

Children and Community Services Amendment Bill 2010

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**Children and Community Services Amendment
Bill 2010**

A Bill for

**An Act to amend the *Children and Community Services Act 2004*, to
consequentially amend the *Working with Children (Criminal Record
Checking) Act 2004*, and for related purposes.**

The Parliament of Western Australia enacts as follows:

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Part 1 — Preliminary

1. Short title

This is the *Children and Community Services Amendment Act 2010*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Act amended

This Act, other than Part 2 Division 2, amends the *Children and Community Services Act 2004*.

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Part 2 — Secure care arrangements

Division 1 — *Children and Community Services Act 2004* amended

4. Section 3 amended

(1) In section 3 delete the definitions of:

placed

placement

(2) In section 3 insert in alphabetical order:

assessor means a person appointed to be an assessor under section 125A(2);

interim order (secure care) means an order under section 133(2)(ca);

residential facility means a place that —

(a) is used to provide accommodation for children in the CEO's care; and

(b) is operated or managed by —

(i) the Department; or

(ii) another public authority; or

(iii) a person who has entered into an agreement under section 15(1) for the provision of placement services,

but does not include a secure care facility;

secure care arrangement has the meaning given in section 88C(1);

secure care facility means a place declared to be a secure care facility under section 88B(1);

1 **5. Section 10 amended**

2 In section 10(3):

3 (a) delete paragraph (a) and insert:

4

5 (a) decisions about placement arrangements or
6 secure care arrangements in respect of the
7 child; and
8

9 (b) after paragraph (b) insert:

10

11 and
12

13 **6. Section 39 amended**

14 (1) In section 39(1) in the definition of *provisional care plan* delete
15 paragraph (c)(i) and “and” after it and insert:

16

17 (i) decisions about placement
18 arrangements; and

19 (ia) decisions about secure care
20 arrangements; and
21

22 (2) Delete section 39(2) and insert:

23

24 (2) This section applies if —

25 (a) a child is taken into provisional protection and
26 care under this Division; and

27 (b) the CEO decides, or is required, to make a
28 protection application in respect of the child.

- 1 (3A) The CEO must prepare and implement a provisional
2 care plan for the child.
- 3 (3B) Unless section 88I(2) applies, the CEO must prepare
4 the provisional care plan within 7 working days after
5 the child is taken into provisional protection and care.
6

- 7 (3) In section 39(4) delete “plan, the” and insert:
8
- 9 plan, whether under this section or section 88I, the
10

11 **7. Section 41 amended**

12 Delete section 41(3) and insert:
13

- 14 (3) Subsection (2) does not authorise an officer to move a
15 child to —
- 16 (a) a lock-up (including a place that is prescribed
17 as a lock-up for the purposes of the *Court*
18 *Security and Custodial Services Act 1999*); or
19 (b) a secure care facility.
20

21 **8. Section 79 amended**

22 After section 79(2) insert:
23

- 24 (3A) Subsection (2) does not authorise the CEO to make an
25 arrangement for the placement of a child in a secure
26 care facility.
27

1 **9. Part 4 Division 5 Subdivision 3A inserted**

2 After Part 4 Division 5 Subdivision 2 insert:

3

4 **Subdivision 3A — Secure care arrangements**

5 **88A. Terms used**

6 In this Subdivision —

7 *protected child* means a child who is the subject of a
8 protection order (time-limited) or protection order
9 (until 18);

10 *provisionally protected child* means a child who is in
11 provisional protection and care.

12 **88B. Secure care facilities**

13 (1) The Minister may, by order published in the *Gazette*,
14 declare a place to be a secure care facility.

15 (2) The Minister may, by order published in the *Gazette*,
16 amend or cancel an order under subsection (1).

17 (3) An order under this section comes into operation on —

18 (a) the day on which it is published in the *Gazette*
19 (*publication day*); or

20 (b) if it specifies a day that is later than publication
21 day — the later day.

22 **88C. Secure care arrangements**

23 (1) The CEO may from time to time make an arrangement
24 for the placement of a provisionally protected child or a
25 protected child in a secure care facility (a *secure care*
26 *arrangement*).

- 1 (2) The CEO must not make a secure care arrangement
2 unless the CEO is satisfied that —
- 3 (a) there is an immediate and substantial risk of the
4 child causing significant harm to the child or
5 another person; and
- 6 (b) there is no other suitable way to manage that
7 risk and to ensure that the child receives the
8 care the child needs.
- 9 (3) Subsection (2) does not apply in relation to a secure
10 care arrangement if the CEO is required to make the
11 arrangement under an interim order (secure care).
- 12 (4) The CEO may at any time cancel a secure care
13 arrangement unless it is a secure care arrangement
14 made or continued under an interim order (secure care).
- 15 (5) As soon as practicable after making a decision under
16 subsection (1) or (4), the CEO must give written notice
17 of the decision to the following people —
- 18 (a) the child to whom the decision relates;
19 (b) each parent of the child;
20 (c) any carer of the child;
21 (d) any other person considered by the CEO to
22 have a direct and significant interest in the
23 wellbeing of the child.

24 **88D. Period in secure care facility**

- 25 (1) The period for which a provisionally protected child is
26 kept in a secure care facility under a secure care
27 arrangement must not exceed —
- 28 (a) if the child is the subject of an interim order
29 (secure care) — the secure care period under
30 that order; or
31 (b) otherwise — 21 days.

- 1 (2) The period for which a protected child is kept in a
2 secure care facility under a secure care arrangement
3 must not exceed the secure care period under
4 section 88F.
- 5 **88E. Application for continuation order required for**
6 **provisionally protected child**
- 7 (1) In this section —
8 *continuation order* means an order under
9 section 133(2)(ca)(ii).
- 10 (2) This section applies in relation to a provisionally
11 protected child who —
12 (a) is placed in a secure care facility under a secure
13 care arrangement; and
14 (b) is not, at the time of that placement, the subject
15 of an interim order (secure care).
- 16 (3) If the child is not already the subject of protection
17 proceedings but the CEO decides, or is required, under
18 Division 2 Subdivision 3 to make a protection
19 application in respect of the child, the CEO must make
20 an application for a continuation order in respect of the
21 secure care arrangement when the CEO makes the
22 protection application, unless before then the
23 arrangement is cancelled.
- 24 (4) If the child is already the subject of protection
25 proceedings, the CEO must make an application for a
26 continuation order in respect of the secure care
27 arrangement as soon as practicable, but in any event
28 not more than 2 working days, after the child is placed
29 in the secure care facility, unless before then the
30 arrangement is cancelled.

1 (5) If, on an application under subsection (3) or (4), the
2 Court refuses to make a continuation order in respect of
3 the secure care arrangement, the CEO must, as soon as
4 practicable after the refusal, cancel the arrangement
5 and ensure that the child is removed from the secure
6 care facility.

