

Children and Community Services Amendment Bill 2019

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Western Australia

LEGISLATIVE ASSEMBLY

Children and Community Services Amendment Bill 2019

A Bill for

An Act to amend the *Children and Community Services Act 2004* —

- **to implement recommendations of the 2017 statutory review of the Act; and**
- **to introduce mandatory reporting of child sexual abuse for ministers of religion; and**
- **for other purposes.**

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Children and Community Services Amendment*
3 *Act 2019*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
- 8 (b) the rest of the Act — on a day fixed by proclamation,
9 and different days may be fixed for different provisions.

10 **3. Act amended**

11 This Act amends the *Children and Community Services*
12 *Act 2004*.

13 **4. Section 3 amended**

14 (1) In section 3 delete the definitions of:

15 *parent*

16 *relative*

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

18

19 *approved Aboriginal or Torres Strait Islander*
20 *representative organisation* means an Aboriginal or
21 Torres Strait Islander representative organisation
22 approved under section 22A(1);

23 *care plan* has the meaning given in section 89(2);

24 *cultural support plan* has the meaning given in
25 section 89A(1);

26 *family*, of a child, means —

- 27 (a) for a child who is not an Aboriginal child or
28 Torres Strait Islander child — each of the

- 1 following relatives of the child (whether the
2 relationship is established by, or traced through,
3 consanguinity, marriage, a de facto
4 relationship, a written law or a natural
5 relationship) —
- 6 (i) parent, grandparent or other ancestor;
 - 7 (ii) step-parent;
 - 8 (iii) sibling;
 - 9 (iv) uncle or aunt;
 - 10 (v) cousin;
 - 11 (vi) spouse or de facto partner;
- 12 or
- 13 (b) for an Aboriginal child — each person regarded
14 under the customary law or tradition of the
15 child’s community as the equivalent of a person
16 mentioned in paragraph (a); or
 - 17 (c) for a Torres Strait Islander child — each person
18 regarded under the customary law or tradition
19 of the Torres Strait Islands as the equivalent of
20 a person mentioned in paragraph (a);
- 21 **industrial inspector** has the meaning given in the
22 *Industrial Relations Act 1979* section 7(1);
- 23 **leaving care plan** has the meaning given in
24 section 89B;
- 25 **parent**, of a child —
- 26 (a) means a person, other than the CEO, who at
27 law has responsibility for —
- 28 (i) the long-term care, welfare and
29 development of the child; or
 - 30 (ii) the day-to-day care, welfare and
31 development of the child;
- 32 and

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1 (b) if a protection order (other than a protection
2 order (supervision)) has been made for the
3 child — includes a person who would have
4 been a parent of the child if the order had not
5 been made;

6 *provisional care plan* has the meaning given in
7 section 39(2);

8 *remote communication* means any way of
9 communicating at a distance including by telephone,
10 fax, email and radio;

11 *secure care decision* has the meaning given in
12 section 88G(1);

13 *special guardian* means the individual who is given, or
14 the 2 individuals who are jointly given, parental
15 responsibility for a child under a protection order
16 (special guardianship);
17

18 (3) In section 3 in the definition of *protection application* delete
19 “order;” and insert:

20
21 order (other than an application under section 69A);
22

23 **5. Part 2 Division 1A inserted**

24 At the beginning of Part 2 insert:
25

26 **Division 1A — Preliminary**

27 **5A. Application of objects and principles**

28 A person, court or tribunal is, in performing a function
29 under this Act, to be guided by the objects of this Act
30 and to observe the principles set out in this Part.
31

1 **6. Section 6 amended**

2 In section 6(da) delete “in exercising appropriate control over”
3 and insert:

4

5 to appropriately and safely manage

6

7 **7. Section 7 replaced**

8 Delete section 7 and insert:

9

10 **7. Paramount consideration is best interests of child**

11 In performing a function under this Act in relation to a
12 child, the paramount consideration is the best interests
13 of the child.

14

15 **8. Section 8 amended**

16 In section 8(1):

17 (a) delete “for the purposes of this Act what is in a child’s
18 best interests” and insert:

19

20 what is in the best interests of a child,

21

22 (b) in paragraph (d) delete “relatives and with any” and
23 insert:

24

25 members of the child’s family and with

26

s. 8

- 1 (c) in paragraph (g)(ii) delete “relative of the child; or” and
2 insert:
3
4 member of the child’s family; or
5
6 (d) in paragraph (g)(iii) delete “any”;
7 (e) delete paragraph (g)(iv) and insert:
8
9 (iv) other people who are significant in the
10 child’s life;
11
12 (f) delete paragraph (h) and insert:
13
14 (h) the need for the child to develop and maintain
15 contact with the child’s parents, siblings and
16 other members of the child’s family and with
17 other people who are significant in the child’s
18 life;
19
20 (g) delete paragraph (j) and insert:
21
22 (j) the child’s cultural, ethnic and religious identity
23 (including the need for cultural support to
24 develop and maintain a connection with the
25 culture and traditions of the child’s family or
26 community);
27

1 **9. Section 9 amended**

2 In section 9:

3 (a) delete “In the administration of this Act the following
4 principles must be observed —” and insert:

5

6 In performing a function under this Act, other principles
7 to be observed are as follows —

8

9 (b) after paragraph (e) insert:

10

11 (ea) the principle that every child should be treated
12 as a valued member of society in a manner that
13 respects the child’s dignity and privacy;

14

15 (c) delete paragraphs (g) and (ha) and insert:

16

17 (g) the principle that planning for the care of a
18 child who is in the CEO’s care should occur as
19 soon as possible in order to promote long-term
20 stability for the child and should, as soon as
21 possible, include consideration of whether it is
22 appropriate to work towards returning the child
23 to the child’s parents;

24 (ga) the principle that objectives of planning for the
25 care of a child who is in the CEO’s care include
26 the following —

27 (i) to achieve continuity and stability in the
28 child’s living arrangements;

29 (ii) to preserve and enhance the child’s
30 relationships with the child’s family and
31 with other people who are significant in
32 the child’s life (subject to protecting the
33 child from harm and meeting the child’s
34 needs);

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- 1 (iii) for an Aboriginal or Torres Strait
2 Islander child or a child of a culturally
3 or linguistically diverse background —
4 to preserve and enhance the child’s
5 connection with the culture and
6 traditions of the child’s family or
7 community;
- 8 (gb) the principle that objectives of planning for a
9 placement arrangement for a child include,
10 subject to protecting the child from harm and
11 meeting the child’s needs, the following —
- 12 (i) to place the child with a member of the
13 child’s family;
- 14 (ii) to place the child with the child’s
15 siblings (subject also to protecting the
16 siblings from harm);
- 17 (iii) to place the child with a person who is
18 willing and able to encourage and
19 support the child to develop and
20 maintain contact with the child’s
21 parents, siblings and other members of
22 the child’s family and with other people
23 who are significant in the child’s life,
24 subject to decisions under this Act about
25 that contact;
- 26
- 27 (d) in paragraph (h) delete “child;” and insert:
28
29 child and to minimising the risk of detrimental effects
30 arising from delay in decision-making;
- 31
- 32 (e) in paragraph (j) delete “any”;
- 33 (f) in paragraph (k) delete “any” (1st occurrence);

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(g) delete paragraph (k)(ii) and insert:

- (ii) the outcome of decisions under this Act that are likely to have a significant impact on the child’s life (as described in section 10(3)), including an explanation of the reasons for the decisions; and

(h) delete paragraph (l) and insert:

- (l) the principle that, as far as practicable, services of an interpreter or other appropriate person are to be made available to assist —
 - (i) a person who has difficulty understanding or communicating in English; or
 - (ii) a person whose disability prevents or restricts the person’s understanding of, or participation in, a decision-making or other process or the person’s expression of wishes or views.

