Queensland

Community Services Bill 2006

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Contents

2006

A Bill

for

An Act to provide for assistance to service providers providing community services, and the regulation of the community services, and for other purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Community Services Act 2006*.

2 Commencement

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

Division 2 Object and principles

3 Main object of Act

The main object of this Act is to help build sustainable communities by facilitating access by Queenslanders to community services.

4 How main object is mainly achieved

The main object is achieved mainly by—

(a) the department giving financial and other assistance to service providers providing community services; and

(b) regulating community services provided with the financial or other assistance to ensure the standard and accountability of the services; and

(c) providing for compliance with this Act to be monitored and enforced.

5 Guiding principles

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

(a) a community is sustainable if it is socially, culturally and economically diverse, cohesive, inclusive, active, resilient and adaptable and has access to appropriate services, infrastructure and amenities;

(b) the availability of sustainable, quality, safe, responsive and accountable community services enhances the quality of life of people living in the community, and contributes to the wellbeing of the community, by enabling people to participate in its social and economic life;

(c) the provision of community services by service providers delivers significant social and other benefits for individuals, families and communities by building on community strengths, providing flexibility, facilitating innovation and bringing local resources together;

(d) the department and service providers should work together to meet common aims in a way that recognises each entity's autonomy, contributions and accountabilities;

(e) the department's support for community services should—

(i) build capacity and promote best practice in the governance and delivery of community services; and

(ii) be integrated, as far as is reasonably practicable, with the provision of other relevant services;

(f) community services should be provided in a way that—

(i) responds to the diverse and changing needs of individuals, families and communities; and

(ii) has appropriate regard to local and regional differences, cultural diversity and Aboriginal tradition and Island custom; and

(iii) facilitates choice, maximises participation, encourages self-help and promotes voluntary effort; and

(iv) respects the rights and responsibilities of individuals, families and communities; and

(v) fosters the dignity and independence of individuals, especially the most vulnerable; and

(vi) takes account of individuals, families and communities in greatest need;

(g) the needs, views and interests of users of community services, community members and representatives, and service providers, should be taken into account—

(i) by the department in developing policy and delivering programs and services for community services; and

(ii) by service providers in delivering community services.

Editor's note—

Acts Interpretation Act 1954, section 36—

Aboriginal tradition means the body of traditions, observances, customs and beliefs of Aboriginal people generally or of a particular community or group of Aboriginal people, and includes any such traditions, observances, customs and beliefs relating to particular persons, areas, objects or relationships.

Island custom, known in the Torres Strait as Ailan Kastom, means the body of customs, traditions, observances and beliefs of Torres Strait Islanders generally or of a particular community or group of Torres Strait Islanders, and includes any such customs, traditions, observances and beliefs relating to particular persons, areas, objects or relationships.

Division 3 Interpretation

6 Definitions

The dictionary in schedule 4 defines particular words used in this Act.

7 Meaning of *service provider*

(1) A ***service provider*** is a corporation, other than the State, that provides or intends to provide community services.

(2) It is immaterial whether the services are provided with the intention of making a profit.

Note—

A service provider may be a local government.

8 Meaning of *approved service provider*

An ***approved service provider*** is a service provider approved by the chief executive under part 2 as eligible to receive assistance under part 3.

9 Meaning of *funded service provider*

(1) A ***funded service provider*** is a service provider that receives assistance from the department to provide community services.

(2) It is immaterial whether other funds or resources are also used by the service provider to provide community services.

Part 2 Approved service providers

Division 1 Preliminary

10 Explanation

This part establishes a system under which the chief executive may approve service providers as being eligible to receive assistance from the department for providing community services.

11 No entitlement to assistance

The Minister is not required to approve assistance to an approved service provider.

Division 2 Approval process

12 Application for approval

(1) A service provider may apply to the chief executive for approval as an approved service provider.

(2) The application must be in the approved form.

(3) The service provider must also provide any other relevant information reasonably required by the chief executive to decide the application.

13 Decision on application

(1) The chief executive must decide the application within 90 days after receiving the application and any other required information, and give the service provider notice of the decision.

(2) The chief executive may approve a service provider as an approved service provider only if the chief executive is satisfied that the approval is consistent with the object of this Act and the guiding principles mentioned in section 5.

(3) In deciding the application, the chief executive may have regard to the following—

(a) the service provider's business, strategic, or operational plan;

(b) the service provider's record of financial management;

(c) how the service provider conducts, or proposes to conduct, its operations;

(d) whether the service provider has appropriate corporate governance;

(e) whether the service provider is receiving assistance from another source;

(f) whether the service provider has demonstrated compliance with the requirements of another Act, for example, the *Disability Services Act 2006*;

(g) another matter prescribed under a regulation.

14 Approval remains in force unless cancelled

The approval of a service provider as an approved service provider remains in force until it is cancelled under this part.

Division 3 Cancellation of approval

15 Application for cancellation of approval

(1) An approved service provider may apply to the chief executive for cancellation of its approval as an approved service provider.

(2) The application must be in the approved form.

(3) The service provider must also provide any other relevant information reasonably required by the chief executive to decide the application.

16 Decision on application

(1) The chief executive must decide the application within 45 days after receiving the application and any other required information, and give the service provider notice of the decision.

(2) The chief executive must, and may only, grant the application if—

(a) there is no service agreement in force with the approved service provider; and

(b) the chief executive is satisfied it is unlikely the chief executive will want to take action to enforce compliance by the service provider with this Act.

(3) The chief executive may require the service provider to take stated action before the chief executive grants the application

including, for example, returning unspent funds to the chief executive.

17 Cancellation of approval without application

(1) The chief executive may cancel the approval of an approved service provider, even though no application has been made under section 15, if—

(a) there is no service agreement in force with the service provider; and

(b) the chief executive is satisfied it is unlikely either of the following will happen—

(i) action will be taken to enforce compliance by the service provider with this Act;

(ii) assistance, or further assistance, will be given to the service provider under this Act.

(2) Before cancelling the approval, the chief executive must give the service provider a notice—

(a) stating that the chief executive proposes to cancel the approval; and

(b) stating the reasons for the proposed cancellation; and

(c) inviting the service provider to give a written response within a stated time of at least 45 days.

(3) The chief executive must consider any written response received from the service provider within the stated time before deciding whether to cancel the approval.

(4) Immediately after deciding whether or not to cancel the approval, the chief executive must give the service provider notice of the decision.

(5) The chief executive may cancel the approval of an approved service provider, without complying with subsections (2) to (4), if the service provider agrees.

18 Cancellation of approval if approved service provider no longer exists

The chief executive must cancel the approval of an approved service provider if it no longer exists.

Division 4 Notice of changes by approved service provider

19 Approved service provider must give notice of change

An approved service provider must give a notice, in the approved form, to the chief executive of any of the following matters within 30 days after becoming aware of the matter, unless the service provider has a reasonable excuse—

(a) the service provider's address changes;

(b) for an association incorporated under the *Associations Incorporation Act 1981* that—

(i) an application to the Supreme Court has been made for the association to be wound-up; or

(ii) a general meeting has been called to consider the winding-up of the association; or

(iii) the association's incorporation has been cancelled;

(c) for a cooperative incorporated under the *Cooperatives Act 1997* that action has started to—

(i) wind-up or deregister the cooperative; or

(ii) appoint an administrator to conduct the affairs of the cooperative;

(d) for a local government—a regulation has been made under the *Local Government Act 1993* dissolving the local government;

(e) for another corporation—the corporation is under external administration under the Corporations Act or a similar law of a foreign jurisdiction;

(f) a matter prescribed under a regulation.

Maximum penalty—10 penalty units.

Note—

Under section 127 the chief executive may give notice to an approved service provider requiring it to give information or a document to the chief executive.

Part 3 Assistance to service providers

20 Purpose of giving assistance

The purpose of giving assistance to service providers is to enable them to provide community services in ways that best achieve the object of this Act.

21 When assistance may be given

To achieve the object of this Act the Minister may approve assistance to a service provider for community services in a way the Minister considers appropriate, including, for example the following—

(a) giving, on appropriate conditions, funding to the service provider;

(b) leasing or licensing land or improvements to the service provider;

(c) giving or leasing other property to the service provider;

(d) making available goods or services through the department;

(e) making available financial or other incentives to the service provider.

22 Assistance to service providers

(1) The Minister may approve assistance to a service provider only if the service provider is an approved service provider.