7 **88F. CEO to decide secure care period for protected**
8 **child**

- 9 (1) As soon as practicable after making a secure care
10 arrangement in respect of a protected child, the CEO
11 must decide the period (the *secure care period*) for
12 which the child is to be kept in a secure care facility
13 under the arrangement.
- 14 (2) The secure care period must not exceed 21 days unless
15 it is extended under subsection (3).
- 16 (3) The CEO may extend the secure care period by not
17 more than 21 days if the CEO is satisfied that there are
18 exceptional reasons for doing so.
- 19 (4) The secure care period cannot be extended under
20 subsection (3) more than once.
- 21 (5) As soon as practicable after making a decision under
22 subsection (1) or (3), the CEO must give written notice
23 of the decision to the following people —
- 24 (a) the child to whom the decision relates;
 - 25 (b) each parent of the child;
 - 26 (c) any carer of the child;
 - 27 (d) any other person considered by the CEO to
28 have a direct and significant interest in the
29 wellbeing of the child.

- 1 **88G. Reconsideration of certain decisions concerning**
2 **protected child**
- 3 (1) In this section —
- 4 *secure care decision* means —
- 5 (a) a decision under section 88C(1) to make a
6 secure care arrangement for a protected child;
7 or
8 (b) a decision under section 88F(1) as to the secure
9 care period for a protected child; or
10 (c) a decision under section 88F(3) to extend the
11 secure care period for a protected child.
- 12 (2) An application for the reconsideration of a secure care
13 decision may be made to the CEO by —
- 14 (a) the child to whom the decision relates; or
15 (b) a parent of the child; or
16 (c) any carer of the child; or
17 (d) any other person considered by the CEO to
18 have a direct and significant interest in the
19 wellbeing of the child.
- 20 (3) The application —
- 21 (a) must be in writing; and
22 (b) must set out the grounds on which
23 reconsideration of the secure care decision is
24 sought.
- 25 (4) As soon as practicable after receiving the application,
26 the CEO must reconsider the secure care decision
27 and —
- 28 (a) confirm, vary or reverse it; or
29 (b) substitute another decision for it.

- 1 2 working days, after the placement so that it meets the
2 requirements set out in subsection (5).
- 3 (4) If a protected child is placed in a secure care facility
4 under a secure care arrangement, the CEO must modify
5 the care plan for the child as soon as practicable, but in
6 any event not more than 2 working days, after the
7 placement so that it meets the requirements set out in
8 subsection (5).
- 9 (5) The requirements for a care plan or provisional care
10 plan are that it —
- 11 (a) identifies the needs of the child in his or her
12 transition to other living arrangements after
13 leaving the secure care facility; and
- 14 (b) outlines steps or measures designed to address
15 those needs and to reduce the likelihood of the
16 child being placed in a secure care facility
17 again.
- 18 **88J. Apprehension without warrant — child absent from**
19 **secure care facility**
- 20 (1) In this section —
21 *officer* means an authorised officer or a police officer.
- 22 (2) If an officer suspects on reasonable grounds that a child
23 is absent, or has been taken, without lawful authority
24 from a secure care facility, the officer may apprehend
25 the child and take the child to the secure care facility or
26 such other place as the CEO directs.
- 27 (3) For the purposes of subsection (2) an officer may —
- 28 (a) enter, at any time, any place where the officer
29 reasonably believes the child to be; and
- 30 (b) search the place for the purpose of finding the
31 child.

- 1 (4) An officer does not need a warrant to exercise the
2 powers in this section.
- 3 (5) When exercising a power under this section an officer
4 may use reasonable force and assistance.
- 5 (6) Without limiting subsection (5), when exercising a
6 power under this section an authorised officer may be
7 accompanied by a police officer.
- 8

9 **10. Section 89 amended**

10 In section 89(1) in the definition of *care plan* delete
11 paragraph (c)(i) and “and” after it and insert:

- 12
- 13 (i) decisions about placement
14 arrangements; and
- 15 (ii) secure care decisions referred to in
16 section 88G; and
- 17

18 **11. Part 4 Division 5 Subdivision 4 heading amended**

19 In the heading to Part 4 Division 5 Subdivision 4 delete “**case**”
20 and insert:

21

22 **care**

23

24 **12. Section 91 amended**

25 (1) In section 91 delete the definition of *case planning decision*.

26 (2) In section 91 insert in alphabetical order:

27

28 *care planning decision*, in relation to a child, means a
29 decision set out in a care plan for the child but does not

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Part 2 Secure care arrangements

Division 1 Children and Community Services Act 2004 amended

s. 13

1 include a secure care decision referred to in
2 section 88G;
3

4 **13. Section 93 amended**

5 In section 93(1), (3)(a) and (6)(a) and (b) delete “case planning”
6 and insert:
7

8 care planning
9

10 **14. Section 97 amended**

11 In section 97(2) delete “or body who or which has provided care
12 for the child under a placement arrangement.” and insert:
13

14 who has provided care for the child under a placement
15 arrangement or a secure care arrangement.
16

17 **15. Part 4 Division 7 Subdivision 2 heading amended**

18 In the heading to Part 4 Division 7 Subdivision 2 after
19 “arrangements” insert:
20

21 **or secure care arrangements**
22

23 **16. Section 105 amended**

24 (1) In section 105(1) in the definition of *child* delete
25 “arrangement;” and insert:
26

27 arrangement or a secure care arrangement;
28

1 (2) In section 105(1) in the definition of *place of residence* delete
2 “arrangement.” and insert:

3

4 arrangement or a secure care arrangement.

5

6 **17. Sections 125A and 125B inserted**

7 At the beginning of Part 4 Division 10 insert:

8

9 **125A. Assessors**

10 (1) In this section —

11 *facility* means a residential facility or a secure care
12 facility.

13 (2) The CEO may, in writing, appoint a person to be an
14 assessor if the CEO is satisfied that the person has the
15 experience, skills, attributes or qualifications the CEO
16 considers appropriate to enable the person to
17 effectively exercise the powers in subsection (3).

18 (3A) An officer is not eligible for appointment under
19 subsection (2).

20 (3B) An assessor is to be paid such remuneration and
21 allowances (if any) as the CEO, on the
22 recommendation of the Minister for Public Sector
23 Management, determines.

24 (3) An assessor may, at any time, visit a facility and do one
25 or more of the following —

26 (a) enter and inspect the facility;

27 (b) inquire into the operation and management of
28 the facility;

29 (c) inquire into the wellbeing of any child in the
30 facility;

- 1 (d) see and talk with any child in the facility;
2 (e) inspect any document relating to the facility or
3 to any child in the facility.
- 4 (4A) A child in a facility, or a parent or other relative of a
5 child in a facility, may request the person in charge of
6 the facility to arrange for an assessor to visit the facility
7 and see and talk with the child.
- 8 (4) An assessor must provide a written report to the CEO
9 about each visit made by the assessor under this
10 section.