Note: The heading to amended section 9 is to read:

Other principles

10. Section 10 amended

- (1) In section 10(1) delete “should” and insert “must”.
- (2) In section 10(3)(d) delete “relatives and with any” and insert:

members of the child’s family and with
- (3) Delete section 10(4).

- 1 **11. Section 12 amended**
- 2 Delete section 12(2)(c) and (d) and insert:
- 3
- 4 (c) placement with a person who is an Aboriginal
- 5 person or Torres Strait Islander who lives in
- 6 close proximity to the child’s Aboriginal or
- 7 Torres Strait Islander community;
- 8 (d) placement with a person who is not an
- 9 Aboriginal person or Torres Strait Islander but
- 10 who —
- 11 (i) lives in close proximity to the child’s
- 12 Aboriginal or Torres Strait Islander
- 13 community; and
- 14 (ii) is responsive to the cultural support
- 15 needs of the child and is willing and
- 16 able to encourage and support the child
- 17 to develop and maintain a connection
- 18 with the culture and traditions of the
- 19 child’s family or community;
- 20 (e) placement with a person who is an Aboriginal
- 21 person or Torres Strait Islander;
- 22 (f) placement with a person who is not an
- 23 Aboriginal person or Torres Strait Islander but
- 24 who is responsive to the cultural support needs
- 25 of the child and is willing and able to encourage
- 26 and support the child to develop and maintain a
- 27 connection with the culture and traditions of the
- 28 child’s family or community.
- 29

1 **12. Section 13 amended**

2 In section 13 delete “In the administration of this Act a principle
3 to be observed is that Aboriginal people and Torres Strait
4 Islanders should be allowed” and insert:

5

6 Aboriginal people and Torres Strait Islanders have a right

7

8 **13. Section 14 amended**

9 (1) In section 14 delete the passage that begins with “In the
10 administration” and ends with “should” and insert:

11

12 (1) A kinship group, community or Aboriginal or Torres
13 Strait Islander representative organisation must

14

15 (2) At the end of section 14 insert:

16

17 (2) Consideration must be given to the wishes and views of
18 the child, taking into account the maturity and
19 understanding of the child, and the child’s parents
20 about the participation of a group, community or
21 organisation under subsection (1).

22 (3) This section does not apply to a decision for an
23 Aboriginal or Torres Strait Islander child about a
24 placement arrangement or cultural support plan.

25

26 **14. Section 22 amended**

27 (1) In section 22(4) delete “duties and responsibilities” and insert:

28

29 functions

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- 1 (2) After section 22(4) insert:
2
- 3 (4AA) A public authority prescribed by the regulations as a
4 public authority to which this subsection applies must
5 prioritise a request under subsection (3) to provide
6 assistance to the following —
- 7 (a) a child in the CEO's care;
8 (b) a person who under section 96 qualifies for
9 assistance under Part 4 Division 6;
10 (c) a child under a protection order (special
11 guardianship).
- 12 (4AB) If a public authority to which subsection (4AA) applies
13 forms the opinion that it cannot comply with a request
14 under subsection (3) consistently with its functions or
15 so as to not unduly prejudice the performance of its
16 functions, the public authority must, at the request of
17 the CEO, give the CEO written reasons for that
18 opinion.
19

20 **15. Section 22A inserted**

21 After section 22 insert:
22

23 **22A. Approval of Aboriginal or Torres Strait Islander**
24 **representative organisations for consultation**

- 25 (1) The CEO may, in accordance with the regulations,
26 approve an organisation as an Aboriginal or Torres
27 Strait Islander representative organisation that is to be
28 consulted about certain decisions under this Act.
- 29 (2) An approval may be subject to conditions specified in
30 the instrument of approval.

- 1 (3) The CEO must make an up-to-date list of approved
2 Aboriginal or Torres Strait Islander representative
3 organisations available for inspection by members of
4 the public free of charge on the Internet or otherwise,
5 as the CEO considers appropriate.
6

7 **16. Section 28 amended**

8 In section 28(2):

- 9 (a) delete “Part” and insert:

10 Act,
11
12

- 13 (b) in paragraph (a) delete “his or her” and insert:

14 the child’s
15
16

- 17 (c) in paragraph (a)(ii) delete “relative” and insert:

18 member of the child’s family
19
20

- 21 (d) after paragraph (a) insert:

22 (aa) paragraph (a) applies and, on the parent or
23 parents subsequently being found —

24 (i) there is no parent who is willing and
25 able to care for the child; and
26

27 (ii) no suitable adult member of the child’s
28 family or other suitable adult can be
29 found who is willing and able to care for
30 the child;

31 or
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(e) in paragraph (b) delete “relative” and insert:
member of the child’s family

(f) in paragraph (d)(i) and (ii) after “unable” insert:
or unwilling

17. Section 29 amended

(1) In section 29(1) delete “Part” and insert:

Act

(2) Delete section 29(3)(c) and insert:

(c) the Court makes an interim order under section 133(2)(c) that the child be placed with a person approved by the Court; or

18. Section 30 amended

In section 30 delete “Part” and insert:

Act,

1 **19. Section 32 amended**

2 In section 32(1)(a) and (b)(i) delete “relative of the child;” and
3 insert:

4
5 member of the child’s family;
6

7 **20. Section 39 amended**

8 (1) Delete section 39(1).

9 (2) In section 39(2):

10 (a) delete “This section applies” and insert:

11
12 The CEO must prepare and implement a plan (a
13 *provisional care plan*) for a child
14

15 (b) in paragraph (a) delete “a child” and insert:

16
17 the child
18

19 (3) Delete section 39(3A) and (3B) and insert:

20
21 (2A) Unless section 88I(2) applies, the CEO must prepare
22 the provisional care plan within 7 working days after
23 the child is taken into provisional protection and care.