(2) However, the Minister may approve assistance to a service provider that is not an approved service provider if the Minister is satisfied—

(a) there is an urgent need for the assistance; and

(b) it is not practicable for the service provider to become an approved service provider before assistance is approved.

(3) If assistance is approved for a service provider under subsection (2)—

(a) the service provider must take action to become an approved service provider as soon as reasonably practicable after receiving the assistance; and

(b) the assistance must stop 6 months after it is first given if the service provider has not become an approved service provider within that time.

(4) This section applies subject to section 23.

23 Who may receive approval for one-off funding

Despite section 22, the Minister may approve assistance that is one-off funding for a service provider that is not an approved service provider.

24 No assistance without agreement

(1) If the Minister approves assistance to a service provider, the chief executive must enter into a written agreement with the service provider (a ***service agreement***) for giving the assistance.

(2) The chief executive may give the assistance to the service provider only under a service agreement.

(3) However, the chief executive may give assistance before a service agreement is entered into if the Minister is satisfied—

(a) there is an urgent need for the assistance; and

(b) it is not practicable to enter into an agreement before assistance is given.

(4) If subsection (3) applies, the service provider must—

(a) before receiving the assistance, agree in writing to enter into a service agreement after receiving the assistance, within a stated time decided by the chief executive; and

(b) enter into the service agreement within that time.

(5) Ongoing assistance must stop if the service provider has not entered into a service agreement within the stated time.

25 What service agreement must contain

(1) A service agreement must state each of the following the chief executive considers relevant to the assistance—

(a) the type of assistance;

(b) if the assistance is funding, the amount of the assistance;

(c) if the assistance is not funding, details of the assistance given;

(d) the period of the agreement and when the assistance is to be given;

(e) the type of community services to be provided;

(f) the service delivery outcomes to be achieved;

(g) the performance measures to be used in measuring the service delivery outcomes;

(h) the policies and procedures to guide service delivery;

(i) the way the service provider is to report to the chief executive;

(j) the circumstances in which the service provider is in breach of the agreement;

(k) the action that may be taken by the chief executive to monitor compliance with the agreement;

(l) the action that may be taken by the chief executive for a breach, or suspected breach, of the agreement, including a show cause process for suspending or stopping the assistance;

Note—

Part 5, division 2, sets out the show cause process that must be undertaken by the chief executive if a service agreement provides for a show cause process for a breach of the agreement that may lead to the chief executive suspending or stopping assistance under the agreement.

(m) the department's obligations under the agreement.

(2) The agreement may also include other matters the chief executive considers necessary for the agreement.

Part 4 Standards for funded service providers

26 Standards

(1) A regulation may prescribe requirements (the ***standards***) relating to the provision, by funded service providers, of community services.

(2) Without limiting subsection (1), a regulation may prescribe requirements about how a funded service provider provides community services or conducts its operations including in relation to—

(a) ensuring accessibility to users of the services; and

(b) responding to the needs of individuals, families and communities; and

(c) facilitating choice and participation by users of the services; and

(d) respecting the privacy and confidentiality of users of the services; and

(e) receiving feedback and resolving complaints and disputes; and

(f) protecting the safety and wellbeing of users of the services; and

(g) recruiting and selecting staff; and

(h) inducting, training and developing staff; and

(i) managing and supporting staff to enable them to undertake their roles; and

(j) corporate governance; and

(k) financial management and accountability.

(3) A standard may include provision about—

(a) preparing, maintaining, publishing or implementing a policy or procedure; or

(b) reporting matters to the chief executive.

27 Minister may exempt from compliance with standard

(1) This section applies if the Minister considers that the standards or provisions of the standards should not apply to a funded service provider in relation to the provision of a community service because of—

(a) the nature of the community service; or

(b) the amount or type of assistance to be given for the community service.

(2) The Minister may, by notice given to the service provider, exempt the service provider from compliance with the standards or provisions of the standards in relation to the provision of a community service.

(3) An exemption may be limited in its application and may be subject to conditions.

28 Funded service provider must not contravene standards

A funded service provider must not contravene a standard.

Notes—

1 A funded service provider may be given a compliance notice requiring the provider to remedy a contravention of a standard. See section 30.

2 The extent of a funded service provider's contravention of a standard is a relevant matter the Minister may consider when deciding the further assistance, if any, to give to the provider under this Act.

3 Contravention of a standard may lead to the appointment of an interim manager for a funded service provider. See section 67.

4 A funded service provider's contravention of a standard is a matter the chief executive may consider when deciding whether to cancel the approval of an approved service provider.

Part 5 Compliance notices and suspending or stopping assistance

Division 1 Compliance notices

29 Cooperative approach

Nothing in this division limits the way in which the department may cooperate with a funded service provider in dealing with a matter in relation to which a power under this division could be exercised.

30 Compliance notice

(1) This section applies if the chief executive reasonably believes—

(a) a funded service provider—

(i) is contravening a provision of this Act; or

(ii) has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated; and

(b) a matter relating to the contravention is reasonably capable of being remedied; and

(c) it is appropriate to give the person an opportunity to remedy the matter.

(2) This section applies to a funded service provider even if the service provider's assistance has been suspended under the relevant service agreement.

(3) The chief executive may give the service provider a notice (a ***compliance notice***) requiring the service provider to remedy the matter.

(4) The compliance notice must state the following—

(a) that the chief executive reasonably believes the service provider—

(i) is contravening a provision of this Act; or

(ii) has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated;

(b) the provision the chief executive believes is being, or has been, contravened (the ***relevant provision***);

(c) briefly, how it is believed the relevant provision is being, or has been, contravened;

(d) the matter relating to the contravention that the chief executive believes is reasonably capable of being remedied;

(e) that the service provider must remedy the matter within a stated reasonable time;

(f) that it is an offence to fail to comply with the compliance notice unless the service provider has a reasonable excuse.

(5) The compliance notice may also state—

(a) the reasonable steps that the chief executive is satisfied are necessary to remedy the matter, or avoid further contravention, of the relevant provision; and

(b) that the service provider must report to the chief executive after taking a step or steps.

(6) The service provider must comply with the compliance notice unless the service provider has a reasonable excuse.

Maximum penalty—

(a) if it is an offence to contravene the relevant provision—the maximum penalty for contravening that provision; or

(b) otherwise—

(i) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 121[1]—20 penalty units; or

(ii) for a funded service provider—100 penalty units.

1 Section 121 (Executive officers must ensure corporation complies with Act)

(7) If it is an offence to contravene the relevant provision and a compliance notice is given, the service provider can not be prosecuted for that offence unless it contravenes subsection (6) in relation to the compliance notice.

(8) If the service provider contravenes subsection (6), the chief executive may, by notice given to the service provider, suspend or stop assistance to the service provider despite anything in a service agreement with the service provider.

(9) This section does not limit—

(a) a remedy available to the chief executive under a service agreement; or

(b) the chief executive's powers apart from this section.

31 Report by authorised officer

Before deciding whether to give a funded service provider a compliance notice the chief executive may obtain a written report from an authorised officer about whether the service provider—

(a) is contravening a provision of this Act; or

(b) has contravened a provision of this Act in circumstances that make it likely the contravention will continue or be repeated.

Division 2 Suspending or stopping assistance for breach of agreement

32 Show cause notice

(1) This section applies if—

(a) a service agreement with a funded service provider provides for a show cause process for a breach of the agreement; and

(b) the chief executive reasonably suspects that the service provider has breached the agreement; and

(c) the chief executive proposes to take action under the service agreement to suspend or stop assistance.

(2) The chief executive must give the service provider a notice (a ***show cause notice***) stating the following—

(a) the action (the ***proposed action***) the chief executive proposes taking under the agreement;

(b) the grounds for the proposed action;

(c) an outline of the facts and circumstances forming the basis for the grounds;

(d) an invitation to the service provider to show within a stated period (the ***show cause period***) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the service provider.

33 Representations about show cause notice

(1) The funded service provider may make written representations about the show cause notice to the chief executive in the show cause period.

(2) The chief executive must consider all written representations (the ***accepted representations***) made under subsection (1).

34 Ending show cause process without further action

If, after considering the accepted representations for the show cause notice, the chief executive no longer believes the ground exists to take the proposed action, the chief executive—

(a) must not take further action about the show cause notice; and

(b) must, as soon as practicable, give notice to the funded service provider that no further action is to be taken about the show cause notice.