11 **125B. Identity cards for assessors**

- 12 (1) The CEO must ensure that each assessor is issued with
13 an identity card in a form approved by the CEO.
- 14 (2) An assessor must display his or her identity card when
15 visiting a facility under section 125A(3).
- 16 (3) In any proceedings the production by an assessor of his
17 or her identity card is conclusive evidence of his or her
18 appointment under section 125A(2).
19

20 **18. Section 133 amended**

- 21 (1) Delete section 133(1) and insert:
22
- 23 (1) The Court may at any time in the course of protection
24 proceedings make an interim order.
- 25 (2A) Except in the case of an interim order (secure care), an
26 interim order may be made —
27 (a) on the Court's own initiative; or
28 (b) on the application of a party.
- 29 (2B) An interim order (secure care) may be made only on
30 the application of the CEO.

- 1 (2) After section 133(2)(b) insert:
2
3 (ca) if the child is in provisional protection and care,
4 that —
5 (i) the CEO is to make a secure care
6 arrangement in respect of the child; or
7 (ii) a secure care arrangement made by the
8 CEO in respect of the child is to
9 continue;
10

11 **19. Section 134A inserted**

12 After section 133 insert:
13

14 **134A. Provisions about interim orders (secure care)**

- 15 (1) The Court must not make an interim order (secure care)
16 unless the Court is satisfied that —
17 (a) there is an immediate and substantial risk of the
18 child causing significant harm to the child or
19 another person; and
20 (b) there is no other suitable way to manage that
21 risk and to ensure that the child receives the
22 care the child needs.
- 23 (2) An interim order (secure care) must specify the period
24 (the *secure care period*) for which the child is to be
25 kept in a secure care facility under the secure care
26 arrangement to which the order relates.
- 27 (3) If the order is made under section 133(2)(ca)(i), the
28 secure care period must not exceed 21 days unless it is
29 extended under subsection (6).
- 30 (4) If the order is made under section 133(2)(ca)(ii), the
31 aggregate of the secure care period and the period for

Children and Community Services Amendment Bill 2010

Part 2 Secure care arrangements

Division 1 Children and Community Services Act 2004 amended

s. 20

- 1 which the child has already been kept in a secure care
2 facility under the secure care arrangement to which the
3 order relates must not exceed 21 days unless the secure
4 care period is extended under subsection (6).
- 5 (5) The CEO may apply to the Court for the variation of an
6 interim order (secure care) to extend the secure care
7 period.
- 8 (6) On an application under subsection (5) the Court may
9 extend the secure care period by not more than 21 days
10 if the Court is satisfied that there are exceptional
11 reasons for doing so.
- 12 (7) The secure care period cannot be extended under
13 subsection (6) more than once.
- 14 (8) If, on an application under section 134(1), the Court
15 revokes an interim order (secure care), the CEO must,
16 as soon as practicable after the revocation, cancel the
17 secure care arrangement to which the order relates and
18 ensure that the child is removed from the secure care
19 facility.
20

21 **20. Section 134 amended**

22 After section 134(1) insert:
23

- 24 (2A) In subsection (1) —
25 *variation* does not include a variation referred to in
26 section 134A(5).
27

1 **21. Section 243 amended**

2 In section 243 delete “a person is” and insert:

3

4 the person or another person is an assessor or

5

6 Note: The heading to amended section 243 is to read:

7

Impersonating an assessor or authorised officer

8 **Division 2 — *Working with Children (Criminal Record***
9 ***Checking) Act 2004* amended**

10 **22. Act amended**

11 This Division amends the *Working with Children (Criminal*
12 *Record Checking) Act 2004*.

13 **23. Section 6 amended**

14 In section 6(1)(a)(vi) after “arrangement” insert:

15

16 or secure care arrangement

17

1 **Part 3 — Protection orders (special guardianship)**

2 **24. Section 3 amended**

3 (1) In section 3 delete the definition of *protection order (enduring*
4 *parental responsibility)*.

5 (2) In section 3 insert in alphabetical order:

6

7 *protection order (special guardianship)* has the
8 meaning given in section 60;

9

10 **25. Section 42 amended**

11 (1) In section 42 delete the definitions of:

12 *child*

13 *enduring parental carer*

14 (2) In section 42 insert in alphabetical order:

15

16 *child* means —

17 (a) in relation to a protection application or other
18 application under this Division — the child to
19 whom the application relates; or

20 (b) in relation to a protection order — the child to
21 whom the order relates;

22 *special guardian* means the individual who is given, or
23 the 2 individuals who are jointly given, parental
24 responsibility for a child under a protection order
25 (special guardianship).

26

27 (3) In section 42 in the definition of *party to the initial proceedings*
28 delete “made.” and insert:

29

30 made;

31

1 **26. Section 44 amended**

2 Delete section 44(3) and insert:

3

4 (3) If a protection order (special guardianship) is sought,
5 the protection application must nominate the individual
6 or individuals to whom parental responsibility for the
7 child is proposed to be given under the order.

8

9 **27. Section 60 amended**

10 (1) Delete section 60(1) and insert:

11

12 (1) A protection order (special guardianship) is an order
13 giving an individual, or 2 individuals jointly, parental
14 responsibility for a child until the child reaches
15 18 years of age.

16

17 (2) In section 60(2) delete “(enduring parental responsibility)” and
18 insert:

19

20 (special guardianship)

21

22 (3) In section 60(3):

23 (a) delete “(enduring parental responsibility)” and insert:

24

25 (special guardianship)

26

27 (b) delete “enduring parental carer” and insert:

28

29 special guardian

30

31 Note: The heading to amended section 60 is to read:

32 **Protection order (special guardianship)**

s. 28

1 **28. Section 61 amended**

2 (1) Delete section 61(1) and insert:

3

4 (1) In this section —

5 *proposed special guardian* means the individual or
6 each individual to whom parental responsibility for the
7 child is proposed to be given under the protection order
8 (special guardianship).
9

10 (2) In section 61(2):

11 (a) delete “(enduring parental responsibility)” and insert:

12

13 (special guardianship)

14

15 (b) in paragraph (b) delete “carer or each proposed carer”
16 and insert:

17

18 special guardian
19

20 (3) In section 61(4) and (5) delete “a proposed carer” and insert:

21

22 the proposed special guardian
23

23

24 Note: The heading to amended section 61 is to read:

25 **Restriction on making protection order (special guardianship)**

1 **29. Section 64 amended**

2 In section 64(1) delete the definition of *condition* and insert:

3

4 *condition* means a condition of a protection order
5 (special guardianship).

6

7 Note: The heading to amended section 64 is to read:

8 **Variation of conditions**

9 **30. Section 65 amended**

10 In section 65(1):

11 (a) delete “(enduring parental responsibility),” and insert:

12

13 (special guardianship),

14

15 (b) delete “enduring parental carer” and insert:

16

17 special guardian

18

19 Note: The heading to amended section 65 is to read:

20 **Court may order payments to special guardian**

21 **31. Section 66 amended**

22 In section 66:

23 (a) delete “(enduring parental responsibility)” and insert:

24

25 (special guardianship)

26

27 (b) delete “enduring parental carer” and insert:

28

29 special guardian

30

s. 32

1 **32. Section 68 amended**

2 (1) In section 68(1) delete “the child.” and insert:

3

4 a child.