24 (2B) A provisional care plan for a child must —

25 (a) be in writing; and

26 (b) identify the needs of the child while the child is
27 in provisional protection and care; and

28 (c) outline steps or measures to be taken to address
29 those needs; and

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- 1 (d) record decisions made by the CEO about the
2 care of the child, including —
- 3 (i) decisions about a placement
4 arrangement for the child; and
- 5 (ii) decisions about contact between the
6 child and a parent, sibling, other
7 member of the child’s family or other
8 person who is significant in the child’s
9 life; and
- 10 (iii) secure care decisions;
11 and
- 12 (e) contain a summary of —
- 13 (i) how the principle set out in section 10
14 has been applied in connection with the
15 decisions recorded in the plan; and
- 16 (ii) the wishes and views expressed by the
17 child about the decisions recorded in the
18 plan.
- 19 (2C) Subsection (2B)(e) only applies to the application of
20 the principle set out in section 10, and to wishes and
21 views expressed by the child, after the commencement
22 of the *Children and Community Services Amendment*
23 *Act 2019* section 20.
- 24 (2D) The CEO must modify a provisional care plan for a
25 child if a decision recorded in the plan is varied,
26 revoked or substituted or a further decision about the
27 care of the child is made by the CEO.
- 28 (2E) The modification must be made as soon as practicable
29 after the decision is varied, revoked or substituted or
30 the further decision is made.
31

1 **21. Section 41 amended**

2 In section 41(1) in the definition of *appropriate person*:

3 (a) in paragraph (b) delete “relative of the child; or” and
4 insert:

5
6 member of the child’s family; or

7
8 (b) in paragraph (c) delete “relative of the child,” and insert:

9
10 member of the child’s family,

11

12 **22. Section 42 amended**

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

14 *parent*

15 *special guardian*

16 (2) In section 42 in the definition of *party to the initial proceedings*
17 delete “made;” and insert:

18

19 made.

20

21 **23. Section 43 amended**

22 In section 43 delete “Part” and insert:

23

24 Act

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1 **24. Section 44 amended**

2 (1) In section 44(2)(b) delete “sought; and” and insert:

3

4 sought and any proposed conditions of the order; and

5

6 (2) In section 44(3) delete “individual or individuals to whom
7 parental responsibility for the child is proposed to be given
8 under the order.” and insert:

9

10 proposed special guardian.

11

12 **25. Section 45 amended**

13 In section 45 delete “Part —” and insert:

14

15 Part and Part 5 —

16

17 **26. Section 50 amended**

18 Delete section 50(3) and insert:

19

20 (3) A protection order (supervision) may include a
21 condition requiring the child to live with a specified
22 parent of the child, but otherwise must not include a
23 condition about —

24 (a) the person or persons with whom the child is to
25 live; or

26 (b) who is to have responsibility for the day-to-day
27 care, welfare and development of the child.

28

1 **27. Section 61 amended**

2 (1) Delete section 61(1).

3 (2) In section 61(2)(b) delete “that, having regard to the report
4 mentioned in subsection (3),” and insert:

5

6 that

7

8 (3) After section 61(2) insert:

9

10 (2A) The Court must, in assessing the suitability of the
11 proposed special guardian, have regard to the following
12 as if the order were a placement arrangement —

13 (a) for an Aboriginal or Torres Strait Islander
14 child — the principle set out in section 12;

15 (b) for a child of a culturally or linguistically
16 diverse background — the guidelines
17 established under section 80;

18 (c) in any case — other principles set out in Part 2
19 affecting the placement of a child who is in the
20 CEO’s care.

21 (2B) The Court must not make a protection order (special
22 guardianship) for an Aboriginal or Torres Strait
23 Islander child if no Aboriginal person or Torres Strait
24 Islander is to be the special guardian unless the CEO
25 has given the Court a written report prepared by a
26 person who meets criteria prescribed by the
27 regulations.
28

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- 1 (4) In section 61(3):
- 2 (a) in paragraph (a) delete “subsection (2)(b)(i) and (ii);
- 3 and” and insert:
- 4
- 5 subsections (2)(b)(i) and (ii) and (2A); and
- 6
- 7 (b) in paragraph (b) delete “child.” and insert:
- 8
- 9 child; and
- 10
- 11 (c) after paragraph (b) insert:
- 12
- 13 (c) without limiting paragraph (b), outlines the
- 14 proposed arrangements for encouraging and
- 15 supporting the child to develop and maintain
- 16 contact with the child’s parents, siblings and
- 17 other members of the child’s family and with
- 18 other people who are significant in the child’s
- 19 life, subject to decisions under this Act about
- 20 that contact; and
- 21 (d) for an Aboriginal or Torres Strait Islander child
- 22 or a child of a culturally or linguistically
- 23 diverse background — is accompanied by a
- 24 cultural support plan for the child.
- 25
- 26 (5) Delete section 61(4) and (5) and insert:
- 27
- 28 (4) However, the report need not be accompanied by a
- 29 cultural support plan if the application for the
- 30 protection order (special guardianship) is made under
- 31 section 69A.

- 1 (5) The Court must, before making a protection order
2 (special guardianship), consider each report given to
3 the Court under this section.
- 4 (6) The CEO must give a copy of each report given to the
5 Court under this section to the other parties to the
6 proceedings.
7

8 **28. Section 63 replaced**

9 Delete section 63 and insert:
10

11 **63. Conditions of protection order (special**
12 **guardianship)**

- 13 (1) A protection order (special guardianship) may include
14 conditions to be complied with by the special guardian
15 about —
16 (a) contact between the child and another person;
17 or
18 (b) for an Aboriginal or Torres Strait Islander child
19 or a child of a culturally or linguistically
20 diverse background — matters that could be
21 included in a cultural support plan for the child.
- 22 (2) It is a condition of a protection order (special
23 guardianship) that the special guardian must not,
24 except with the permission of the Court, make an
25 application under the *Births, Deaths and Marriages*
26 *Registration Act 1998* section 19(1), 23(1) or 31(3) (a
27 ***change of name application***) in relation to the child.
- 28 (3) The Court may, on an application made by the special
29 guardian, permit the making of a change of name
30 application if it is satisfied that —
31 (a) there are exceptional reasons for the change of
32 name; and

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1 (b) for a child who it is satisfied has sufficient
2 maturity and understanding to consent to the
3 change of name — the child consents to the
4 change.

5 (4) A protection order (special guardianship) must not
6 include any conditions other than those referred to in
7 this section.
8

9 **29. Section 64 amended**

10 In section 64(1) in the definition of *condition* delete “(special
11 guardianship).” and insert:

12
13 (special guardianship) other than the condition referred to in
14 section 63(2).
15

16 **30. Section 69B inserted**

17 At the end of Part 4 Division 3 Subdivision 7 insert:
18

19 **69B. Replacement of protection order (special**
20 **guardianship) on notification by CEO**

21 (1) If the CEO becomes aware that each individual who is
22 a special guardian under a protection order (special
23 guardianship) has died, the CEO must give written
24 notice of that fact to the Court as soon as practicable.