35 Suspending or stopping assistance

(1) This section applies if after considering the accepted representations for the show cause notice, the chief executive—

(a) still believes the ground exists to take action to suspend or stop assistance; and

(b) believes the action is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The chief executive may—

(a) if the proposed action stated in the show cause notice was to suspend the assistance for a stated period—suspend the assistance for no longer than the stated period; or

(b) if the proposed action in the show cause notice was to stop the assistance—either stop the assistance or suspend it for a period.

Division 3 Recovery of funding

36 Recovery of amount from funded service provider

(1) This section applies if—

(a) funding to a service provider has been stopped and funds already given by the chief executive to the service provider have not been spent by the service provider (the ***unspent funds***); or

(b) a funded service provider has used funds for a purpose other than the purpose for which the funds were given under the service agreement with the service provider (the ***improperly used funds***).

(2) The unspent funds or improperly used funds are a debt owing by the service provider to the State.

(3) The chief executive may recover the unspent funds or improperly used funds as a debt.

Part 6 Monitoring and enforcement

Division 1 Preliminary

37 Purpose of pt 6

The purpose of this part is to provide mechanisms for monitoring and enforcing compliance with this Act and to ensure the proper and efficient delivery of community services by funded service providers.

38 Matters to be considered by chief executive or authorised officer before exercising a power

(1) Before the chief executive or an authorised officer exercises a power under this part in relation to a funded service provider, the chief executive or authorised officer must consider whether it would be more appropriate to seek the cooperation of the service provider instead of exercising the power.

(2) The exercise of a power under this part can not be challenged merely because the chief executive or authorised officer did not comply with subsection (1).

Division 2 Authorised officers

39 Powers generally

(1) An authorised officer has the powers given under this Act.

(2) In exercising the powers an authorised officer is subject to the directions of the chief executive.

40 Appointment

(1) The chief executive may appoint any of the following persons as an authorised officer—

(a) a public service employee;

(b) for the purpose of investigating a particular matter, another person.

(2) A person may be appointed for this Act generally or for stated provisions of the Act.

41 Qualifications for appointment

The chief executive may appoint a person as an authorised officer only if—

(a) the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience; and

(b) the person has the competencies, if any, prescribed under a regulation as relevant to the person's appointment.

42 Appointment conditions and limit on powers

(1) An authorised officer holds office on the conditions stated in—

(a) the authorised officer's instrument of appointment; or

(b) a signed notice given to the authorised officer; or

(c) a regulation.

(2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer's powers under this Act.

(3) In this section—

signed notice means a notice signed by the chief executive.

43 Issue of identity card

(1) The chief executive must issue an identity card to each authorised officer.

(2) The identity card must—

(a) contain a recent photo of the authorised officer; and

(b) contain a copy of the authorised officer's signature; and

(c) identify the person as an authorised officer under this Act; and

(d) state an expiry date for the card.

(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

44 Production or display of identity card

(1) In exercising a power under this Act in relation to another person, an authorised officer must—

(a) produce the authorised officer's identity card for the other person's inspection before exercising the power; or

(b) have the identity card displayed so it is clearly visible to the other person when exercising the power.

(2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the other person's inspection at the first reasonable opportunity.

(3) For subsection (1), an authorised officer does not exercise a power in relation to another person only because the authorised officer has entered a place as mentioned in section 48(1)(b) or (2).

45 When authorised officer ceases to hold office

(1) An authorised officer ceases to hold office if any of the following happens—

(a) the term of office stated in a condition of office ends;

(b) under another condition of office, the authorised officer ceases to hold office;

(c) the authorised officer's resignation under section 46 takes effect.

(2) Subsection (1) does not limit the ways an authorised officer may cease to hold office.

(3) In this section—

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

46 Resignation

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

47 Return of identity card

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

Maximum penalty—10 penalty units.

Division 3 Powers of authorised officers

Subdivision 1 Entry of places

48 Power to enter places

(1) An authorised officer may enter a place if—

(a) an occupier of the place consents to the entry; or

(b) it is a public place and the entry is made when it is open to the public; or

(c) it is not a home and the entry is made when the place is open for carrying on business or otherwise open for entry; or

(d) the entry is authorised by a warrant.

(2) For the purpose of asking an occupier of a place for consent to enter, an authorised officer may, without the occupier's consent or a warrant—

(a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

(b) enter part of the place the officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

Subdivision 2 Procedure for entry

49 Entry with consent

(1) This section applies if an authorised officer intends to ask an occupier of a place to consent to the officer or another authorised officer entering the place under section 48(1)(a).

(2) Before asking for the consent, the authorised officer must tell the occupier—

(a) the purpose of the entry; and

(b) that the occupier is not required to consent.

(3) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must state—

(a) that the occupier has been told—

(i) the purpose of the entry; and

(ii) that the occupier is not required to consent; and

(b) the purpose of the entry; and

(c) that the occupier gives the authorised officer consent to enter the place and exercise the powers under this part; and

(d) the time and date the consent was given.

(5) If the occupier signs the acknowledgment, the authorised officer must immediately give a copy to the occupier.

(6) If—

(a) an issue arises in a proceeding about whether the occupier consented to the entry; and

(b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

50 Application for warrant

(1) An authorised officer may apply to a magistrate for a warrant for a place.

(2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.

(3) The written application must be sworn.

(4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

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

51 Issue of warrant

(1) The magistrate may issue a warrant for the place only if the magistrate is satisfied there are reasonable grounds for suspecting that it is necessary to enter the place—

(a) to protect a person receiving community services from a funded service provider at the place from risk of harm because of abuse, neglect or exploitation; or

(b) subject to subsection (2), to check whether a funded service provider has taken the steps required under a compliance notice.

(2) The magistrate may issue a warrant under subsection (1)(b) only if the magistrate is satisfied non-compliance with the compliance notice may severely affect the provision of community services.

(3) The warrant must state—

(a) the place to which the warrant applies; and

(b) that a stated authorised officer may, with necessary and reasonable help and force—

(i) enter the place and any other place necessary for the entry; and

(ii) exercise the officer's powers under this part; and

(c) particulars of the reason it is necessary to enter the place that the magistrate considers appropriate in the circumstances; and

(d) the hours of the day or night when the place may be entered; and

(e) the magistrate's name; and

(f) the date and time of the warrant's issue; and

(g) the date, within 14 days after the warrant's issue, the warrant ends.

52 Application by electronic communication and duplicate warrant

(1) An application under section 50 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer reasonably considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances, including, for example, the authorised officer's remote location.

(2) The application—

(a) may not be made before the authorised officer prepares the written application under section 50(2); but

(b) may be made before the written application is sworn.

(3) The magistrate may issue the warrant (the ***original warrant***) only if the magistrate is satisfied—

(a) it was necessary to make the application under subsection (1); and

(b) the way the application was made under subsection (1) was appropriate.

(4) After the magistrate issues the original warrant—

(a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised officer, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised officer; or

(b) otherwise—

(i) the magistrate must tell the authorised officer the date and time the warrant is issued and the other terms of the warrant; and

(ii) the authorised officer must complete a form of warrant, including by writing on it—

(A) the magistrate's name; and

(B) the date and time the magistrate issued the warrant; and

(C) the other terms of the warrant.

(5) The copy of the warrant mentioned in subsection (4)(a), or the form of warrant completed under subsection (4)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.

(6) The authorised officer must, at the first reasonable opportunity, send to the magistrate—

(a) the written application complying with section 50(2) and (3); and

(b) if the authorised officer completed a form of warrant under subsection (4)(b)—the completed form of warrant.

(7) The magistrate must keep the original warrant and, on receiving the documents under subsection (6)—

(a) attach the documents to the original warrant; and

(b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.

(8) Despite subsection (5), if—

(a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and

(b) the original warrant is not produced in evidence;

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

(9) This section does not limit section 50.

(10) In this section—

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

53 Defect in relation to a warrant

(1) A warrant is not invalidated by a defect in the warrant, or in compliance with section 50, 51 or 52, unless the defect affects the substance of the warrant in a material particular.

(2) In this section—

warrant includes a duplicate warrant mentioned in section 52(5).

54 Warrants—procedure before entry

(1) This section applies if an authorised officer named in a warrant issued under this part for a place is intending to enter the place under the warrant.

(2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—

(a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the authorised officer's identity card or other document evidencing the appointment;

(b) give the person a copy of the warrant;

(c) tell the person the authorised officer is permitted by the warrant to enter the place;

(d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.

