protection under a court assessment order or child protection	5
order under the <i>Children and Families Act 1997</i> .	6
“chief executive for child protection” means the chief executive of the	7
department in which the <i>Children and Families Act 1997</i> is	8
administered.’.	9

MENTAL HEALTH ACT 1974	10
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1. Section 52(1)(a), ‘, by virtue of a declaration made under section 47	11
of the <i>Children’s Services Act 1965</i>,’—	12
<i>omit.</i>	13

REGISTRATION OF BIRTHS, DEATHS AND	14
MARRIAGES ACT 1962	15

1. Section 5(1)—	16
<i>insert—</i>	17
‘ “chief executive for child protection” means the chief executive of the	18
department within which the <i>Children and Families Act 1997</i> is	19
administered.’.	20
2. Section 28(1), from ‘director within’ to ‘director,’—	21
<i>omit, insert—</i>	22
‘the chief executive for child protection is the guardian of the child under	23

SCHEDULE 2 (continued)

the *Adoption of Children Act 1964* or has custody of the child under the *Children and Families Act 1997*, that chief executive,’ 1
2

3. Section 28A(5)(c), from ‘director’— 3

omit, insert— 4

‘chief executive for child protection;’. 5

4. Section 28A(5AA)(a)(i)— 6

omit, insert— 7

‘(i) an authorised officer under the *Children and Families Act 1997*; or’. 8
9

SUCCESSION ACT 1981 10

1. Section 41(7), ‘director within the meaning of the *Children’s Services Act 1965*’— 11
12

omit, insert— 13

‘the chief executive of the department in which the *Children and Families Act 1997* is administered’. 14
15

YOUNG OFFENDERS (INTERSTATE TRANSFER) 16
ACT 1987 17

1. Section 3, definition “guardian”, from ‘who but’— 18

omit, insert— 19

‘(other than the permanent head) who, apart from the operation of the *Children and Families Act 1997*, would in law be guardian of a child’. 20
21

SCHEDULE 2 (continued)

2. Section 3, definition “permanent head”—*omit, insert—*

‘ **“permanent head”** means the chief executive of the department in which the *Children and Families Act 1997* is administered.’

1
2
3
4
5

SCHEDULE 3	1
DICTIONARY	2
section 3	3
“aggrieved person” , for an appealable decision, means a person stated opposite the decision in schedule 1.	4 5
“appealable decision” means a decision stated in schedule 1.	6
“appellate court” means—	7
(a) for a decision on an application for a court assessment order or child protection order—	8 9
(i) if the decision was made by the Childrens Court constituted by a judge—the Court of Appeal; or	10 11
(ii) if the decision was made by the Childrens Court constituted in another way—the Childrens Court constituted by a judge; or	12 13 14
(b) for a decision on an application for a temporary assessment order—the Childrens Court constituted by a judge.	15 16
“appropriately qualified” , for an officer or employee of the department to whom a power under this Act may be delegated, includes having qualifications, experience or standing appropriate to exercise the power.	17 18 19 20
<i>Example of ‘standing’—</i>	21
An officer’s classification level in the public service.	22
“approved care provider” means a person who holds a certificate of approval as an approved care provider under this Act.	23 24
“approved form” means a form approved under section 134.	25
“approving entity” means—	26
(a) for an application for, or renewal of, a licence—the chief executive; or	27 28

SCHEDULE 3 (continued)

(b) for an amendment, suspension or cancellation of a licence—the chief executive; or	1 2
(c) for an application for, or renewal of, a certificate of approval—the chief executive or a licensee authorised under the licensee’s licence to exercise powers under chapter 5, part 2, divisions 3 and 4; or	3 4 5 6
(d) for an amendment, suspension or cancellation of a certificate of approval—the entity that issued the certificate.	7 8
“assessment order” means a temporary or court assessment order.	9
“authorised officer” means a person holding office as an authorised officer under an appointment under this Act.	10 11
“authority” means a licence or certificate of approval.	12
“carer” , of a child, means the person in whose care the child has been placed by the chief executive, and includes an approved care provider.	13 14
“certificate of approval” means a certificate of approval as an approved care provider.	15 16
“child” see section 8.	17
“child in need of protection” see section 10.	18
“child protection order” means a child protection order under chapter 2, part 4, and includes—	19 20
(a) an order extending, varying or revoking a child protection order; and	21 22
(b) an interim order in relation to a proceeding for a child protection order.	23 24
“childrens commissioner” means the children’s commissioner appointed under the <i>Children’s Commissioner and Children’s Services Appeals Tribunals Act 1996</i> .	25 26 27
“commission” , of an offence, includes attempted commission of the offence.	28 29
“contact” , with a child, includes to see and talk to the child.	30