25 (2) If the CEO gives written notice to the Court under
26 subsection (1), the protection order (special
27 guardianship) is taken to be replaced by a protection
28 order (until 18) for the child.

- 1 (3) The CEO must give written notice that a protection
2 order (until 18) has come into force under
3 subsection (2) to the following —
4 (a) the child;
5 (b) each other party to the initial proceedings (other
6 than the special guardian);
7 (c) each carer of the child;
8 (d) each other person considered by the CEO to
9 have a direct and significant interest in the
10 wellbeing of the child.
11

12 **31. Section 79 amended**

13 In section 79(2):

- 14 (a) in paragraph (a)(iii) delete “authority;” and insert:
15
16 authority; or
17
18 (b) after paragraph (a)(iii) insert:
19
20 (iv) as otherwise prescribed by the
21 regulations;
22

23 **32. Section 81 replaced**

24 Delete section 81 and insert:
25

26 **81. Consultation before placement of Aboriginal or**
27 **Torres Strait Islander child**

- 28 (1) Before making a placement arrangement in respect of
29 an Aboriginal or Torres Strait Islander child, the CEO
30 must consult with the following —

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- 1 (a) an Aboriginal person or Torres Strait Islander
2 who is a member of the child’s family;
- 3 (b) subject to the regulations, an approved
4 Aboriginal or Torres Strait Islander
5 representative organisation;
- 6 (c) an officer who is an Aboriginal person or
7 Torres Strait Islander who, in the opinion of the
8 CEO, has relevant knowledge of the child, the
9 child’s family or the child’s community.
- 10 (2) If it is not practicable, for reasons of urgency or
11 otherwise, to consult as required under subsection (1)
12 before making a placement arrangement, the
13 consultation must take place as soon as practicable
14 after the placement arrangement is made.
15

16 **33. Section 88C amended**

17 After section 88C(5) insert:

- 18
- 19 (6) The removal of a child from a secure care facility on a
20 temporary basis or in an emergency situation, in
21 accordance with procedures approved by the CEO for
22 the secure care facility, does not affect the secure care
23 arrangement to which the child is subject.
24

25 **34. Section 88I amended**

- 26 (1) Delete section 88I(1).
- 27 (2) In section 88I(5):
- 28 (a) in paragraph (b) delete “again.” and insert:
29
30 again; and
31

- 1 (b) after paragraph (b) insert:
2
3 (c) contains a summary of —
4 (i) how the principle set out in section 10
5 has been applied in connection with the
6 matters referred to in paragraphs (a) and
7 (b); and
8 (ii) the wishes and views expressed by the
9 child in connection with those matters.
10

11 (3) After section 88I(5) insert:
12

- 13 (6) Subsection (5)(c) only applies to the application of the
14 principle set out in section 10, and to wishes and views
15 expressed by the child, after the commencement of the
16 *Children and Community Services Amendment*
17 *Act 2019* section 34.
18

19 **35. Part 4 Division 5 Subdivision 3 heading replaced**

20 Delete the heading to Part 4 Division 5 Subdivision 3 and insert:
21

22 **Subdivision 3 — Plans**
23

24 **36. Section 88 deleted**

25 Delete section 88.

26 **37. Section 89 amended**

27 (1) Delete section 89(1).

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- 1 (2) In section 89(2) delete “care plan” and insert:
2
3 plan (a *care plan*)
4
- 5 (3) After section 89(3) insert:
6
- 7 (3A) A care plan for a child must —
8 (a) be in writing; and
9 (b) identify the needs of the child; and
10 (c) outline steps or measures to be taken to address
11 the needs of the child; and
12 (d) for an Aboriginal or Torres Strait Islander child
13 or a child of a culturally or linguistically
14 diverse background — incorporate a cultural
15 support plan for the child; and
16 (e) for a child who has reached 15 years of age
17 (subject to subsection (3F)) — incorporate a
18 leaving care plan for the child; and
19 (f) record decisions made by the CEO about the
20 care of the child, including —
21 (i) decisions about a placement
22 arrangement for the child; and
23 (ii) decisions about contact between the
24 child and a parent, sibling, other
25 member of the child’s family or other
26 person who is significant in the child’s
27 life; and
28 (iii) secure care decisions;
29 and

- 1 (g) contain a summary of —
2 (i) how the principle set out in section 10
3 has been applied in connection with the
4 decisions recorded in the plan; and
5 (ii) the wishes and views expressed by the
6 child about the decisions recorded in the
7 plan.
- 8 (3B) Subsection (3A)(d), (e) and (g) do not apply to a care
9 plan in existence immediately before the
10 commencement of the *Children and Community*
11 *Services Amendment Act 2019* section 37 until the
12 completion of the first review of the plan under
13 section 90 after that commencement.
- 14 (3C) Subsection (3A)(g) only applies to the application of
15 the principle set out in section 10, and to wishes and
16 views expressed by the child, after the commencement
17 of the *Children and Community Services Amendment*
18 *Act 2019* section 37.
- 19 (3D) The CEO must modify a care plan if a decision
20 recorded in the plan is varied, revoked or substituted or
21 a further decision about the care of the child is made by
22 the CEO.
- 23 (3E) The modification must be made as soon as practicable
24 after the decision is varied, revoked or substituted or
25 the further decision is made.
- 26 (3F) The CEO must modify a care plan to include a leaving
27 care plan as soon as practicable after the child reaches
28 15 years of age.
29

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1 (4) Delete section 89(5A) and (5) and insert:

2

3 (5) However, the CEO cannot modify a care plan in a
4 manner that would be contrary to section 94(3).

5

6 Note: The heading to amended section 89 is to read:

7

Care plan

8 **38. Sections 89A and 89B inserted**

9 After section 89 insert:

10

11 **89A. Cultural support plan**

12 (1) A *cultural support plan* for a child is a plan that
13 contains arrangements for developing and maintaining
14 the child's connection with the culture and traditions of
15 the child's family or community.

16 (2) Subject to the regulations, an approved Aboriginal or
17 Torres Strait Islander representative organisation is to
18 be given an opportunity to participate in the
19 preparation of a cultural support plan for an Aboriginal
20 or Torres Strait Islander child.

21 **89B. Leaving care plan**

22 A *leaving care plan* for a child is a plan that —

23 (a) identifies the needs of the child in preparing to
24 leave the CEO's care and in transitioning to
25 other living arrangements; and

26 (b) outlines steps or measures to be taken to assist
27 the child to meet those needs (including the
28 social services proposed to be provided when
29 the child leaves the CEO's care).

30

1 **39. Section 90 amended**

2 After section 90(2) insert:

3

4 (2A) In the course of the review of a care plan for an
5 Aboriginal or Torres Strait Islander child, the CEO
6 must, subject to the regulations, give an approved
7 Aboriginal or Torres Strait Islander representative
8 organisation an opportunity to participate in the review
9 of the cultural support plan for the child.