(3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

(4) In this section—

warrant includes a duplicate warrant mentioned in section 52(5).

Subdivision 3 Powers after entry

55 General powers after entering a place

(1) This section applies to an authorised officer who enters a place.

(2) However, if an authorised officer enters a place to get an occupier's consent to enter the place, this section applies to the officer only if the consent is given or the entry is otherwise authorised.

(3) The authorised officer may do any of the following—

(a) search any part of the place;

(b) inspect, measure, test, photograph or film any part of the place or anything at the place;

(c) take a thing, or a sample of or from a thing, at the place for analysis or testing;

(d) copy a document at the place or take the document to another place to copy it;

(e) take into or onto the place any person, equipment and materials the officer reasonably requires for the exercise of a power under this part;

(f) confer alone with a person at the place;

(g) require a person at the place to give the authorised officer reasonable help to exercise the authorised officer's powers under paragraphs (a) to (f);

(h) require a person at the place to answer questions by the authorised officer to help the authorised officer ascertain whether this Act is being or has been complied with.

(4) When making a requirement mentioned in subsection (3)(g) or (h), the authorised officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

(5) If an authorised officer takes a document from a place to copy it, the document must be copied as soon as practicable and returned to the place.

56 Failure to help authorised officer

(1) A person required to give reasonable help under section 55(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

57 Failure to answer questions

(1) A person of whom a requirement is made under section 55(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

Division 4 Power to require information

58 Notice under s 59 may relate to use of assistance

Without limiting section 37, a notice under section 59 may relate to the use of assistance provided under this Act to a funded service provider.

59 Power to require information or documents

(1) The chief executive or an authorised officer may, by notice given to a person, require the person to—

(a) give to the chief executive or an authorised officer, either orally or in writing, information in the person's knowledge about a stated matter within a stated reasonable time and in a stated reasonable way; or

(b) give to the chief executive or an authorised officer, within a stated reasonable time and in a stated reasonable way, a document about a stated matter in the person's possession or control.

Note—

The powers in this division are limited by division 1.

(2) The chief executive or authorised officer may keep a document mentioned in subsection (1)(b) to copy it.

(3) If the chief executive or authorised officer copies the document, or an entry in the document, the chief executive or officer may require the person who has possession or control of the document to certify the copy as a true copy of the document or entry.

(4) The chief executive or authorised officer must return the document to the person as soon as practicable after copying it.

(5) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

(6) It is a reasonable excuse for the person to fail to comply with a requirement made under subsection (1) or (3) that complying with the requirement might tend to incriminate the person.

(7) If a court convicts a person of an offence against subsection (5), the court may also order the person to give to the chief executive or a stated authorised officer, within a stated time and in a stated way, information or a document to which the requirement related.

Division 5 Other matters

60 Notice of damage

(1) This section applies if—

(a) an authorised officer damages property when exercising or purporting to exercise a power; or

(b) a person (the ***other person***) acting under the direction or authority of an authorised officer damages property.

(2) The authorised officer must immediately give notice of particulars of the damage to a person who appears to the authorised officer to be an owner of the property.

(3) If the authorised officer believes the damage was caused by a latent defect in the property or circumstances beyond the authorised officer's or other person's control, the authorised officer may state the belief in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the authorised officer must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the authorised officer reasonably believes is trivial.

(6) In this section—

owner, of property, includes a person in possession or control of it.

61 Compensation

(1) If a person incurs loss or expense because of the exercise or purported exercise of a power under division 3, subdivision 1 or 3[2], the person may claim compensation from the chief executive.

2 Division 3 (Powers of authorised officers), subdivision 1 (Entry of places) or subdivision 3 (Powers after entry)

(2) Without limiting subsection (1), compensation may also be claimed for loss or expense incurred in complying with a requirement made of the person under this part.

(3) Compensation may be claimed and ordered to be paid in a proceeding—

(a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or

(b) for an offence against this Act brought against the person claiming compensation.

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

62 False or misleading statements

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

Maximum penalty—40 penalty units.

63 False or misleading documents

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

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

(a) tells the chief executive or authorised officer, to the best of the person's ability, how it is false or misleading; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

64 Obstructing an authorised officer

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

Maximum penalty—40 penalty units.

(2) If a person has obstructed an authorised officer and the officer decides to proceed with the exercise of the power, the officer must warn the person that—

(a) it is an offence to obstruct the officer, unless the person has a reasonable excuse; and

(b) the officer considers the person's conduct an obstruction.

65 Impersonation of an authorised officer

A person must not pretend to be an authorised officer.

Maximum penalty—40 penalty units.

Part 7 Interim manager

Division 1 Preliminary

66 Main purpose of pt 7

(1) The main purpose of this part is to provide for the appointment of an interim manager to ensure the proper and efficient delivery of services provided under a service agreement with a funded service provider.

(2) Before making the appointment, the chief executive must consider whether it would be more appropriate to take action other than the appointment, or not to take any action.

Division 2 Appointment

67 Appointment

The chief executive may appoint a person as interim manager for a funded service provider receiving assistance other than assistance that is one-off funding.

68 Basis for appointment

(1) The chief executive may make the appointment only if the chief executive is satisfied the appointment is reasonably necessary to ensure the proper and efficient use of funds under the service agreement with the service provider.

(2) In deciding whether the appointment is reasonably necessary, the chief executive may have regard to all of the following matters—

(a) the type of community services provided by the service provider;

(b) the amount of assistance given to the service provider;

(c) whether the chief executive has suspended or stopped assistance to the service provider or is likely to suspend or stop assistance;

(d) whether it appears the service provider is—

(i) unwilling or unable to provide community services to which the service agreement relates; or

(ii) providing community services in a way that does not comply with the service agreement or the standards;

(e) the likely consequences if community services are not provided or not provided in a way that complies with the service agreement with the service provider or the standards;

(f) whether the service provider is receiving assistance from another source;

(g) the likely consequences of the appointment, of which the chief executive is aware, for the service provider and anyone else likely to be affected by the appointment;

(h) any other relevant matter of which the chief executive is aware.

69 Suitability of proposed appointee

(1) The chief executive may make the appointment only if the chief executive is satisfied the proposed appointee is suitable for the appointment under this section.

(2) In deciding whether a person is suitable for the appointment, the chief executive must have regard to the following matters—

(a) the type of community services provided by the funded service provider;

(b) the reason for the appointment;

(c) the person's expertise or experience relevant to the appointment;

(d) any conflict of interest that may arise in the course of the person acting as interim manager;

(e) any other relevant matter of which the chief executive is aware.

(3) A person who has agreed to a proposed appointment must advise the chief executive, before the appointment is made, whether the person is aware of a conflict of interest that may arise in the course of the person acting as interim manager.

Maximum penalty—40 penalty units.

(4) Only an adult may be appointed as interim manager.

70 Terms of appointment

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

(a) the person's name;

(b) details of the service provider;

(c) the community services to be provided;

(d) the way in which, or the extent to which, the community services are to be provided;

(e) details of the person's function as interim manager;

(f) any limitations on the person's powers as interim manager;

(g) the period of the appointment;

(h) any conditions of the appointment;

(i) anything else the chief executive considers appropriate.

71 Notice to funded service provider about appointment

Immediately after appointing a person as interim manager of a funded service provider, the chief executive must give a copy of the appointment to the service provider.

72 Informing persons using community services about appointment

The chief executive may direct the interim manager to inform persons using community services provided by the funded service provider of the appointment before the interim manager exercises a power under this part, for example, by—

(a) giving a notice of the appointment to persons using community services provided by the service provider; or

(b) posting notice of the appointment at a place at the premises of the service provider where it is likely to be seen by persons using community services provided by the service provider; or

(c) directing the interim manager to inform persons using community services provided by the service provider about the appointment in an appropriate way.

73 Initial period of appointment

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

74 Variation of appointment

(1) After an interim manager starts to carry out the manager's function, the chief executive may, by notice—

(a) extend the period of the appointment; or

(b) vary the appointment in another way.

(2) The chief executive may extend the period of the appointment if the chief executive is satisfied the extension is reasonably necessary in all the circumstances.

(3) The period of the appointment may be extended more than once.

(4) However—

(a) the period of an extension must not be more than 3 months; and

(b) the total period of the initial appointment and any extension or extensions must not be more than 6 months.