5

6 (2) Delete section 68(3) and insert:

7

8 (3) If a protection order (special guardianship) is sought,
9 the application must nominate the individual or
10 individuals to whom parental responsibility for the
11 child is proposed to be given under the order.

12

13 Note: The heading to amended section 68 is to read:

14 **Replacement of protection order: application by CEO**

15 **33. Section 69A inserted**

16 At the end of Part 4 Division 3 Subdivision 7 insert:

17

18 **69A. Replacement of protection order (time-limited) or**
19 **protection order (until 18): application by carer**

20 (1) An individual is eligible to make an application under
21 subsection (2) in respect of a child if —

22 (a) the individual has been the carer of the child;
23 and

24 (b) the child has been the subject of one or more of
25 the following types of protection order —

26 (i) a protection order (time-limited);

27 (ii) a protection order (until 18),

28 for at least the period of 2 years immediately preceding
29 the day on which the application is made.

- 1 (2) An individual who is the carer of a child may, if
2 eligible to do so under subsection (1), apply to the
3 Court for the revocation of a protection order
4 (time-limited) or protection order (until 18) and the
5 making of a protection order (special guardianship) in
6 respect of the child.
- 7 (3) An application under subsection (2) must nominate the
8 individual or individuals to whom parental
9 responsibility for the child is proposed to be given
10 under the protection order (special guardianship).
- 11 (4) The applicant must be the individual or one of the
12 individuals nominated in the application.
- 13 (5) If an application under subsection (2) for the
14 revocation of a protection order (time-limited) is made
15 but not determined before the day on which the order
16 would otherwise expire, the order remains in force until
17 the application is determined.
- 18 (6) On an application under subsection (2) the Court may,
19 if satisfied that it is in the best interests of the child to
20 do so, revoke the order and, subject to this Part, make a
21 protection order (special guardianship) or another
22 protection order in respect of the child.
23

24 **34. Section 73 amended**

- 25 (1) In section 73(1) in the definition of *relevant person* delete
26 paragraph (b) and insert:
27
- 28 (b) if the order concerned is a protection order
29 (special guardianship), the special guardian.
30

s. 35

1 (2) In section 73(2) delete “(enduring parental responsibility)” and
2 insert:

3

4 (special guardianship)

5

6 **35. Various references to “enduring parental responsibility”**
7 **amended**

8 In the provisions listed in the Table:

9 (a) delete “enduring parental responsibility” and insert:

10

11 special guardianship

12

13 (b) delete “**enduring parental responsibility**” and insert:

14

15 **special guardianship**

16

17

Table

s. 43(d)	Pt. 4 Div. 3 Subdiv. 6 heading
s. 62	s. 63(1) and (2)
s. 143(3)(c) and (5)(b)	s. 147(d)

18

Notes:

19

1. The heading to amended section 62 is to read:

20

Duration of protection order (special guardianship)

21

2. The heading to amended section 63 is to read:

22

Conditions of protection order (special guardianship)

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Part 4 — Determination of parentage

36. Part 5 Division 3A inserted

After Part 5 Division 2 insert:

Division 3A — Orders for determination of parentage

136A. Terms used

In this Division —

parentage testing order means an order under section 136C(1);

parentage testing procedure means a medical procedure prescribed, or included in a class of medical procedures prescribed, for the purposes of this definition.

136B. Orders requiring person to give evidence

(1) If the parentage of a child is a question in issue in protection proceedings, the Court may make an order requiring any person to give such evidence as is material to the question.

(2) The Court may make an order under subsection (1) —

(a) on its own initiative; or

(b) on the application of a party.

136C. Parentage testing orders

(1) If the parentage of a child is a question in issue in protection proceedings, the Court may make an order requiring a parentage testing procedure to be conducted in relation to a person mentioned in subsection (3) for the purpose of obtaining information to assist in determining the parentage of the child.

s. 36

- 1 (2) The Court may make a parentage testing order —
2 (a) on its own initiative; or
3 (b) on the application of a party.
- 4 (3) A parentage testing order may be made in relation
5 to —
6 (a) the child; or
7 (b) a person known to be the mother of the child;
8 or
9 (c) any other person, if the Court is of the opinion
10 that, if the parentage testing procedure were
11 conducted in relation to the person, the
12 information that could be obtained might assist
13 in determining the parentage of the child.
- 14 (4) A parentage testing order may be made subject to terms
15 and conditions.
- 16 (5) This section does not limit the operation of
17 section 136B.

18 **136D. Orders associated with parentage testing orders**

- 19 (1) If the Court makes a parentage testing order, it may
20 also make orders under subsection (2) or (4).
- 21 (2) The Court may make any orders that it considers
22 necessary or desirable —
23 (a) to enable the parentage testing procedure to be
24 conducted; or
25 (b) to make the parentage testing procedure more
26 effective or reliable.
- 27 (3) Some examples of the kinds of orders the Court may
28 make under subsection (2) are as follows —
29 (a) an order requiring a person to submit to a
30 medical procedure;

- 1 (b) an order requiring a person to provide a bodily
2 sample;
- 3 (c) an order requiring a person to provide
4 information relevant to the person's medical or
5 family history.
- 6 (4) The Court may make any orders that it considers just in
7 relation to costs incurred in relation to —
- 8 (a) conducting the parentage testing procedure or
9 other orders made by the Court in relation to
10 the parentage testing procedure; or
- 11 (b) the preparation of reports relating to the
12 information obtained as a result of conducting
13 the parentage testing procedure.

14 **136E. Orders directed to adults**

- 15 (1) If an adult contravenes a parentage testing order or an
16 order under section 136D, the adult is not liable to any
17 penalty in relation to the contravention.
- 18 (2) The Court may draw such inferences from the
19 contravention as appear just in the circumstances.

20 **136F. Orders directed to children**

- 21 (1) This section applies if a parentage testing order, or an
22 order under section 136D, requires a medical procedure
23 or other act to be carried out in relation to a child who
24 is not in provisional protection and care or the subject
25 of a protection order (time-limited) or protection order
26 (until 18).
- 27 (2) The procedure or act must not be carried out without
28 the consent of a parent of the child.
- 29 (3) The Court may draw such inferences from a failure or
30 refusal to consent as mentioned in subsection (2) as
31 appear just in the circumstances.