10

11 **40. Section 91 amended**

12 (1) In section 91 delete the definitions of:

13 *care plan*

14 *parent*

15 (2) In section 91 in the definition of *care planning decision* delete
16 “decision referred to in section 88G;” and insert:

17

18 decision;

19

20 (3) In section 91 in the definition of *care plan review panel* delete
21 “section 92;” and insert:

22

23 section 92.

24

25 **41. Section 92 amended**

26 (1) After section 92(3) insert:

27

28 (3A) At least 1 member of the care plan review panel must
29 be an Aboriginal person or Torres Strait Islander.

30

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- 1 (2) After section 92(8) insert:
2
- 3 (9) If there are more than 3 members of the care plan
4 review panel —
- 5 (a) the panel to which an application under
6 section 93(1) or (2A) is referred must be
7 constituted by 3 members; and
- 8 (b) the panel, separately constituted under
9 paragraph (a), may sit simultaneously to hear
10 and determine separate applications referred to
11 the panel.
- 12 (10) If an application referred to the care plan review panel
13 concerns an Aboriginal or Torres Strait Islander child,
14 the panel constituted for the review must include an
15 Aboriginal person or Torres Strait Islander.
16

17 **42. Section 94 amended**

18 In section 94(3) delete “in section 89(4)” and insert:
19
20 to modify a care plan
21

22 **43. Section 98 amended**

23 Delete section 98(1) and insert:
24

- 25 (1) The CEO must ensure that a child who leaves the
26 CEO’s care is provided with social services that the
27 CEO considers appropriate having regard to the needs
28 of the child.
29

1 **44. Section 99 amended**

2 In section 99 delete the passage that begins with “Without” and
3 ends with “for” and insert:
4

5 The CEO must ensure that a person who qualifies for, and
6 seeks,
7

8 **45. Section 100A inserted**

9 At the end of Part 4 Division 6 insert:
10

11 **100A. Provision of explanation to child**

12 The CEO must ensure that, before a child leaves the
13 CEO’s care, the child is provided with a written
14 explanation of the assistance that may or must be
15 provided to the child under this Division.
16

17 **46. Section 101 amended**

18 After section 101(1) insert:
19

20 (1A) It is a defence to a charge under subsection (1)
21 involving conduct that may result in a child suffering
22 harm as a result of emotional abuse comprised of
23 exposure to family violence for the accused to prove
24 that the accused was a victim of that family violence.
25

1 **47. Section 104 amended**

2 In section 104(2)(b) delete “relative of the child; or” and insert:

3

4 member of the child’s family; or

5

6 **48. Section 105 amended**

7 After section 105(2)(a) insert:

8

9 (aa) for a child who is the subject of a secure care
10 arrangement — the act is done in accordance
11 with procedures approved by the CEO for the
12 secure care facility where the child lives; or

13

14 **49. Section 115 amended**

15 (1) In section 115(2)(a) delete “subsection (3), who is of the same
16 sex as the child; and” and insert:

17

18 subsection (3); and

19

20 (2) After section 115(3) insert:

21

22 (3A) In determining the appropriateness of a person to do
23 the search or assist in doing the search —

24 (a) if there is no reason to suspect that the child is
25 transgender or intersex — the person must be
26 of the same sex as the child; and

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12

- (b) in any other case, consideration must be given to —
 - (i) whether the child and the person identify as male, female, transgender or intersex; and
 - (ii) the views of the child (taking into account the maturity and understanding of the child); and
 - (iii) any known views of a member of the child’s family or other person who is significant in the child’s life.

13 **50. Section 120 amended**

14 Delete section 120(1).

15 **51. Section 124A amended**

16 (1) In section 124A insert in alphabetical order:

17
18
19
20
21
22
23
24
25
26
27
28

minister of religion —

- (a) means a person who is recognised in accordance with the practices of a faith or religion as a person who is authorised to conduct services or ceremonies in accordance with the tenets of the faith or religion; and
- (b) includes such a person regardless of how the person’s position or title is described (for example, member of the clergy, priest, minister, imam, rabbi or pastor);

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- 1 (2) In section 124A in the definition of *commencement day*:
2 (a) in paragraph (b) delete “operation;” and insert:
3
4 operation; or
5
6 (b) after paragraph (b) insert:
7
8 (c) in relation to a minister of religion — the day
9 on which the *Children and Community Services*
10 *Amendment Act 2019* section 51 came into
11 operation;
12

13 **52. Section 124B amended**

- 14 (1) In section 124B(1)(a) and (c)(i) delete “teacher or boarding
15 supervisor; and” and insert:
16
17 teacher, boarding supervisor or minister of religion; and
18
19 (2) In section 124B(4):
20 (a) delete “A requirement” and insert:
21
22 The duty
23
24 (b) delete “teacher or boarding supervisor.” and insert:
25
26 teacher, boarding supervisor or minister of religion.
27

1 **53. Section 124BA inserted**

2 After section 124B insert:

3

4 **124BA. Provisions for ministers of religion**

5 (1) In this section —

6 *religious confession* means a confession made by a
7 person to a minister of religion in the minister’s
8 capacity as a minister of religion in accordance with
9 the tenets of the minister’s faith or religion.

10 (2) For the purposes of section 124B(1)(c)(i), a minister of
11 religion who forms a belief on the basis of information
12 disclosed to the minister in the minister’s capacity as a
13 minister of religion is taken to form the belief in the
14 course of the minister’s work.

15 (3) A minister of religion is not excused from criminal
16 responsibility for an offence under section 124B(1) on
17 the grounds that —

18 (a) the minister’s belief is based on information
19 disclosed to the minister during a religious
20 confession; or

21 (b) disclosure of the minister’s belief or
22 information on which the belief is based is
23 otherwise contrary to the tenets of the
24 minister’s faith or religion.
25

26 **54. Section 125A amended**

27 In section 125A(4A) delete “relative of a child in a facility,” and
28 insert:

29

30 member of the child’s family,
31

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1 **55. Section 131B amended**

2 In section 131B(1)(b) delete “exercising appropriate control
3 over” and insert:

4
5 appropriately and safely managing
6

7 **56. Section 131D amended**

8 In section 131D(d) delete “exercise appropriate control over”
9 and insert:

10
11 appropriately and safely manage
12

13 **57. Section 131 amended**

14 (1) In section 131 delete the definition of *parent*.