(5) The chief executive may vary the appointment in a way other than by extending the period of the appointment if the chief executive is satisfied the variation is appropriate, having regard to—

(a) the matters stated in section 68; and

(b) the operation of the funded service provider since the appointment started.

(6) If the appointment is varied under this section, the chief executive must ensure notice of the variation is given to the service provider.

75 Ending of appointment

(1) The chief executive may, by notice given to an interim manager, end the manager's appointment at any time before the end of the period of appointment if the chief executive is satisfied the appointment is no longer appropriate, having regard to the matters stated in section 68.

(2) Immediately after ending an appointment under subsection (1), the chief executive—

(a) must give notice about the ending of the appointment to the funded service provider; and

(b) may inform persons using community services provided by the service provider about the ending of the appointment in the way the chief executive considers appropriate.

Division 3 Function and powers

76 Application of div 3

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

77 Interim manager's function

The interim manager's function is, under the terms of the appointment—

(a) to ensure the proper and efficient use of assistance under the service agreement with the funded service provider; and

(b) to provide community services that the funded service provider has agreed to provide under the service agreement.

78 Interim manager's powers

So far as is necessary to carry out his or her function, an interim manager appointed to a funded service provider—

(a) may enter any part of the service provider's premises; and

(b) may use the facilities or things in the premises that it appears are intended for use, or are ordinarily used, to provide community services; and

(c) may ask for and accept payments owing to the service provider; and

(d) may do anything in relation to a service agreement, on behalf of the service provider, that the service provider is permitted or required to do.

79 Direction by chief executive

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

80 Other powers

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

Example—

It may be necessary for the interim manager to carry out repairs to the funded service provider's property.

81 Limitation on powers under instrument of appointment

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

82 Production of instrument of appointment for inspection

(1) This section applies if—

(a) the interim manager is exercising, or proposes to exercise, a power given under this part in relation to a person; and

(b) the person asks the manager to produce the manager's instrument of appointment for the person's inspection.

(2) The manager must comply with the request.

83 Obstruction

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

Maximum penalty—40 penalty units.

(2) If a person has obstructed an interim manager and the manager decides to proceed with the exercise of the power, the manager must warn the person that—

(a) it is an offence to obstruct the manager, unless the person has a reasonable excuse; and

(b) the manager considers the person's conduct an obstruction.

Division 4 Other matters

84 Access to information or documents

(1) The interim manager may ask an executive officer of the funded service provider for information or documents that the manager reasonably needs to carry out the manager's function.

(2) The chief executive may disclose information to an interim manager, or give an interim manager access to documents, to the extent the chief executive considers appropriate for the purpose of the manager's appointment.

85 Confidentiality

(1) This section applies to a person—

(a) who is, or has been, appointed as interim manager of a funded service provider; and

(b) who, in the course of the appointment or because of an opportunity provided by the appointment, has gained or has access to confidential information about the service provider or someone else.

(2) The person must not disclose the information to anyone else or give access to the information to anyone else, other than—

(a) for a purpose of this part; or

(b) under section 88; or

(c) with the consent of the service provider or other person to whom the information relates; or

(d) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or

(e) as expressly permitted or required by another Act.

Maximum penalty—40 penalty units.

86 Remuneration

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

87 Funded service provider liable for remuneration and other costs

(1) If an interim manager is appointed to a funded service provider, the chief executive may give the service provider a written demand for the amount of an administration cost.

(2) The chief executive may recover the amount as a debt owed to the State.

(3) In this section—

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

88 Accounts and reports

(1) An interim manager appointed to a funded service provider must give to the chief executive—

(a) records of all amounts received or paid in the course of the appointment; and

(b) the other reports about the administration that the chief executive requires.

(2) The records and other reports must be given as soon as possible after the end of the appointment or, if required by the chief executive at a time during the appointment, at that time.

(3) The chief executive must give a copy of each record or report to the service provider.

89 Compensation

(1) A person may claim compensation from the chief executive if the person incurs loss or damage because of the exercise or purported exercise of a power under this part.

(2) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of the amount of compensation claimed.

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

Part 8 Reviews and appeals

Division 1 Reviewable decisions

90 Reviewable decisions

Schedule 1 states—

(a) decisions of the chief executive under this Act that are reviewable decisions; and

(b) for each reviewable decision, the person who may seek to have the decision reviewed under this part (the ***interested person***).

91 Chief executive must give notice after making reviewable decision

(1) Immediately after making a reviewable decision, the chief executive must give to the interested person a notice stating—

(a) the decision; and

(b) the reasons for the decision; and

(c) that, within 28 days after receiving the notice, the interested person may apply to the chief executive for a review of the decision; and

(d) how the interested person may apply for the review; and

(e) that, if the interested person applies for a review of the decision and the matter is not resolved on the review, the interested person may appeal against the decision on review to the tribunal.

(2) Subsection (1) does not apply if the chief executive can not locate the interested person after making reasonable enquiries.

Division 2 Review of decision

92 Application for review

(1) This section applies to the interested person for a reviewable decision.

(2) Within 28 days after the interested person receives a notice under section 91 about the decision, the interested person may apply to the chief executive to review the decision.

(3) The chief executive may extend the time for applying for the review.

(4) Also, the interested person may apply to the chief executive to review the decision if the chief executive has not given the interested person a notice under section 91 about the decision.

(5) The application must be in the approved form and supported by enough information to enable the chief executive to decide the application.

93 Stay of operation of original decision

(1) An application under section 92 for review of a decision does not stay the decision.

(2) However, before the decision takes effect, the chief executive may, by notice given to the interested person, stay the operation of the decision for a stated period.

(3) Also, whether or not the interested person has asked the chief executive to stay the operation of the decision, the interested person may apply to the tribunal for a stay of the decision.

(4) The chief executive or the tribunal may stay the decision to secure the effectiveness of the review and any later appeal to the tribunal.

(5) The stay may be granted on conditions the chief executive or tribunal considers appropriate and has effect for the period stated by the chief executive or the tribunal.

(6) The period of the stay must not extend past the time when the chief executive makes the review decision and any later period the chief executive or tribunal allows to enable the interested person to appeal against the review decision.

94 Review decision

(1) This section applies to an application under section 92 for review of a decision (the ***original decision***).

(2) Unless the chief executive made the original decision personally, the chief executive must ensure the application is not dealt with by—

(a) the person who made the original decision; or

(b) a person in a less senior office than the person who made the original decision.

(3) Within 28 days after receiving the application, the chief executive must review the original decision and make a decision (the ***review decision***)—

(a) confirming the original decision; or

(b) amending the original decision; or

(c) substituting another decision for the original decision.

(4) Immediately after deciding the application, the chief executive must give the interested person a notice stating—

(a) the review decision; and

(b) the reasons for the review decision; and

(c) that, within 28 days after receiving the notice, the interested person may appeal against the review decision to the tribunal; and

(d) how the interested person may appeal.

(5) If the chief executive does not decide the application within 28 days after receiving it, the chief executive is taken to have made a review decision confirming the original decision.

Division 3 Appeal against review decision

95 Appeal against review decision

(1) Within 28 days after receiving a decision notice for a review decision, the interested person for the decision may appeal against the decision to the tribunal.

Note—

The *Commercial and Consumer Tribunal Act 2003*, section 31, states how to start a proceeding for a matter for which the tribunal has jurisdiction.

(2) Also, if the chief executive has made a review decision but has not given the interested person a decision notice for the decision, the interested person for the decision may appeal against the decision to the tribunal.

(3) If the interested person has received a decision notice for the review decision, the application filed in the tribunal to start the appeal must be accompanied by a copy of the decision notice.

(4) In this section—

decision notice, for a review decision, means a notice under section 94(4) about the decision.

96 Appeal is by way of rehearing

The appeal to the tribunal is by way of rehearing on the evidence that was before the chief executive.

Part 9 Screening of persons engaged by the department

Division 1 Preliminary

97 Main purpose of pt 9

The main purpose of this part is to enable the chief executive to obtain the criminal history of, and related information about, persons engaged or to be engaged by the department.

98 Persons engaged by the department

Each of the following persons is ***engaged by the department***—

(a) a public service employee working in the department;

(b) a contractor working in the department in the administration of an Act administered by the Minister;

(c) a person working in the department as a volunteer or as a student on work experience.

99 This part applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986

This part applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

100 Chief executive to advise of duties of disclosure etc.

Before a person is engaged by the department, the chief executive must tell the person—

(a) of the person’s duties of disclosure under this part; and

(b) that the chief executive may obtain the information about the person mentioned in section 106;[3] and

(c) that guidelines for dealing with information obtained by the chief executive under this part are available from the chief executive on request.