- 1 **136G. No liability if parent or CEO consents**
- 2 (1) A person who conducts, or who assists in conducting, a
3 medical procedure or other act in relation to a child
4 under a parentage testing order, or an order under
5 section 136D, is not liable to any civil or criminal
6 action in relation to the proper conducting of the
7 procedure or act if it is done with the consent of —
- 8 (a) a parent of the child; or
- 9 (b) the CEO, if the child is in provisional
10 protection and care or is the subject of a
11 protection order (time-limited) or protection
12 order (until 18).
- 13 (2) Subsection (1) does not affect any liability of a person
14 for an act done negligently, or negligently omitted to
15 be done, in relation to conducting the medical
16 procedure or act.
- 17 **136H. Regulations about parentage testing procedures**
- 18 The regulations may provide for —
- 19 (a) the conduct of parentage testing procedures
20 under parentage testing orders; and
- 21 (b) the preparation of reports relating to the
22 information obtained as the result of conducting
23 such procedures.
- 24 **136I. Reports of information obtained may be received in
25 evidence**
- 26 (1) A report made in accordance with regulations under
27 section 136H(b) may be received in evidence in
28 protection proceedings.
- 29 (2) If, under subsection (1), a report is received in evidence
30 in protection proceedings, the Court may make an
31 order requiring the person who made the report, or any
32 person whose evidence may be relevant in relation to

- 1 the report, to appear before the Court and give
2 evidence in relation to the report.
- 3 (3) The Court may make an order under subsection (2) —
4 (a) on its own initiative; or
5 (b) on the application of a party.
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Part 5 — Other amendments

37. Section 3 amended

(1) In section 3 in the definition of *authorised officer* delete “appointed” and insert:

designated

(2) In section 3 in the definition of *service provider* delete “or body who or which —” and insert:

who —

38. Section 7 amended

In section 7 delete “person or the Court” and insert:

person, the Court or the State Administrative Tribunal

39. Section 9 amended

After section 9(g) insert:

(ha) the principle that if a child is removed from the child’s family then, so far as is consistent with the child’s best interests, planning for the child’s care should occur as soon as possible in order to ensure long-term stability for the child;

1 **40. Section 12 amended**

2 In section 12(2):

3 (a) after “placement” (first occurrence) insert:

4

5 under a placement arrangement

6

7 (b) delete “must be considered as far as is practicable in”
8 and insert:

9

10 must, so far as is consistent with the child’s best
11 interests and is otherwise practicable, be in accordance
12 with

13

14 **41. Section 15 amended**

15 In section 15(1):

16 (a) delete “or body” (first and third occurrences);

17 (b) in paragraph (a) delete “person or body; or” and insert:

18

19 person; or

20

21 **42. Section 16 amended**

22 In section 16(2) delete “Community Development”.

23

24 **43. Part 3 Division 2 heading amended**

25 In the heading to Part 3 Division 2 delete “**Community**
26 **Development**” and insert:

27

28 **Children and Community Services**

29

s. 44

1 **44. Section 17 amended**

2 In section 17 delete the definition of *Ministerial Body* and
3 insert:

4

5 *Ministerial Body* means the body referred to in
6 section 18(1).

7

8 **45. Section 18 amended**

9 Delete section 18(1) and insert:

10

11 (1) The body previously established by this section as the
12 Community Development Ministerial Body is renamed
13 the Children and Community Services Ministerial
14 Body.

15

16 Note: The heading to amended section 18 is to read:

17

The Children and Community Services Ministerial Body

18 **46. Section 19 amended**

19 In section 19(1) after “under” insert:

20

21 or for the purposes of

22

23 **47. Section 21 amended**

24 In section 21(1):

25 (a) after paragraph (b) insert:

26

27 (ca) to control and manage the property of children
28 who are the subject of a protection order
29 (time-limited) or protection order (until 18);
30 and

31

1 (b) after each of paragraphs (a), (b), (c) and (d) insert:

2

3

and

4

5 **48. Section 22 amended**

6 (1) Delete section 22(3) and insert:

7

8

(3) If the CEO considers that a public authority or service provider can assist in the performance of functions under this Act, the CEO may request the assistance of that authority or provider, specifying the assistance that is sought.

9

10

11

12

13

(4A) In subsection (3) —

14

assistance includes the provision of advice, facilities and services.

15

16

17

(2) In section 22(4) after “subsection (3)” insert:

18

19

promptly

20

21 **49. Section 23 amended**

22 (1) In section 23(1) insert in alphabetical order:

23

24

Commonwealth agency means —

25

(a) a department of the Public Service of the Commonwealth; or

26

27

(b) a Commonwealth agency or instrumentality; or

28

29

(c) a body, whether corporate or unincorporate, or the holder of an office, post or position, established or continued for a public purpose under a law of the Commonwealth;

30

31

32

s. 49

- 1 (2) In section 23(1) in the definition of *corresponding authority*:
2 (a) delete “or body”;
3 (b) delete “that” and insert:
4
5 who
6
- 7 (3) In section 23(1) in the definition of *interested person* delete “or
8 body who or which,” and insert:
9
10 who,
11
- 12 (4) In section 23(2) and (3) after “a public authority,” insert:
13
14 a Commonwealth agency,
15
- 16 (5) Delete section 23(4) and insert:
17
- 18 (4) Information may be disclosed under subsection (2), or
19 in compliance with a request under subsection (3),
20 despite any written law relating to secrecy or
21 confidentiality.
22
- 23 (6) After section 23(5) insert:
24
- 25 (6A) Subsection (5) does not apply to the disclosure of
26 information by a Commonwealth agency or a
27 corresponding authority in compliance with a request
28 under subsection (3).
29
- 30 Note: The heading to amended section 23 is to read:
31 **Exchange of information involving the Department**

1 **50. Section 24A inserted**

2 After section 23 insert:

3

4 **24A. Exchange of information involving other public**
 5 **authorities**

6 (1) In this section —

7 **CEO**, of a prescribed authority, means —

8 (a) for an entity referred to in paragraph (a), (b)
 9 or (c) of the definition of **public authority** in
 10 section 3 — the principal officer (however
 11 described) of that entity; or

12 (b) for a body referred to in paragraph (d) of the
 13 definition of **public authority** in section 3 —
 14 the principal officer (however described) of that
 15 body; or

16 (c) for the holder of an office, post or position
 17 referred to in paragraph (d) of the definition of
 18 **public authority** in section 3 — that holder;

19 **prescribed authority** means a public authority, other
 20 than the Department, prescribed for the purposes of this
 21 definition.

22 (2) The CEO of a prescribed authority (the **disclosing**
 23 **CEO**) may disclose information to the CEO of another
 24 prescribed authority if, in the opinion of the disclosing
 25 CEO, the information is, or is likely to be, relevant to
 26 the wellbeing of a child or a class or group of children.