15 (2) In section 131 in the definition of *child* delete “proceedings;”
16 and insert:

17
18 proceedings.
19

20 **58. Section 132 amended**

21 (1) In section 132 delete “The Court” and insert:

22
23 (1) The Court
24

- 1 (2) At the end of section 132 insert:
2
- 3 (2) However, protection proceedings must not be
4 adjourned if the proceedings are for —
5 (a) an interim order (secure care); or
6 (b) an interim order under section 133(2)(ca)(ii)
7 that a secure care arrangement is to continue.
- 8 (3) Subsection (2) does not apply if the Court is satisfied
9 that there are exceptional reasons for an adjournment
10 and adjourns the proceedings for a period not
11 exceeding 2 working days.
12

13 **59. Section 133 amended**

- 14 (1) In section 133(2)(f) delete “sibling or other relative of the child
15 or any” and insert:
16

17 sibling, other member of the child’s family or
18

- 19 (2) After section 133(2) insert:
20

- 21 (2AA) An interim order cannot include an order of the kind
22 described in subsection (2)(a), (c) or (f) if the
23 protection proceedings are —
24 (a) proceedings for an extension of a protection
25 order (time limited); or
26 (b) proceedings for the revocation or replacement
27 of a protection order for the child.
28

29 **60. Section 143 amended**

- 30 (1) Delete section 143(1).

- 1 (2) Delete section 143(3)(c) and insert:
2
- 3 (c) an application under section 68 —
4 (i) for the replacement of a protection order
5 (supervision) by another protection
6 order (supervision); or
7 (ii) for the replacement of a protection order
8 (time-limited), protection order (until
9 18) or protection order (special
10 guardianship) by another protection
11 order (other than a protection order
12 (special guardianship)),
13
- 14 (3) Delete section 143(4) and (5) and insert:
15
- 16 (4) If the CEO makes an application under section 68 for
17 the replacement of a protection order (supervision) by a
18 protection order (time-limited) or protection order
19 (until 18), the CEO must provide the Court with a
20 proposal for the child as soon as practicable after the
21 application is made.
- 22 (5) The Court may, on an application for a protection order
23 of a different type to the type that the Court is
24 considering making or for revocation of a protection
25 order, request the CEO to provide —
26 (a) a proposal for the type of protection order that
27 the Court is considering making; or
28 (b) reports under section 61 if the Court is
29 considering making a protection order (special
30 guardianship).
31

1 **61. Section 143A inserted**

2 After section 143 insert:

3

4 **143A. Content of proposal**

- 5 (1) A proposal under section 143 for a protection order
6 (supervision) must outline proposed arrangements for
7 the supervision of the wellbeing of the child.
- 8 (2) A proposal under section 143 for a protection order
9 (time-limited) or protection order (until 18) must
10 outline proposed arrangements for safeguarding and
11 promoting the wellbeing of the child, including —
- 12 (a) proposed arrangements for promoting, where
13 appropriate, the relationship between the child
14 and the child's family or other people who are
15 significant in the child's life; and
- 16 (b) for an Aboriginal or Torres Strait Islander child
17 or a child of a culturally or linguistically
18 diverse background —
- 19 (i) proposed arrangements for placement of
20 the child in accordance with the
21 principle set out in section 12 or
22 guidelines established under section 80
23 (as the case requires) and the principle
24 set out in section 9(gb); and
- 25 (ii) a cultural support plan for the child.
- 26 (3) A proposal under section 143 for a protection order
27 (time-limited) or protection order (until 18) for an
28 Aboriginal or Torres Strait Islander child must outline
29 the consultation that has occurred or is proposed to
30 occur as required under section 81.

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- 1 (4) A proposal under section 143 for a protection order
2 (time-limited) must —
- 3 (a) outline proposed arrangements for working
4 towards the child being returned to or placed
5 with the child’s parents; or
- 6 (b) if the CEO is of the opinion that such
7 arrangements would be contrary to the best
8 interests of the child or not practicable —
9 contain a brief explanation of the reasons for
10 the opinion.
- 11 (5) A proposal under section 143 for the extension of a
12 protection order (time-limited) must include plans for
13 securing long-term stability, security and safety in the
14 child’s relationships and living arrangements.
15

16 **62. Section 144 amended**

17 In section 144(2) delete “section 143(4)” and insert:

18

19 section 143A(5),
20

21 **63. Section 145 amended**

22 Delete section 145(3) and insert:

23

24 (3) Protection proceedings are to be concluded as
25 expeditiously as possible so as to minimise the risk of
26 detrimental effects arising from delay in
27 decision-making.

28 (3A) Subsection (3) does not prevent an adjournment of
29 proceedings to allow for a trial period for particular
30 arrangements or for other appropriate reasons.
31

1 **64. Section 147 amended**

2 Delete section 147(d) and insert:

- 3
4 (d) if the proceedings relate to a protection order
5 (special guardianship) — the special guardian
6 or proposed special guardian;
7

8 **65. Section 153 amended**

9 In section 153(2):

- 10 (a) in paragraph (a) before “has” insert:

11
12 is a person who
13

- 14 (b) delete paragraph (b) and insert:

15
16 (b) is a person whose disability prevents or restricts
17 the party’s understanding of, or participation in,
18 protection proceedings,
19

- 20 (c) delete “that prevents or restricts the party’s
21 understanding of, or participation in, protection
22 proceedings.”.

23 **66. Section 157 amended**

24 In section 157(1) delete the definition of *parent*.

25 **67. Section 188 amended**

- 26 (1) In section 188 delete the definition of *industrial inspector*.

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1 (2) In section 188 in the definition of *family business* delete “parent
2 or other relative of the child;” and insert:

3

4 member of the child’s family.

5

6 **68. Section 192 amended**

7 In section 192(3)(a)(iii) delete “female, her breasts;” and insert:

8

9 female child or a transgender or intersex child who identifies as
10 female, the breasts;

11

12 **69. Section 195 deleted**

13 Delete section 195.

14 **70. Section 239 amended**

15 In section 239(1):

16 (a) in paragraph (b) delete “child’s relative; or” and insert:

17

18 member of a child’s family; or

19

20 (b) in paragraph (c) delete “child’s relative” and insert:

21

22 member of a child’s family

23

1 **71. Part 10A inserted**

2 After section 241 insert:

3

4 **Part 10A — Enforcement**

5 **Division 1 — Preliminary**

6 **241A. Terms used**

7 In this Part —

8 *authorised purpose* means —

- 9 (a) for an authorised officer — investigating a
10 suspected offence under this Act; or
11 (b) for an industrial inspector or an authorised
12 officer designated under section 25 as an
13 authorised officer for Part 7 — investigating a
14 suspected offence under that Part or monitoring
15 compliance with that Part;

16 *entry warrant* has the meaning given in section 241L;

17 *magistrate* means a magistrate of the Court or a
18 magistrate of the Magistrates Court;

19 *record* means a record of information, irrespective of
20 how the information is recorded or stored or able to be
21 recovered and includes —

- 22 (a) any thing from which images, sounds or
23 writings can be reproduced, with or without the
24 aid of anything else; and
25 (b) any thing on which information is recorded or
26 stored, whether electronically, magnetically,
27 mechanically or by some other means;

28 *relevant record* means a record or document that —

- 29 (a) is required to be kept under this Act; or

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- 1 (b) contains information that is or may be relevant
2 to an offence under this Act.