Division 2 Interpretation

101 What is a *serious offence*

(1) A ***serious offence*** is—

(a) for each Act mentioned in schedule 2, an offence against a provision mentioned in column 1 of that schedule for that Act, subject to any limitation relating to the provision mentioned opposite in column 3; or

(b) an offence of counselling or procuring the commission of, or attempting or conspiring to commit, an offence mentioned in paragraph (a); or

(c) an offence against a provision mentioned in schedule 3 that is an expired or repealed provision of the Criminal Code, subject to any qualification relating to the provision mentioned opposite in column 3; or

(d) an offence against a law at any time of another jurisdiction that substantially corresponds to an offence mentioned in paragraph (a), (b) or (c); or

(e) an offence that is a class 1 or 2 offence as defined under the *Child Protection (Offender Reporting) Act 2004* that is not otherwise a serious offence under this subsection.

Note—

Column 2 in schedules 2 and 3 is included for information purposes only and states a section heading for the provision mentioned opposite in column 1.

(2) For this section, it is immaterial if a provision mentioned in schedule 2 or 3, column 1, for an Act has been amended from

3 Section 106 (Chief executive may obtain report from commissioner of the police service)

time to time or that the provision was previously numbered with a different number.

Division 3 Disclosure of criminal history

102 Persons seeking to be engaged by the department must disclose criminal history

A person seeking to be engaged by the department must disclose to the chief executive, before being engaged—

(a) whether or not the person has a criminal history; and

(b) if the person has a criminal history, the person's complete criminal history.

103 Persons engaged by the department must disclose changes in criminal history

(1) If there is a change in the criminal history of a person engaged by the department, the person must immediately disclose to the chief executive the details of the change.

(2) For a person who does not have a criminal history, there is taken to be a change in the person's criminal history if the person acquires a criminal history.

104 Requirements for disclosure

(1) To comply with section 102 or 103, a person must give the chief executive a disclosure in the approved form.

(2) The information disclosed by a person about a conviction or charge of an offence in the person's criminal history must include—

(a) the existence of the conviction or charge; and

(b) when the offence was committed or alleged to have been committed; and

(c) the details of the offence or alleged offence; and

(d) for a conviction—whether or not a conviction was recorded and the sentence imposed on the person.

105 False or misleading disclosure or failure to disclose

(1) A person must not—

(a) give the chief executive a disclosure for the purposes of this division that is false or misleading in a material particular; or

(b) fail to give the chief executive a disclosure as required under section 103, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) Subsection (1)(a) does not apply to a person who, when giving the disclosure—

(a) informs the chief executive, to the best of the person's ability, how it is false or misleading; and

(b) gives the correct information to the chief executive if the person has, or can reasonably obtain, the correct information.

Division 4 Chief executive may obtain information

106 Chief executive may obtain report from commissioner of the police service

(1) This section applies to a person who—

(a) is engaged by the department; or

(b) seeks to be engaged by the department and has given the chief executive a disclosure for the purposes of division 3.

(2) The chief executive may ask the commissioner of the police service to give the chief executive the following information about the person—

(a) a written report about the person's criminal history;

(b) a brief description of the circumstances of a conviction or charge mentioned in the person's criminal history;

(c) information about an investigation relating to the possible commission of a serious offence by the person.

(3) Subject to subsections (4) and (5), the commissioner of the police service must comply with the request.

(4) The duty imposed on the commissioner of the police service to comply with the request—

(a) applies only to information in the commissioner's possession or to which the commissioner has access; and

(b) in relation to information mentioned in subsection (2)(c)—applies only to information recorded on a central electronic database kept by the commissioner.

(5) The commissioner of the police service must not give information about an investigation relating to the possible commission of a serious offence by the person if—

(a) the commissioner is reasonably satisfied that giving the information—

(i) may prejudice or otherwise hinder an investigation to which the information may be relevant; or

(ii) may lead to the identification of an informant; or

(iii) may affect the safety of a police officer, complainant or other person; or

(b) for an investigation that has been completed—the investigation has not led, and the commissioner is reasonably satisfied it is unlikely to lead, to a reasonable suspicion that the person committed a serious offence; or

(c) for an investigation that has not been completed—the commissioner is reasonably satisfied the investigation is unlikely to lead to a reasonable suspicion that the person committed a serious offence.

107 Prosecuting authority to notify chief executive about committal, conviction etc.

(1) This section applies if a person is charged with an indictable offence and the commissioner of the police service or the

director of public prosecutions (a ***prosecuting authority***) is aware that the person is engaged by the department.

(2) If the person is committed by a court for trial for an indictable offence, the prosecuting authority must, within 7 days after the committal, give notice to the chief executive of the following—

(a) the person's name;

(b) the court;

(c) particulars of the offence;

(d) the date of the committal;

(e) the court to which the person was committed.

(3) If the person is convicted before a court of an indictable offence, the prosecuting authority must, within 7 days after the conviction, give notice to the chief executive of the following—

(a) the person's name;

(b) the court;

(c) particulars of the offence;

(d) the date of the conviction;

(e) the sentence imposed by the court.

(4) If the person is convicted of an indictable offence, and has appealed the conviction, and the appeal is finally decided or has otherwise ended, the prosecuting authority must, within 7 days after the decision or the day the appeal otherwise ends, give notice to the chief executive of the following—

(a) the person's name;

(b) particulars of the offence;

(c) the date of the decision or other ending of the appeal;

(d) if the appeal was decided—

(i) the court in which it was decided; and

(ii) particulars of the decision.

(5) If the prosecution process ends without the person being convicted of an indictable offence, the prosecuting authority

must, within 7 days after the end, give notice to the chief executive about the following—

(a) the person's name;

(b) if relevant, the court in which the prosecution process ended;

(c) particulars of the offence;

(d) the date the prosecution process ended.

(6) For subsection (5), a prosecution process ends if—

(a) an indictment is presented against the person and—

(i) a nolle prosequi is entered on the indictment; or

(ii) the person is acquitted; or

(b) the prosecution process has otherwise ended.

Division 5 Controls on use of information

108 Use of information obtained under this part

(1) This section applies to the chief executive in considering information about a person received under this part.

(2) The information must not be used for any purpose other than assessing the person's suitability to be, or continue to be, engaged by the department.

(3) When making the assessment, the chief executive must have regard to the following matters relating to information about the commission, or alleged or possible commission, of an offence by the person—

(a) when the offence was committed, is alleged to have been committed or may possibly have been committed;

(b) the nature of the offence and its relevance to the person's proposed duties or duties under the sought engagement or engagement;

(c) anything else the chief executive considers relevant to the assessment of the person.

109 Person to be advised of information obtained

(1) This section applies to information obtained by the chief executive about a person, under this part, from the commissioner of the police service.

(2) Before using the information to assess the person's suitability to be, or continue to be, engaged by the department, the chief executive must—

(a) disclose the information to the person; and

(b) allow the person a reasonable opportunity to make representations to the chief executive about the information.

110 Guidelines for dealing with information

(1) The chief executive must make guidelines, consistent with this Act, for dealing with information obtained by the chief executive under this part.

(2) The purpose of the guidelines is to ensure—

(a) natural justice is afforded to the persons about whom the information is obtained; and

(b) only relevant information is used in assessing the persons' suitability to be, or continue to be, engaged by the department; and

(c) decisions about the suitability of persons, based on the information, are made consistently.

(3) The chief executive must give a copy of the guidelines, on request, to a person seeking to be engaged, or engaged, by the department.

Part 10 Legal proceedings

Division 1 Application

111 Application of pt 10

This part applies to a proceeding under this Act.

Division 2 Evidence

112 Appointments and authority

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

(a) the chief executive's appointment;

(b) an authorised officer's appointment;

(c) the authority of the chief executive or an authorised officer to do anything under this Act.

113 Signatures

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

114 Evidentiary provisions

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

(a) a stated document is 1 of the following things made, given, issued or kept under this Act—

(i) an appointment, approval or decision;

(ii) a notice or requirement;

(iii) a record, or an extract from a record;

(b) a stated document is another document kept under this Act;

(c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);

(d) on a stated day, or during a stated period, an appointment as an authorised officer was, or was not, in force for a stated person;

(e) on a stated day, a stated person was given a stated notice under this Act;

(f) on a stated day, a stated requirement was made of a stated person.