27 (3) The CEO of a prescribed authority (the **requesting**
 28 **CEO**) may request the CEO of another prescribed
 29 authority to disclose information to the requesting CEO
 30 if, in the opinion of the requesting CEO, the
 31 information is, or is likely to be, relevant to the
 32 wellbeing of a child or a class or group of children.

s. 51

- 1 (4) Information may be disclosed under subsection (2), or
2 in compliance with a request under subsection (3),
3 despite any written law relating to secrecy or
4 confidentiality.
- 5 (5) If information is disclosed, in good faith, under
6 subsection (2) or in compliance with a request under
7 subsection (3) —
- 8 (a) no civil or criminal liability is incurred in
9 respect of the disclosure; and
- 10 (b) the disclosure is not to be regarded as a breach
11 of any duty of confidentiality or secrecy
12 imposed by law; and
- 13 (c) the disclosure is not to be regarded as a breach
14 of professional ethics or standards or any
15 principles of conduct applicable to a person’s
16 employment or as unprofessional conduct.
- 17 (6) The CEO of a prescribed authority may, in writing,
18 delegate to an officer or employee of the prescribed
19 authority the powers in subsections (2) and (3).
20

21 **51. Section 24 amended**

- 22 (1) In section 24(1) delete “officer or other” and insert:
23
24 officer, a service provider or another
25
- 26 (2) Delete section 24(3) and (4) and insert:
27
- 28 (3) The delegation may expressly authorise the delegate to
29 further delegate the power or duty.
- 30 (4) A person exercising or performing a power or duty that
31 has been delegated to the person under, or as

1 authorised under, this section, is to be taken to do so in
2 accordance with the terms of the delegation unless the
3 contrary is shown.
4

5 **52. Section 25 replaced**

6 Delete section 25 and insert:
7

8 **25. Designation of authorised officers**

9 The CEO may, in writing, designate officers to be
10 authorised officers —

- 11 (a) generally for the purposes of this Act; or
12 (b) for the purposes of a provision of this Act
13 specified in the designation.
14

15 **53. Section 26 amended**

16 In section 26(3) delete “appointment” and insert:
17

18 designation
19

20 **54. Section 29 amended**

21 (1) Delete section 29(2) and insert:
22

23 (2) If a child is in provisional protection and care, the
24 CEO, subject to any interim order in respect of the
25 child, has responsibility for the day-to-day care,
26 welfare and development of the child to the exclusion
27 of any other person.

28 (3A) Without limiting subsection (2), the responsibility
29 conferred by that subsection includes responsibility for

s. 55

1 making decisions about any medical or dental
2 examination, treatment or procedure in respect of the
3 child.
4

5 (2) In section 29(3):

6 (a) in paragraph (a) delete “38(2);” and insert:

7

8 38(2) or (3)(b); or

9

10 (b) after paragraph (b) insert:

11

12 or

13

14 **55. Part 4 Division 2 heading amended**

15 In the heading to Part 4 Division 2 delete “**Powers available**”
16 and insert:

17

18 **Measures**

19

20 **56. Part 4 Division 2 Subdivision 1 heading amended**

21 In the heading to Part 4 Division 2 Subdivision 1 after “**powers**”
22 insert:

23

24 **and duties**

25

26 **57. Section 32 amended**

27 In section 32(1) delete “any” (first occurrence).

1 **58. Sections 33A and 33B inserted**

2 At the end of Part 4 Division 2 Subdivision 1 insert:

3

4 **33A. CEO may cause inquiries to be made before child is**
5 **born**

6 If, before a child is born, the CEO receives information
7 that raises concerns about the child's wellbeing after
8 the child is born, the CEO may cause any inquiries to
9 be made that the CEO considers reasonably necessary
10 for the purpose of determining whether action should
11 be taken to safeguard or promote the child's wellbeing
12 after the child is born.

13 **33B. Further action by CEO before child is born**

14 If the CEO determines that action should be taken
15 before a child is born to safeguard or promote the
16 child's wellbeing after the child is born, the CEO must
17 do one or more of the following —

- 18 (a) provide, or arrange for the provision of, social
19 services to the pregnant woman;
- 20 (b) arrange or facilitate a meeting between an
21 officer and any one or more of the following
22 people —
- 23 (i) the pregnant woman;
- 24 (ii) a representative of a service provider;
- 25 (iii) a representative of a public authority;
- 26 (iv) any other person the CEO considers
27 appropriate,

28 for the purpose of developing a plan to address
29 the needs of the child after the child is born in a
30 way that ensures the best outcome for the child;

- 31 (c) cause an investigation to be conducted by an
32 authorised officer for the purpose of assessing

s. 59

1 the likelihood that the child will be in need of
2 protection after the child is born.
3

4 **59. Section 38 amended**

5 (1) In section 38(2):

6 (a) after “If” insert:

7
8 the child is not already the subject of protection
9 proceedings when the child is taken into provisional
10 protection and care and
11

12 (b) delete “subject to subsection (3),” and insert:

13
14 unless subsection (4A) applies,
15

16 (2) Delete section 38(3) and insert:

17
18 (3) If the child is already the subject of protection
19 proceedings when the child is taken into provisional
20 protection and care, then, unless subsection (4A)
21 applies, the CEO must —

22 (a) make an application for an interim order under
23 section 133(2)(b) that the child is to remain in
24 provisional protection and care; or

25 (b) ensure that the child is returned to or placed in
26 the care of a person referred to in
27 subsection (2)(a), (b) or (c),

28 as soon as practicable, but in any event not more than
29 2 working days, after the child is taken into provisional
30 protection and care.

1 (4A) If the child is already in the CEO's care when the child
2 is taken into provisional protection and care, the CEO
3 may make any arrangement for the care of the child
4 that the CEO considers appropriate.
5

6 **60. Section 68 amended**

7 Delete section 68(4) and insert:
8

9 (4) If an application under subsection (1) for the
10 revocation of a protection order (supervision) or a
11 protection order (time-limited) is made but not
12 determined before the day on which the order would
13 otherwise expire, the order remains in force until the
14 application is determined.

15 (5) On an application under subsection (1) the Court may,
16 if satisfied that it is in the best interests of the child to
17 do so, revoke the order and, subject to this Part, make
18 the protection order sought or another protection order
19 in respect of the child.
20

21 **61. Section 79 amended**

22 In section 79(2)(a)(ii) delete "or body who or which" and insert:
23

24 who
25

s. 62

1 **62. Section 81 replaced**

2 Delete section 81 and insert:

3

4 **81. Consultation before placement of Aboriginal or**
5 **Torres Strait Islander child**

6 Before making a placement arrangement in respect of
7 an Aboriginal child or a Torres Strait Islander child the
8 CEO must consult with at least one of the following —

- 9 (a) an officer who is an Aboriginal person or a
10 Torres Strait Islander;
- 11 (b) an Aboriginal person or a Torres Strait Islander
12 who, in the opinion of the CEO, has relevant
13 knowledge of the child, the child's family or
14 the child's community;
- 15 (c) an Aboriginal or Torres Strait Islander agency
16 that, in the opinion of the CEO, has relevant
17 knowledge of the child, the child's family or
18 the child's community.
19

20 **63. Section 84 replaced**

21 Delete section 84 and insert:

22

23 **84. Authorised officer may require person to hand over**
24 **child**

- 25 (1) In this section —
26 *child* means a child who is the subject of a placement
27 arrangement.
- 28 (2) An authorised officer may at any time require a carer
29 of a child, a parent of a child or any other person who
30 has the care or control of a child to hand the child over
31 to the authorised officer.