3 **241B. Application of Part**

- 4 (1) The powers conferred by this Part on an industrial
5 inspector are in addition to, and do not limit, the
6 powers conferred by the *Industrial Relations Act 1979*.
7 (2) The powers conferred by this Part may be exercised in
8 relation to a suspected offence under this Act, or other
9 conduct, whether occurring before or after the
10 commencement of the *Children and Community*
11 *Services Amendment Act 2019* section 71.

12 **Division 2 — General powers**

13 **241C. Entry to places**

- 14 (1) An authorised officer or industrial inspector may, for
15 an authorised purpose, enter a place if —
16 (a) its occupier gives informed consent to the
17 entry; or
18 (b) the entry is authorised by an entry warrant.
19 (2) An occupier gives informed consent to entry to a place
20 if the occupier gives consent after being informed by
21 an authorised officer or industrial inspector —
22 (a) of the powers the officer or inspector wants to
23 exercise in respect of the place; and
24 (b) of the reasons why the officer or inspector
25 wants to exercise those powers; and
26 (c) that the occupier can refuse to consent to the
27 officer or inspector entering the place.
28 (3) To investigate a suspected offence under Part 7 or
29 monitor compliance with that Part, an authorised

1 officer or industrial inspector may, at any reasonable
2 time, enter a place in which —

- 3 (a) a child is employed; or
4 (b) the officer or inspector believes on reasonable
5 grounds a child is, or may in the future be,
6 employed.

7 (4) Entry to a place under subsection (3) may be without
8 informed consent of its occupier or an entry warrant.

9 **241D. Powers after entering place**

10 An authorised officer or industrial inspector who enters
11 a place under section 241C may, for an authorised
12 purpose, do any of the following —

- 13 (a) inspect the place and any thing at the place;
14 (b) search the place and any thing at the place;
15 (c) measure, test, photograph or film any part of
16 the place or any thing at the place;
17 (d) take any thing, or a sample of or from any
18 thing, at the place for analysis or testing;
19 (e) operate equipment or facilities at the place or
20 direct a person at the place to do so;
21 (f) make a copy of, or take an extract from, any
22 record or document at the place;
23 (g) seize any thing that is or may afford evidence
24 of an offence under this Act;
25 (h) direct (orally or in writing) the occupier of the
26 place, or a person at the place, to give the
27 officer or inspector such assistance as the
28 officer or inspector reasonably requires.

- 1 **241E. Directions to provide information or documents**
- 2 (1) An authorised officer or industrial inspector may, for
- 3 an authorised purpose, do any of the following —
- 4 (a) direct a person —
- 5 (i) to give information; or
- 6 (ii) to answer a question put to the person;
- 7 (b) direct a person to produce a record or document
- 8 that is in the person’s possession or under the
- 9 person’s control;
- 10 (c) make a copy of a record or document produced
- 11 in response to a direction under paragraph (b).
- 12 (2) A direction under subsection (1)(a) —
- 13 (a) must specify the time at or within which the
- 14 information or answer is to be given; and
- 15 (b) may require that the information or answer —
- 16 (i) be given orally or in writing; and
- 17 (ii) be given at, or sent or delivered to, a
- 18 place specified in the direction; and
- 19 (iii) in the case of written information or a
- 20 written answer, be sent or delivered by a
- 21 means specified in the direction; and
- 22 (iv) be verified by statutory declaration.
- 23 (3) A direction under subsection (1)(b) —
- 24 (a) must specify the time at or within which the
- 25 record or document is to be produced; and
- 26 (b) may require that the record or document be
- 27 produced —
- 28 (i) at a place specified in the direction; and
- 29 (ii) by a means specified in the direction.

-
- 1 (4) A person is not excused from complying with a
2 direction under this section to give information, answer
3 a question or produce a record or document on the
4 ground that complying with the direction might tend to
5 incriminate the person or render the person liable to a
6 penalty.
- 7 (5) However, any information or answer given by an
8 individual in compliance with such a direction is not
9 admissible in evidence against the individual in
10 criminal or civil proceedings other than proceedings for
11 perjury or for an offence under section 244.
- 12 (6) In giving a direction to a person under this section, an
13 authorised officer or industrial inspector must explain
14 to the person that it is an offence to contravene the
15 direction and the effect of subsections (4) and (5).
- 16 (7) A direction under this section may be given orally or in
17 writing.

18 **241F. Additional powers for relevant records**

19 An authorised officer or industrial inspector may, for
20 an authorised purpose, do any of the following —

- 21 (a) operate a computer or other thing on which the
22 officer or inspector suspects on reasonable
23 grounds a relevant record is or may be stored or
24 direct a person who has the custody or control
25 of the computer or thing to do so;
- 26 (b) direct (orally or in writing) a person who is or
27 appears to be in control of a record or document
28 that the officer or inspector suspects on
29 reasonable grounds is a relevant record to give
30 the officer a translation, code, password or
31 other information necessary to gain access to or
32 interpret and understand the record or
33 document;

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- 1 (c) make a copy of or take an extract from, or
2 download or print out, or photograph or film, a
3 record or document that the officer or inspector
4 suspects on reasonable grounds is a relevant
5 record;
- 6 (d) seize a record or document that the officer or
7 inspector suspects on reasonable grounds is a
8 relevant record and retain it for as long as is
9 necessary for the purposes of this Act;
- 10 (e) seize a computer or other thing on which the
11 officer or inspector suspects on reasonable
12 grounds a relevant record is or may be stored
13 and retain it for as long as is necessary for the
14 purposes of this Act;
- 15 (f) take reasonable measures to secure or protect a
16 relevant record, or computer or other thing on
17 which a relevant record is or may be stored,
18 against damage or unauthorised removal or
19 interference.

20 **241G. Contravention of directions**

21 A person who, without reasonable excuse, fails to
22 comply with a direction given to the person under this
23 Division commits an offence.

24 Penalty: a fine of \$12 000.

25 **241H. Exercise of power may be recorded**

26 An authorised officer or industrial inspector may
27 record the exercise of a power under this Division,
28 including by making an audiovisual recording.

29 **241I. Assistance and use of force to exercise power**

- 30 (1) An authorised officer or industrial inspector exercising
31 a power under this Division may authorise as many

1 other people to assist in exercising the power as are
2 reasonably necessary in the circumstances.

3 (2) In exercising the power, an authorised officer or
4 industrial inspector, and a person authorised under
5 subsection (1) to assist the officer or inspector, may use
6 force that is reasonably necessary in the circumstances.

7 **241J. Procedure on seizing things**

8 (1) If an authorised officer or industrial inspector seizes
9 any thing under this Division, the officer or inspector
10 must give the person who was in possession of it a
11 receipt for it in the approved form.

12 (2) If an authorised officer or industrial inspector seizes
13 any thing under this Division, the officer or inspector
14 must, if practicable, allow a person who is otherwise
15 entitled to possession of it to have reasonable access to
16 it.