(2) In a complaint starting a proceeding, a statement that the matter of complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.

Division 3 Proceedings

115 Proceeding for offences

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

116 When proceeding may start

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

(a) 1 year after the commission of the offence;

(b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

117 Allegations of false or misleading information or document

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

118 Forfeiture on conviction

(1) On conviction of a person for an offence against this Act, a court may order the forfeiture to the State of—

(a) anything used to commit the offence; or

(b) anything else the subject of the offence.

(2) The court may make any order to enforce the forfeiture it considers appropriate.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

119 Dealing with forfeited thing

(1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the State as the State considers appropriate.

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

120 Responsibility for acts or omissions of representative

(1) This section applies in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

(a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the

person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

representative means—

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

(b) for an individual—an employee or agent of the individual.

state of mind of a person includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

121 Executive officers must ensure corporation complies with Act

(1) The executive officers of a corporation must ensure the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

(a) if the officer was in a position to influence the conduct of the corporation in relation to the offence, the officer exercised reasonable diligence to ensure the corporation complied with the provision; or

(b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Part 11 Miscellaneous

122 Advisory committees

The Minister may establish advisory committees in order to obtain the views of government entities, individuals, community entities and other non-government entities about community services.

123 Dissolution

The Minister may dissolve an advisory committee at any time.

124 Other matters

The Minister may decide matters about an advisory committee that are not provided for under this Act, including, for example, the way a committee must conduct meetings or report to the Minister.

125 Confidentiality of information about criminal history and related information

(1) This section applies to a person who—

(a) is, or has been, the chief executive, a public service employee, or a selection panel member; and

(b) in that capacity acquired information, or gained access to a document, under part 9[4] about another person's criminal history or about an investigation relating to the possible commission of a serious offence by another person.

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

Maximum penalty—100 penalty units or 2 years imprisonment.

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4 Part 9 (Screening of persons engaged by the department)

(3) Subsection (2) does not apply to the disclosure of information, or giving of access to a document, about a person—

(a) to the chief executive, a public service employee or selection panel member for the purpose of assessing the person's suitability to be, or continue to be, engaged by the department; or

(b) if the person is an adult—with the person's consent; or

(c) if the disclosure or giving of access is otherwise required under an Act.

(4) In this section—

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

126 Duty of confidentiality

(1) This section applies to a person—

(a) who is, or has been, the chief executive, a public service employee in the department or an authorised officer; and

(b) who, in the course of administering this Act or because of an opportunity provided by involvement in administering this Act, has gained, gains or has access to, confidential information about an individual, other than information mentioned in section 125(1)(b).

(2) The person must not make a record of the information, disclose the information to anyone else or give access to the information to anyone else, other than—

(a) for administering, monitoring or enforcing compliance with this Act; or

(b) with the consent of the individual to whom the information relates; or

(c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or

(d) as expressly permitted or required under an Act; or

(e) to protect an individual receiving community services from a funded service provider from abuse, neglect or exploitation.

Maximum penalty—40 penalty units.

127 Power to require information or documents

(1) The chief executive may give notice to an approved service provider requiring the service provider to give the chief executive, within a stated reasonable time, information or a document relating to a matter mentioned in subsection (2).

(2) For subsection (1), the chief executive may require information or a document relating to a matter to which the chief executive may have had regard in deciding whether to approve a service provider as an approved service provider.

(3) Also, the chief executive may give notice to a funded service provider requiring the service provider to give the chief executive, within a stated reasonable time, information or a document relating to the provision of community services by the service provider.

(4) The approved service provider or the funded service provider must comply with the notice.

(5) For a requirement to give a document, the service provider may comply with the requirement by giving a copy of the document certified as a true copy of the document.

128 Protection from liability for giving information

(1) This section applies to the giving of information to the chief executive, by an approved service provider or a funded service provider under section 127.

(2) An approved service provider or funded service provider, or a person on behalf of the provider, may give the information despite any other law that would otherwise prohibit or restrict the giving of the information.

(3) If a person, acting honestly on reasonable grounds, gives the information to the chief executive, the person is not liable,

civilly, criminally or under an administrative process, for giving the information.

(4) Also, merely because the person gives the information, the person can not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

(5) Without limiting subsections (3) and (4)—

(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and

(b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—

(i) does not contravene the Act, oath or rule of law or practice by giving the information; and

(ii) is not liable to disciplinary action for giving the information.

(6) In this section—

information includes a document.

129 Chief executive may share information about service provider

The chief executive may give information about a funded service provider to—

(a) an entity that provides funding or other assistance to the service provider; or

(b) another entity if the chief executive considers the entity has an interest in the proper and efficient delivery of services by the service provider.

130 Delegation by Minister or chief executive

(1) The Minister or the chief executive may delegate the Minister's or chief executive's functions under this Act to an

appropriately qualified person who is a public service employee.

(2) In this section—

appropriately qualified includes having the qualifications, experience or standing appropriate to the exercise of the function.

Example of standing—

if a person is a public service employee of the department, the person's classification level in the department

function includes a power.

131 Protecting officials from liability

(1) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

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

(3) In this section—

official means—

(a) the Minister; or

(b) the chief executive; or

(c) an authorised officer; or

(d) a public service employee; or

(e) an interim manager; or

(f) a person acting under the direction of an official.

132 Approval of forms

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

133 Service of documents

(1) If a document is required or permitted under this Act to be given to a person, the document may be given to the person by fax transmission directed and sent to—

(a) the last fax number given to the giver of the document by the person as the facsimile transmission number for service of documents on the person; or

(b) the fax transmission number operated—

(i) at the address of the person last known to the giver of the document; or

(ii) if the person is a corporation that has a registered office under the Corporations Act, at that registered office.

(2) A document given under subsection (1) is taken to have been given on the day the document is transmitted.

134 Regulation-making power

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

(2) A regulation made under this Act may—

(a) prescribe fees payable under this Act and the matters for which fees are payable; and

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

Part 12 Savings and transitional provisions

135 Definitions for pt 12

In this part—

commencement means the commencement of this part.

136 Certain service providers taken to be approved under part 2 and to be funded service providers

(1) This section applies to a service provider that, at the commencement, is providing community services with

funding received from the department as a result of a grant under the *Family Services Act 1987*.

(2) The service provider is, from the commencement, taken to be—

(a) an approved service provider for this Act; and

(b) a funded service provider for this Act.

(3) However, the service provider is not taken to be an approved service provider if the funding was one-off funding.

137 When grants under the Family Services Act continue

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

(2) Subject to subsections (3) and (6), the service provider may continue to receive the funding under this Act.

(3) Subsection (2) does not apply if the funding was one-off funding.

(4) Any conditions to which the grant was subject under the *Family Services Act 1987* continue to apply to the funding.

(5) If the service provider has, before the commencement, signed an agreement in relation to a grant under the *Family Services Act 1987*, that agreement—

(a) is taken to be a service agreement under this Act; and

(b) is taken to include a show cause process for a breach of the agreement that allows the chief executive to suspend or stop the assistance under the agreement.

(6) If the service provider has not signed an agreement in relation to a grant under the *Family Services Act 1987* before the commencement, funding must stop 1 year after the commencement unless—

(a) the Minister approves assistance under this Act; and

(b) a service agreement is signed by the service provider.

(7) No compensation is payable to a service provider if assistance to the service provider stops under subsection (6).

138 Other matters

(1) Nothing in this Act affects the operation of the *Family Services Act 1987*, section 11, in relation to a matter started, but not completed, before the commencement.

(2) The matter may be completed as if the *Family Services Act 1987* continued to be administered by the Minister administering this Act.

(3) Subsection (4) applies to a service provider that, at the commencement—

(a) is providing community services with funding received from the department as a result of a grant under the *Family Services Act 1987*; and

(b) has not signed an agreement in relation to the grant.

(4) Until the service provider signs an agreement under this Act, the *Family Services Act 1987*, section 11 continues to apply as if that Act continued to be administered by the Minister administering this Act.

Part 13 Amendment of Commercial and Consumer Tribunal Act 2003

139 Act amended in pt 13

This part amends the *Commercial and Consumer Tribunal Act 2003*.

140 Amendment of sch 2 (Dictionary)

Schedule 2, definition *empowering Act*—

insert—

‘• *Community Services Act 2006*’.