- 1 (3) A person who is required to hand over a child under
2 subsection (2) must comply with the requirement.
3 Penalty: a fine of \$12 000 and imprisonment for
4 one year.
5

6 **64. Section 85 amended**

- 7 (1) In section 85(1):
8 (a) delete “carer” and insert:
9
10 person
11
12 (b) delete “request made by” and insert:
13
14 requirement of
15
16 (2) In section 85(3):
17 (a) delete “carer” and insert:
18
19 person
20
21 (b) delete “request.” and insert:
22
23 requirement.
24

25 **65. Section 86 amended**

- 26 In section 86(3) delete “suspicion” and insert:
27
28 belief
29

s. 66

1 **66. Section 102 amended**

2 In section 102 in the Penalty after “penalty:” insert:

3

4 a fine of

5

6 **67. Section 104A inserted**

7 After section 103 insert:

8

9 **104A. Body piercing**

10 (1) In this section —

11 *body piercing* means piercing a part of the body for the
12 purpose of inserting a bar, pin, ring, stud or similar
13 thing.

14 (2) A person must not carry out body piercing on any of
15 the following parts of the body of a child —

16 (a) the genitals;

17 (b) the anal area;

18 (c) the perineum;

19 (d) the nipples.

20 Penalty: a fine of \$18 000 and imprisonment for 18
21 months.

22 (3) It is not a defence to a charge under subsection (2) that
23 the child, or a parent of the child, consented to the body
24 piercing.

25 (4) A person must not carry out body piercing on any other
26 part of the body of a child unless the person has first
27 obtained the written consent of a parent of the child to
28 carry out body piercing on that part of the child’s body.

29 Penalty: a fine of \$12 000 and imprisonment for one
30 year.

- 1 (5) Subsection (4) does not apply to body piercing carried
2 out on the ear of a child who has reached 16 years of
3 age.
- 4 (6) This section does not apply to body piercing carried out
5 for a medical or therapeutic purpose.
6

7 **68. Section 112 amended**

- 8 (1) In section 112 delete the definition of *officer*.
9 (2) In section 112 insert in alphabetical order:
10

11 *approved person* means a person who is approved or
12 belongs to a class of persons approved under
13 section 113A(1);

14 *authorised person* means —

- 15 (a) an authorised officer; or
16 (b) a police officer; or
17 (c) an approved person;
18

19 **69. Section 113A inserted**

20 After section 112 insert:
21

22 **113A. Approval for purposes of this Division**

- 23 (1) The CEO may approve a person or class of persons for
24 the purposes of this Division if the CEO is satisfied
25 that the person has, or persons belonging to that class
26 have, the experience and training that the CEO
27 considers necessary for the proper exercise of the
28 powers conferred by this Division.

s. 70

- 1 (2) An approval under subsection (1) —
2 (a) must be in writing; and
3 (b) may be subject to such conditions as the CEO
4 considers appropriate; and
5 (c) may be revoked at any time.
6

7 **70. Section 113 amended**

- 8 (1) In section 113(1) delete “The powers” and insert:

9

10 A power

11

- 12 (2) In section 113(2):

- 13 (a) delete “The powers” and insert:

14

15 A power

16

- 17 (b) in paragraph (a) delete “section 41; and” and insert:

18

19 section 41 or to a secure care facility under a
20 secure care arrangement; and

21

- 22 (3) After section 113(2) insert:

23

- 24 (3) A power conferred by this Division may be exercised
25 by an approved person only if —

- 26 (a) the child concerned is in the CEO’s care; and
27 (b) the approved person believes on reasonable
28 grounds that, unless the power is exercised, the
29 child concerned is likely to —
30 (i) endanger the health or safety of the
31 child or another person; or
32 (ii) cause serious damage to property.

1 **71. Section 117 amended**

2 In section 117(2) delete “officer, the authorised officer” and
3 insert:

4
5 officer or approved person, the authorised officer or
6 approved person
7

8 **72. Section 124C amended**

9 In section 124C(3):

10 (a) in paragraph (c) delete “if known” and insert:

11
12 if, or to the extent, known
13

14 (b) after paragraph (d) insert:

15
16 (ea) if, or to the extent, known to the reporter —
17 (i) the name of any person alleged to be
18 responsible for the sexual abuse; and
19 (ii) the person’s contact details; and
20 (iii) the person’s relationship to the child;
21 and
22

23 **73. Section 127 replaced**

24 Delete section 127 and insert:

25

26 **127. Power of CEO to give consent**

27 (1) In this section —

28 *consent* includes authorisation and permission.

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- 1 (2) In any case where the consent of a parent of a child is
2 required or customarily sought, the CEO may, in
3 writing, give that consent in relation to —
- 4 (a) a child who is in provisional protection and
5 care, if it is given in the exercise of the
6 responsibility that the CEO has for the child
7 under section 29(2); or
- 8 (b) a child who is the subject of a protection order
9 (time-limited) or protection order (until 18); or
- 10 (c) a child who is the subject of a negotiated
11 placement agreement, if the agreement
12 authorises the CEO to do so.
- 13 (3) A consent given under subsection (2) may incorporate
14 a waiver of legal liability.
15

16 **74. Section 129 amended**

- 17 (1) In section 129(1):
- 18 (a) after paragraph (a) insert:
19
- 20 (ba) gives information of the kind described in
21 section 33A to the CEO or another officer; or
22
- 23 (b) in paragraph (b) delete “32(1)(d); or” and insert:
24
- 25 32(1)(d) or 33B(c); or
26
- 27 (2) In section 129(3):
- 28 (a) delete “(1)” (first occurrence) and insert:
29
- 30 (2)
31

1 (b) in paragraphs (b)(i) and (c)(i) after “(1)(a),” insert:

2

3

(ba),

4

5 **75. Section 188 amended**

6 (1) In section 188 insert in alphabetical order:

7

8

industrial inspector has the meaning given in the
Industrial Relations Act 1979 section 7(1).

9

10

11 (2) In section 188 in the definition of *family business* delete
12 “child.” and insert:

13

14

child;

15

16 **76. Section 194A inserted**

17 After section 193 insert:

18

19 **194A. Power of CEO to prohibit or limit employment of**
20 **children in particular business or place**

21 (1) In this section —

22 *notice* means a notice under subsection (2).