17 (3) An authorised officer or industrial inspector who seizes
18 any thing under this Division may take reasonable
19 measures to prevent the thing being concealed, lost,
20 damaged or destroyed.

21 (4) If it is not practicable to move any thing that has been
22 seized, an authorised officer or industrial inspector may
23 do whatever is reasonably necessary to secure it where
24 it is situated and to notify people that it is under
25 seizure.

26 (5) A person must not, without the approval of an
27 authorised officer or industrial inspector, interfere or
28 deal with any thing that the person knows, or ought
29 reasonably to know, has been seized by an authorised
30 officer or industrial inspector.

31 Penalty for this subsection: a fine of \$12 000.

1 **241K. Application of *Criminal and Found Property***
2 ***Disposal Act 2006***

- 3 (1) The *Criminal and Found Property Disposal Act 2006*
4 applies to any thing that is seized under this Division.
- 5 (2) For the purposes of the *Criminal and Found Property*
6 *Disposal Act 2006*, the Department is a prescribed
7 agency.

8 **Division 3 — Entry warrants**

9 **241L. Application for entry warrant**

- 10 (1) An authorised officer or industrial inspector may apply
11 to a magistrate for a warrant (an *entry warrant*)
12 authorising the entry of a place for an authorised
13 purpose.
- 14 (2) Subject to this section —
- 15 (a) an application for an entry warrant must be in
16 writing and include the information prescribed
17 by the regulations; and
- 18 (b) the grounds of the application must be verified
19 by affidavit; and
- 20 (c) the applicant must appear in person before the
21 magistrate to provide information in support of
22 the application on oath.
- 23 (3) If the warrant is needed urgently and the applicant
24 reasonably suspects that a magistrate is not available
25 within a reasonable distance of the applicant, an
26 application for an entry warrant may be made by
27 remote communication.
- 28 (4) A magistrate must reject an application for an entry
29 warrant made by remote communication unless
30 satisfied that —
- 31 (a) the warrant is needed urgently; and

- 1 (b) a magistrate is not available within a reasonable
2 distance of the applicant.
- 3 (5) If an application for an entry warrant is made by
4 remote communication and it is not practicable to send
5 the magistrate written material —
- 6 (a) the application may be made orally; and
7 (b) the magistrate must make a written record of
8 the application and information given in
9 support of it; and
10 (c) if the warrant is issued — the applicant must, as
11 soon as practicable, send the magistrate an
12 affidavit verifying the application and
13 information given in support of it.

14 **241M. Issue and content of entry warrant**

- 15 (1) On an application for an entry warrant, a magistrate
16 may issue the warrant if satisfied that it is necessary for
17 an authorised officer or industrial inspector to enter a
18 place for an authorised purpose.
- 19 (2) An entry warrant must contain the following
20 information —
- 21 (a) a reasonably particular description of the place
22 to which it relates;
- 23 (b) a reasonably particular description of the
24 authorised purpose for which entry to the place
25 is required;
- 26 (c) if the authorised purpose is investigating a
27 suspected offence under this Act — the
28 provision of the Act suspected of being
29 contravened;
- 30 (d) the period, not exceeding 14 days, during which
31 it may be executed;
- 32 (e) the name of the magistrate who issued it;

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- 1 (f) the date and time when it was issued.
- 2 (3) An entry warrant must be in the form prescribed by the
3 regulations.
- 4 (4) If a magistrate issues an entry warrant on an
5 application made by remote communication —
- 6 (a) if it is practicable to send a copy of the original
7 warrant to the applicant by remote
8 communication, the magistrate must do so; or
- 9 (b) if that is not practicable —
- 10 (i) the magistrate must provide the
11 applicant by remote communication
12 with the information that must be set out
13 in the warrant; and
- 14 (ii) the applicant must complete a form of
15 warrant with the information received
16 and give the magistrate a copy of the
17 form as soon as practicable after doing
18 so; and
- 19 (iii) the magistrate must attach the copy of
20 the form to the original warrant and any
21 affidavit received from the applicant
22 and make them available for collection
23 by the applicant.
- 24 (5) The copy of the original warrant sent, or the form of
25 the warrant completed, under subsection (4) has the
26 same force and effect as the original warrant.

27 **241N. Refusal of entry warrant**

28 If a magistrate refuses to issue an entry warrant, the
29 magistrate must record on the application, or the
30 written record of the application, the fact of, the date
31 and time of, and the reasons for, the refusal.

1 **241O. Effect of entry warrant**

- 2 (1) An entry warrant comes into force when it is issued by
3 a magistrate.
- 4 (2) An entry warrant may be executed according to its
5 terms by an authorised officer or industrial inspector
6 entitled to enter the place for the authorised purpose
7 specified in the warrant.
- 8 (3) However, if an applicant for an entry warrant
9 contravenes section 241L(5)(c) or 241M(4)(b)(ii),
10 evidence obtained under the entry warrant is not
11 admissible in proceedings in a court or tribunal.
12

13 **72. Section 243 amended**

14 In section 243 delete “assessor or an authorised officer.” and
15 insert:

16

17 assessor, authorised officer or industrial inspector.
18

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

20 **Impersonating assessor, authorised officer or industrial inspector**

21 **73. Section 246 amended**

22 In section 246(4) delete “officer or an authorised officer, assists
23 the officer” and insert:

24

25 officer, authorised officer or industrial inspector, assists the
26 officer or inspector
27

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1 **74. Section 249 replaced**

2 Delete section 249 and insert:

3

4 **249. Review of Act**

5 (1) The Minister must review the operation and
6 effectiveness of this Act, and prepare a report based on
7 the review —

8 (a) as soon as practicable after the 5th anniversary
9 of the day on which the *Children and*
10 *Community Services Amendment Act 2019*
11 section 74 comes into operation; and

12 (b) after that, at intervals of not more than 5 years.

13 (2) The Minister must cause the report to be laid before
14 each House of Parliament as soon as practicable after
15 it is prepared, but not later than 12 months after the
16 5th anniversary or the expiry of the period of 5 years, as
17 the case may be.
18

19 **75. Various penalties amended**

20 In the provisions listed in the Table delete “Penalty:” and insert:

21

22 Penalty for this subsection:

23

24 **Table**

s. 40(8)	s. 84(3)
s. 103(1) and (2)	s. 104A(2) and (4)
s. 104(2)	s. 107(2) and (3)
s. 110(2)	s. 124B(1)

s. 124C(1) and (4)	s. 124F(2)
s. 137(3)	s. 141(1)
s. 187(1)	s. 190(1) and (3)
s. 193(5) and (6)	s. 194A(3) and (4)
s. 237(2)	s. 238(5) and (7)
s. 240(2)	s. 241(2)

1
2
3

Note:

The note at the end of section 80(4) is to be deleted.