Part 14 Amendment of Young Offenders (Interstate Transfer) Act 1987

141 Act amended in pt 14

This part amends the *Young Offenders (Interstate Transfer) Act 1987*.

142 Amendment of s 3 (Interpretation)

(1) Section 3, definition *department*, '*Family Services Act 1987*'—

omit, insert—

'*Juvenile Justice Act 1992*'.

(2) Section 3, definition *permanent head*, '*Child Protection Act 1999*'—

omit, insert—

'*Juvenile Justice Act 1992*'.

Schedule 1 Reviewable decisions

section 90

Interested person	Reviewable decision
applicant for approval as an approved service provider	to refuse approval as an approved service provider (s 13(1))
approved service provider	to refuse to cancel approval as an approved service provider (s 16(1))
approved service provider	to cancel approval as an approved service provider (s 17(1))
funded service provider whose assistance is suspended or stopped	to suspend or stop assistance to a funded service provider for not complying with a compliance notice (s 30(8))
funded service provider for which interim manager appointed	to appoint an interim manager for a funded service provider (s 67)

Schedule 2 Current serious offences

section 101

1 *Classification of Computer Games and Images Act 1995*

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
23	Demonstration of an objectionable computer game before a minor	
26(3)	Possession of objectionable computer game	
27(3) and (4)	Making objectionable computer game	
28	Obtaining minor for objectionable computer game	

2 *Classification of Films Act 1991*

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
41(3)	Possession of objectionable film	
42(3) and (4)	Making objectionable film	
43	Procurement of minor for objectionable film	

Schedule 2 (continued)

3 *Classification of Publications Act 1991*

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
12	Sale etc. of prohibited publication or child abuse photograph	Only if an offender could have been or could be liable as mentioned in section 12, penalty, paragraph (c)
13	Possession of prohibited publication	Only if an offender could have been or could be liable as mentioned in section 13, penalty, paragraph (c)
14	Possession of child abuse publication or child abuse photograph	
15	Exhibition or display of prohibited publication or child abuse photograph	
16	Leaving prohibited publication or child abuse photograph in or on public place	Only if an offender could have been or could be liable as mentioned in section 16, penalty, paragraph (c)
17	Producing prohibited publication	Only if an offender could have been or could be liable as mentioned in section 17(1), penalty, paragraph (c) or 17(2), penalty, paragraph (c) or the offence is an offence under section 17(3) or (4)

Schedule 2 (continued)

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
18	Procurement of minor for RC publication or child abuse photograph	
20	Leaving prohibited publication or child abuse photograph in or on private premises	Only if an offender could have been or could be liable as mentioned in section 20, penalty, paragraph (c)

4 Criminal Code

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
208	Unlawful sodomy	
209	Attempted sodomy	
210	Indecent treatment of children under 16	
211	Bestiality	
213	Owner etc. permitting abuse of children on premises	
215	Carnal knowledge with or of children under 16	
216	Abuse of intellectually impaired persons	

Schedule 2 (continued)

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
217	Procuring young person etc. for carnal knowledge	
218	Procuring sexual acts by coercion etc.	
218A	Using internet etc. to procure children under 16	
219	Taking child for immoral purposes	
221	Conspiracy to defile	
222	Incest	
228	Obscene publications and exhibitions	Only if an offender could have been or could be liable as mentioned in section 228(2) or (3)
228A	Involving child in making child exploitation material	
228B	Making child exploitation material	
228C	Distributing child exploitation material	
228D	Possessing child exploitation material	

Schedule 2 (continued)

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
229B	Maintaining a sexual relationship with a child	
229G	Procuring prostitution	Only if an offender could have been or could be liable as mentioned in 229G(2)
229H	Knowingly participating in provision of prostitution	Only if an offender could have been or could be liable as mentioned in 229H(2)
229I	Persons found in places reasonably suspected of being used for prostitution etc.	Only if an offender could have been or could be liable as mentioned in 229I(2)
229L	Permitting young person etc. to be at place used for prostitution	
300	Unlawful homicide	Only if the unlawful killing is murder under section 302
306	Attempt to murder	
309	Conspiring to murder	
313	Killing unborn child	
315	Disabling in order to commit indictable offence	
316	Stupefying in order to commit indictable offence	

Schedule 2 (continued)

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
317	Acts intended to cause grievous bodily harm and other malicious acts	
320A	Torture	
322	Maliciously administering poison with intent to harm	
323A	Female genital mutilation	
323B	Removal of child from State for female genital mutilation	
324	Failure to supply necessaries	
326	Endangering life of children by exposure	
349	Rape	
350	Attempt to commit rape	
351	Assault with intent to commit rape	
352	Sexual assaults	
354	Kidnapping	
354A	Kidnapping for ransom	

Schedule 2 (continued)

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
363	Child-stealing	
363A	Abduction of child under 16	
364	Cruelty to children under 16	
409	Definition of *robbery*	Only if an offender could have been or could be liable as mentioned in section 411(2)
419	Burglary	Only if an offender could have been or could be liable as mentioned in section 419(3)(b)(i) and (ii)
427	Unlawful entry of vehicle for committing indictable offence	Only if an offender could have been or could be liable as mentioned in section 427(2)(b)(i) or (ii)

5 *Drugs Misuse Act 1986*

Provision of Act	Relevant heading	Limitation relating to the provision of the Act
5	Trafficking in dangerous drugs	
6	Supplying dangerous drugs	Only if the offence is one of aggravated supply as mentioned in section 6(2)
8	Producing dangerous drugs	Only if an offender could have been or could be liable for a penalty as mentioned in section 8, penalty, paragraph (a) or (b)

Schedule 3 Repealed or expired serious offences

section 101

Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
212	Defilement of Girls under Twelve	As the provision was in force from time to time before its repeal by the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*
214	Attempt to Abuse Girls under Ten	As the provision was in force from time to time before its repeal by the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*
220	Unlawful Detention with Intent to Defile or in a Brothel	As the provision was in force from time to time before its repeal by the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*
223	Incest by adult female	As the provision was in force from time to time before its repeal by the *Criminal Law Amendment Act 1997*
325	Endangering life or health of apprentices or servants	As the provision was in force from time to time before its repeal by the *Training and Employment Act 2000*

Schedule 3 (continued)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
344	Aggravated assaults	As the provision was in force from 20 December 1946 to 30 June 1997 if the circumstance of aggravation was that the unlawful assault was an offence of a sexual nature as defined in the *Criminal Law Amendment Act 1945*, section 2A *Note—* The *Criminal Law Amendment Act 1945*, section 2A was inserted into the *Criminal Law Amendment Act 1945* by the *Criminal Law Amendment Act 1946*.

Schedule 4 Dictionary

section 6

accepted representations, for part 5, division 2, see section 33(2).

adult guardian means the adult guardian appointed under the *Guardianship and Administration Act 2000*.

appeal, against a decision to the tribunal, means apply to the tribunal for a review of the decision.

approved form means a form approved by the chief executive under section 132.

approved service provider see section 8.

assistance means assistance given to a service provider under part 3.

authorised officer means a person appointed as an authorised officer under section 40.

commencement, for part 12, see section 135.

commissioner of the police service means the commissioner of the police service appointed under the *Police Service Administration Act 1990*.

compliance notice see section 30(3).

confidential information includes information about a person's affairs but does not include—

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

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

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

Schedule 4 (continued)

criminal history, of a person, means—

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

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

engaged by the department see section 98.

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

funded service provider see section 9.

home means premises used as a private residence.

indictable offence includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659[5], applies to the indictable offence.

interested person, for a reviewable decision, see section 90(b).

interim manager means a person appointed as interim manager under section 67.

notice means a written notice.

obstruct includes hinder and attempt to obstruct or hinder.

place includes premises and vacant land.

premises includes—

(a) a building or other structure; and

(b) a part of a building or other structure; and

(c) a vehicle; and

(d) a caravan.

5 Criminal Code, section 659 (Effect of summary conviction for indictable offences)

Schedule 4 (continued)

proposed action, for part 5, division 2, see section 32(2)(a).

reviewable decision means a decision stated in schedule 1.

review decision, for part 8, see section 94(3).

serious offence see section 101.

service agreement see section 24(1).

service provider see section 7.

show cause notice, for part 5, division 2, see section 32(2);

show cause period, for part 5, division 2, see section 32(2)(d);

standards see section 26(1).

tribunal means the Commercial and Consumer Tribunal established under the *Commercial and Consumer Tribunal Act 2003*.