23 (2) If the CEO —

24 (a) believes on reasonable grounds that one or
25 more children are, or may in the future be,
26 employed in a particular business or place; and

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- 1 (b) is of the opinion that the wellbeing of those
2 children is likely to be jeopardised because
3 of —
- 4 (i) the nature of the business or place; or
5 (ii) the nature of the work carried out in the
6 business or place,
- 7 the CEO may, by written notice given to the employer
8 or prospective employer, as the case requires —
- 9 (c) prohibit the employment of children; or
10 (d) impose limitations on the employment of
11 children,
- 12 in the business or place.
- 13 (3) If a notice is given to an employer, the employer must
14 give a copy of the notice to each child who, at the time
15 the notice is given, is employed in the business or place
16 to which the notice relates.
17 Penalty: a fine of \$6 000.
- 18 (4) A person must not employ a child in contravention of a
19 notice.
20 Penalty: a fine of \$36 000 and imprisonment for
21 3 years.
- 22 (5) It is a defence to a charge under subsection (4) for a
23 person to prove that, at the time the offence is alleged
24 to have been committed, the person —
- 25 (a) had not been given the notice; and
26 (b) was otherwise unaware of the contents of the
27 notice.
28

1 **77. Section 195 amended**

2 (1) In section 195(1) delete the definition of *authorised officer* and
3 insert:

4
5 *authorised officer* means —

6 (a) an officer designated to be an authorised officer
7 under section 25 for the purposes of this Part;

8 or

9 (b) an industrial inspector.
10

11 (2) In section 195(2):

12 (a) delete “is employed,” (second occurrence) and insert:

13
14 is, or may in the future be, employed,
15

16 (b) after “employment” insert:

17
18 or prospective employment
19

20 (3) Delete section 195(3) and insert:

21
22 (3) An authorised officer may require any person to
23 answer a question put to the person by the authorised
24 officer in relation to the employment or prospective
25 employment of a child.
26

27 (4) After section 195(6) insert:

28
29 (7) When exercising a power under subsection (2) an
30 authorised officer may use reasonable force and
31 assistance.

s. 78

1 (8) When exercising a power under subsection (2) an
2 authorised officer may be accompanied by a police
3 officer or other person requested by the authorised
4 officer to provide assistance.

5 (9) In the case of an authorised officer who is an industrial
6 inspector, the powers conferred by this section are in
7 addition to, and do not limit, the powers conferred by
8 the *Industrial Relations Act 1979* section 98(3).
9

10 **78. Section 196 amended**

11 Delete section 196(1) and insert:
12

- 13 (1) The functions of an industrial inspector include —
14 (a) the provision of assistance to the CEO and
15 other authorised officers for purposes related to
16 the administration and enforcement of this Part;
17 and
18 (b) the prosecution of a person for an offence under
19 section 190(1), 193(5), 194A(3) or (4) or
20 195(5).
21

22 Note: The heading to amended section 196 is to read:

23 **Role of industrial inspectors and industrial magistrate's courts**

24 **79. Section 240 amended**

25 (1) In section 240(1) in the definition of *notifier* after paragraph (a)
26 insert:
27

- 28 (ba) in good faith gives information of the kind
29 described in section 33A, or causes such
30 information to be given, to the CEO or another
31 officer; or
32

1 (2) After section 240(2)(a)(iii) insert:

2

3 (iva) to a legal practitioner who, as the result
4 of an order made under section 148(2),
5 is representing the child in protection
6 proceedings, for the purposes of that
7 representation; or
8

9 (3) In section 240(2)(a)(iv)(I) delete “section 240(2)” and insert:

10

11 this subsection

12

13 **80. Section 246 amended**

14 In section 246(1) delete “An action in tort” and insert:

15

16 A civil action

17

18 **81. Section 249 amended**

19 (1) Delete section 249(1)(a) and (b) and “and” after paragraph (a)
20 and insert:

21

22 (a) 1 January 2012; and

23 (b) the expiry of each 5 yearly interval after that
24 day.

25

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1 (2) In section 249(2) delete “relevant anniversary or expiry,” and
2 insert:

3

4 day referred to in subsection (1)(a) or the relevant
5 expiry under subsection (1)(b) or (1a), as the case
6 requires),
7

8 **82. Section 250 amended**

9 In section 250(3) delete “has effect in relation to the repeals
10 effected by subsection (1).” and insert:

11

12 sets out transitional and savings provisions.
13

14 **83. Schedule 1 amended**

15 (1) In the heading to Schedule 1 Division 5 after “**General**” insert:

16

17 **provisions for transition to this Act**
18

19 (2) At the end of Schedule 1 insert:
20

21 **Division 6 — Provisions for the *Children and Community***
22 ***Services Amendment Act 2010***

23 **26. Authorised officers**

24 An appointment that was in effect under section 25
25 immediately before the commencement of the *Children and*
26 *Community Services Amendment Act 2010* section 52 (the
27 ***amending section***) is, on and after that commencement, to
28 be taken to be a designation under section 25 as inserted by
29 the amending section.

-
- 1 **27. Ministerial Body**
- 2 (1) In this clause —
- 3 *Ministerial Body* has the meaning given in section 17 as
- 4 amended by the *Children and Community Services*
- 5 *Amendment Act 2010* section 44;
- 6 *section 18(1)* means section 18(1) as inserted by the
- 7 *Children and Community Services Amendment Act 2010*
- 8 section 45.
- 9 (2) The renaming of the Ministerial Body under section 18(1)
- 10 does not affect its continuity or legal status.
- 11 (3) A reference in a written law or other document to the
- 12 Community Development Ministerial Body is to be
- 13 construed as a reference to the Ministerial Body as renamed
- 14 under section 18(1) unless in the context it would be
- 15 inappropriate to do so.
- 16 **28. Protection orders (enduring parental responsibility)**
- 17 (1) In this clause —
- 18 *commencement* means the commencement of the *Children*
- 19 *and Community Services Amendment Act 2010* section 27.
- 20 (2) A protection order (enduring parental responsibility) that
- 21 was in effect under this Act immediately before the
- 22 commencement has effect, on and after the commencement,
- 23 as if it were a protection order (special guardianship).
- 24 (3) On and after the commencement any protection proceedings
- 25 or other proceedings under this Act concerning a protection
- 26 order (enduring parental responsibility) that have not been
- 27 finally determined are to be dealt with and determined as if
- 28 they were proceedings concerning a protection order
- 29 (special guardianship).
- 30 (4) A reference in a written law or other document to a
- 31 protection order (enduring parental responsibility) under this
- 32 Act is to be construed as a reference to a protection order
- 33 (special guardianship) unless in the context it would be
- 34 inappropriate to do so.

s. 84

1 **84. Various references to “officer” amended**

2 In the provisions listed in the Table delete “officer” (each
3 occurrence) and insert:

4
5 authorised person
6

7 **Table**

s. 114	s. 115(1)
s. 115(2)(a)	s. 115(3)
s. 115(4)(b)	s. 116
s. 117(3)	s. 117(4)(a)
s. 117(5)	s. 119

8 **85. Various penalties amended**

9 In the provisions listed in the Table after “Penalty:” insert:

10
11 a fine of
12

13 **Table**

s. 40(8)	s. 103
s. 104(2)	s. 106
s. 107(2)	s. 107(3)
s. 108	s. 109
s. 110(2)	s. 124B(1)
s. 124C(1)	s. 124C(4)

s. 124F(2)	s. 137(3)
s. 141(1)	s. 187(1)
s. 190(1)	s. 190(3)
s. 193(5)	s. 193(6)
s. 194	s. 195(5)
s. 237(2)	s. 238(5)
s. 238(7)	s. 240(2)
s. 241(2)	s. 242
s. 243	s. 244

1