SCHEDULE 3 (continued)

“court assessment order” means an order under chapter 2, part 3, and includes—	1 2
(a) an order extending, varying or revoking a court assessment order; and	3 4
(b) an interim order in relation to a proceeding for a court assessment order.	5 6
“criminal history” , of a person, means the person’s criminal history within the meaning of the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> and, despite section 6 of that Act, includes a conviction to which the section applies.	7 8 9 10
“departmental care service” means a care service established by the chief executive to accommodate children in the chief executive’s custody or other children in need of protection.	11 12 13
“domestic violence history” , of a person, means the history of domestic violence orders made against the person under the <i>Domestic Violence Act 1989</i> .	14 15 16
“executive officer” , of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.	17 18 19 20
“guardian” , of a child, means a person who is recognised in law as the child’s legal guardian.	21 22
“harm” see section 9.	23
“holder” , of an authority, means—	24
(a) for a licence—the licensee; or	25
(b) for a certificate of approval—the holder of the certificate.	26
“interim order” means an interim order under section 53. ³⁰	27
“interstate order” , for a child, means an order made by a court in another	28

³⁰ Section 53 (Court’s powers to make interim orders on adjournment)

SCHEDULE 3 (continued)

State for the child.	1
“interstate welfare authority” means a government authority in another	2
State that, under a law of that State about the care or protection of	3
children, may be the guardian, or have the custody, of children.	4
“judge” means a Childrens Court judge.	5
“licence” means a licence to provide care services.	6
“licensed care service” means a service, operated under a licence, to	7
provide care for children in the chief executive’s custody.	8
“licensed premises” means premises to which a licence relates.	9
“long-term custody” , of a child under a child protection order, means	10
custody until the child turns 18 years.	11
“medical examination” means a physical, psychiatric, psychological or	12
dental examination or procedure, and includes forensic examination	13
and an examination carried out by a nursing or other health	14
professional.	15
“obstruct” includes hinder, resist and attempt to obstruct.	16
“order” means an assessment order or child protection order.	17
“parent” for—	18
(a) chapter 2, part 2—see section 21;	19
(b) chapter 2, part 3—see section 31;	20
(c) chapter 2, part 4—see section 41;	21
(d) chapter 4—see section 96;	22
(e) other provisions—see section 10. ³¹	23
“parties” , to a proceeding on an application for an order, means the	24

³¹ In chapter 2 (Protection of children), part 2 (Temporary assessment orders), part 3 (Court assessment orders) and part 4 (Child protection orders) and chapter 4 (Interstate transfers of guardianship and custody of children), **“parent”** has a narrower meaning. The meaning given the term in the provisions is the same.

SCHEDULE 3 (continued)

applicant and the respondents.	1
“place” includes—	2
(a) land or premises; and	3
(b) a vehicle, boat or aircraft.	4
“premises” includes—	5
(a) a building or structure, or part of a building or structure; and	6
(b) land on which a building or structure is situated.	7
“protection” , of a child, includes care of the child.	8
“reasonably believes” means believes on grounds that are reasonable in the circumstances.	9 10
“reasonably suspects” means suspects on grounds that are reasonable in the circumstances.	11 12
“recognised Aboriginal or Torres Strait Islander agency” , for an Aboriginal or Torres Strait Islander child, means an entity that, under an agreement between the State and the entity, is the appropriate entity to be consulted about the child’s protection. ³²	13 14 15 16
“registrar” , of the Childrens Court held at a place, includes the clerk of the court at the place.	17 18
“service provider” means—	19
(a) the chief executive of a department or an organisation involved in the administration of this Act; or	20 21
(b) the chief executive of a department or an organisation involved in providing services relating to the purpose of this Act.	22 23
“statement of standards” see section 101.	24
“suitable person” means—	25
(a) for having the custody of a child—a person who is a suitable	26

³² Under the *Acts Interpretation Act 1954*, section 36, **“entity”** can be an individual, a corporation or an unincorporated body.

SCHEDULE 3 (continued)

person under a regulation and agrees to accept the custody of the child; or	1 2
(b) for having the daily care of a child—a person who is a suitable person under a regulation; or	3 4
(c) for managing a licensed care service—a person who is a suitable person under a regulation.	5 6
“temporary assessment order” means an order under chapter 2, part 2, and includes an order extending a temporary assessment order.	7 8
“traffic history” , of a person, means the history of contraventions for which the person has been dealt with under the <i>Traffic Act 1949</i> , and includes the recording of demerit points under that Act.	9 10 11
“tribunal” means a children services appeals tribunal established under the <i>Children’s Commissioner and Children’s Services Appeals Tribunals Act 1996</i> .	12 13 14 15