

# Children and Community Services Amendment Bill 2019

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Western Australia

LEGISLATIVE ASSEMBLY

*(As amended during consideration in detail)*

**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:

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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**

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- 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);

**s. 9**

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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” (1<sup>st</sup> 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).

**s. 11**

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1   **11.   Section 12 amended**

2       (1) In section 12(1) delete “arrangements.” and insert:

3

4                       arrangements or interim orders made under  
5                       section 133(2)(c).

6

7       (2) In section 12(2):

8           (a) after “Islander child,” insert:

9

10                       or in making an interim order under  
11                       section 133(2)(c) in relation to an Aboriginal  
12                       child or a Torres Strait Islander child or in  
13                       varying such an order,

14

15       (b) delete paragraphs (c) and (d) and insert:

16

17           (c) placement with a person who is an Aboriginal  
18           person or Torres Strait Islander who lives in  
19           close proximity to the child’s Aboriginal or  
20           Torres Strait Islander community;

21           (d) placement with a person who is not an  
22           Aboriginal person or Torres Strait Islander but  
23           who —

24               (i) lives in close proximity to the child’s  
25               Aboriginal or Torres Strait Islander  
26               community; and

27               (ii) is responsive to the cultural support  
28               needs of the child and is willing and  
29               able to encourage and support the child  
30               to develop and maintain a connection  
31               with the culture and traditions of the  
32               child’s family or community;

- 1 (e) placement with a person who is an Aboriginal  
2 person or Torres Strait Islander;
- 3 (f) placement with a person who is not an  
4 Aboriginal person or Torres Strait Islander but  
5 who is responsive to the cultural support needs  
6 of the child and is willing and able to encourage  
7 and support the child to develop and maintain a  
8 connection with the culture and traditions of the  
9 child's family or community.  
10

11 **12. Section 13 amended**

12 In section 13 delete "In the administration of this Act a principle  
13 to be observed is that Aboriginal people and Torres Strait  
14 Islanders should be allowed" and insert:

15  
16 Aboriginal people and Torres Strait Islanders have a right  
17

18 **13. Section 14 amended**

19 (1) In section 14 delete the passage that begins with "In the  
20 administration" and ends with "should" and insert:

21  
22 (1) A kinship group, community or Aboriginal or Torres  
23 Strait Islander representative organisation must  
24

25 (2) At the end of section 14 insert:  
26

27 (2) Consideration must be given to the wishes and views of  
28 the child, taking into account the maturity and  
29 understanding of the child, and the child's parents  
30 about the participation of a group, community or  
31 organisation under subsection (1).

**s. 14**

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- 1           (3) This section does not apply to a decision for an  
2           Aboriginal or Torres Strait Islander child about a  
3           placement arrangement or cultural support plan.  
4

5   **14. Section 22 amended**

- 6           (1) In section 22(4) delete “duties and responsibilities” and insert:  
7

8           functions  
9

- 10          (2) After section 22(4) insert:  
11

12           (4AA) A public authority prescribed by the regulations as a  
13           public authority to which this subsection applies must  
14           prioritise a request under subsection (3) to provide  
15           assistance to the following —

- 16                   (a) a child in the CEO’s care;  
17                   (b) a person who under section 96 qualifies for  
18                   assistance under Part 4 Division 6;  
19                   (c) a child under a protection order (special  
20                   guardianship).

21           (4AB) If the relevant officer for a public authority to which  
22           subsection (4AA) applies forms the opinion that the  
23           public authority cannot comply with a request under  
24           subsection (3) consistently with its duties and  
25           responsibilities or so as to not unduly prejudice the  
26           performance of its functions, the relevant officer must,  
27           at the request of the CEO, give the CEO written  
28           reasons for the opinion.



- 1 (4AC) In subsection (4AB) —  
 2 *relevant officer*, for a public authority, means —  
 3 (a) if the public authority is an entity referred to in  
 4 paragraph (a), (b) or (c) of the definition of  
 5 *public authority* in section 3 — the principal  
 6 officer (however described) of that entity; or  
 7 (b) if the public authority is a body referred to in  
 8 paragraph (d) of the definition of *public*  
 9 *authority* in section 3 — the principal officer  
 10 (however described) of that body; or  
 11 (c) if the public authority is the holder of an office,  
 12 post or position referred to in paragraph (d) of  
 13 the definition of *public authority* in  
 14 section 3 — that holder.  
 15

16 **15. Section 22A inserted**

17 After section 22 insert:  
 18

19 **22A. Approval of Aboriginal or Torres Strait Islander**  
 20 **representative organisations for consultation**

- 21 (1) The CEO may, in accordance with the regulations,  
 22 approve an organisation as an Aboriginal or Torres  
 23 Strait Islander representative organisation that is to be  
 24 consulted about certain decisions under this Act.  
 25 (2) An approval may be subject to conditions specified in  
 26 the instrument of approval.  
 27 (3) The CEO must make an up-to-date list of approved  
 28 Aboriginal or Torres Strait Islander representative  
 29 organisations available for inspection by members of  
 30 the public free of charge on the Internet or otherwise,  
 31 as the CEO considers appropriate.  
 32

s. 16

---

1 **16. Section 28 amended**

2 In section 28(2):

3 (a) delete “Part” and insert:

4

5 Act,

6

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

8

9 the child’s

10

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

12

13 member of the child’s family

14

15 (d) after paragraph (a) insert:

16

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

19 (i) there is no parent who is willing and  
20 able to care for the child; and

21 (ii) no suitable adult member of the child’s  
22 family or other suitable adult can be  
23 found who is willing and able to care for  
24 the child;

25 or

26

27 (e) in paragraph (b) delete “relative” and insert:

28

29 member of the child’s family

30

1 (f) in paragraph (d)(i) and (ii) after “unable” insert:  
2  
3 or unwilling  
4

5 **17. Section 29 amended**

6 (1) In section 29(1) delete “Part” and insert:  
7

8 Act  
9

10 (2) Delete section 29(3)(c) and insert:  
11

12 (c) the Court makes an interim order under  
13 section 133(2)(c) that the child be placed with a  
14 person approved by the Court; or  
15

16 **18. Section 30 amended**

17 In section 30 delete “Part” and insert:  
18

19 Act,  
20

21 **19. Section 32 amended**

22 In section 32(1)(a) and (b)(i) delete “relative of the child;” and  
23 insert:  
24

25 member of the child’s family;  
26

s. 20

---

1   **20.     Section 39 amended**

2       (1) Delete section 39(1).

3       (2) In section 39(2):

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

5

6                   The CEO must prepare and implement a plan (a  
7                   *provisional care plan*) for a child

8

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

10

11                   the child

12

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

14

15           (2A) Unless section 88I(2) applies, the CEO must prepare  
16           the provisional care plan within 7 working days after  
17           the child is taken into provisional protection and care.

18           (2B) A provisional care plan for a child must —

19

(a) be in writing; and

20

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

22

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

24

(d) record decisions made by the CEO about the  
25           care of the child, including —

26

(i) decisions about a placement  
27           arrangement for the child; and

28

(ii) decisions about contact between the  
29           child and a parent, sibling, other  
30           member of the child’s family or other

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

24  
25 **21. Section 41 amended**

- 26 In section 41(1) in the definition of *appropriate person*:  
27 (a) in paragraph (b) delete “relative of the child; or” and  
28 insert:  
29  
30 member of the child’s family; or  
31

s. 22

---

1 (b) in paragraph (c) delete “relative of the child,” and insert:  
2  
3 member of the child’s family,  
4

5 **22. Section 42 amended**

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

7 *parent*

8 *special guardian*

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

11

12 made.  
13

14 **23. Section 43 amended**

15 In section 43 delete “Part” and insert:

16

17 Act  
18

19 **24. Section 44 amended**

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

21

22 sought and any proposed conditions of the order; and  
23

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

27

28 proposed special guardian.  
29

1   **25.   Section 45 amended**

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

3

4           Part and Part 5 —

5

6   **26.   Section 50 amended**

7           Delete section 50(3) and insert:

8

9           (3) A protection order (supervision) may include a  
10           condition requiring the child to live with a specified  
11           parent of the child, but otherwise must not include a  
12           condition about —

13                   (a) the person or persons with whom the child is to  
14                   live; or

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

17

18   **27.   Section 61 amended**

19           (1) Delete section 61(1).

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

22

23           that

24

**s. 27**

---

- 1           (3) After section 61(2) insert:  
2
- 3           (2A) The Court must, in assessing the suitability of the  
4           proposed special guardian, have regard to the following  
5           as if the order were a placement arrangement —  
6               (a) for an Aboriginal or Torres Strait Islander  
7               child — the principle set out in section 12;  
8               (b) for a child of a culturally or linguistically  
9               diverse background — the guidelines  
10              established under section 80;  
11              (c) in any case — other principles set out in Part 2  
12              affecting the placement of a child who is in the  
13              CEO’s care.
- 14           (2B) The Court must not make a protection order (special  
15           guardianship) for an Aboriginal or Torres Strait  
16           Islander child if no Aboriginal person or Torres Strait  
17           Islander is to be the special guardian unless the CEO  
18           has given the Court a written report prepared by a  
19           person who meets criteria prescribed by the  
20           regulations.  
21
- 22           (4) In section 61(3):  
23               (a) in paragraph (a) delete “subsection (2)(b)(i) and (ii);  
24               and” and insert:  
25                 
26               subsections (2)(b)(i) and (ii) and (2A); and  
27                 
28               (b) in paragraph (b) delete “child.” and insert:  
29                 
30               child; and  
31



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

- 1   **28.     Section 63 replaced**
- 2           Delete section 63 and insert:
- 3
- 4           **63.     Conditions of protection order (special**
- 5                   **guardianship)**
- 6           (1)   A protection order (special guardianship) may include
- 7                   conditions to be complied with by the special guardian
- 8                   about —
- 9                         (a)   contact between the child and another person;
- 10                                 or
- 11                         (b)   for an Aboriginal or Torres Strait Islander child
- 12                                 or a child of a culturally or linguistically
- 13                                 diverse background — matters that could be
- 14                                 included in a cultural support plan for the child.
- 15           (2)   It is a condition of a protection order (special
- 16                   guardianship) that the special guardian must not,
- 17                   except with the permission of the Court, make an
- 18                   application under the *Births, Deaths and Marriages*
- 19                   *Registration Act 1998* section 19(1), 23(1) or 31(3) (a
- 20                   ***change of name application***) in relation to the child.
- 21           (3)   The Court may, on an application made by the special
- 22                   guardian, permit the making of a change of name
- 23                   application if it is satisfied that —
- 24                         (a)   there are exceptional reasons for the change of
- 25                                 name; and
- 26                         (b)   for a child who it is satisfied has sufficient
- 27                                 maturity and understanding to consent to the
- 28                                 change of name — the child consents to the
- 29                                 change.
- 30           (4)   A protection order (special guardianship) must not
- 31                   include any conditions other than those referred to in
- 32                   this section.
- 33

1   **29.    Section 64 amended**

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

4  
5           (special guardianship) other than the condition referred to in  
6           section 63(2).

7  
8   **30.    Section 69B inserted**

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

10  
11       **69B.   Replacement of protection order (special**  
12       **guardianship) on notification by CEO**

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

17           (2) If the CEO gives written notice to the Court under  
18           subsection (1), the protection order (special  
19           guardianship) is revoked and replaced by a protection  
20           order (time-limited) in respect of the child on the day  
21           (*notification day*) on which the CEO gives the notice.

22           (3) The protection order (time-limited) —

23               (a) comes into force on notification day; and

24               (b) for the purposes of Subdivision 4, is taken to  
25               specify the shorter of the following periods —

26                   (i) the period of 2 years beginning on  
27                   notification day;

28                   (ii) the period beginning on notification day  
29                   and ending on the day before the day on  
30                   which the child reaches 18 years of age.

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---

- 1           (4) As soon as practicable after notification day, the CEO  
2           must give written notice of the protection order  
3           (time-limited) 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 other person considered by the CEO to  
8           have a direct and significant interest in the  
9           wellbeing of the child.  
10

11 **31. Section 79 amended**

12 In section 79(2):

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

22 **32. Section 81 replaced**

23 Delete section 81 and insert:  
24

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

- 27           (1) Before making a placement arrangement in respect of  
28           an Aboriginal or Torres Strait Islander child, the CEO  
29           must consult with the following —  
30           (a) an Aboriginal person or Torres Strait Islander  
31           who is a member of the child’s family;

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

14 **33. Section 88C amended**

15 After section 88C(5) insert:

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

23 **34. Section 88I amended**

- 24 (1) Delete section 88I(1).
- 25 (2) In section 88I(5):
- 26 (a) in paragraph (b) delete "again." and insert:  
27  
28 again; and  
29

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---

- 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).

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  
the needs of the child; and

11

12

(d) for an Aboriginal or Torres Strait Islander child  
or a child of a culturally or linguistically  
diverse background — incorporate a cultural  
support plan for the child; and

13

14

15

16

(e) for a child who has reached 15 years of age  
(subject to subsection (3F)) — incorporate a  
leaving care plan for the child; and

17

18

19

(f) record decisions made by the CEO about the  
care of the child, including —

20

21

(i) decisions about a placement  
arrangement for the child; and

22

23

(ii) decisions about contact between the  
child and a parent, sibling, other  
member of the child’s family or other  
person who is significant in the child’s  
life; and

24

25

26

27

28

(iii) secure care decisions;

29

and

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---

- 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



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

- 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

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---

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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1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
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);

- 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



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

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- 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           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       **60. Section 143 amended**

- 20       (1) Delete section 143(1).
- 21       (2) Delete section 143(3)(c) and insert:  
22
- 23                     (c) an application under section 68 —  
24                         (i) for the replacement of a protection order  
25                             (supervision) by another protection  
26                             order (supervision); or  
27                         (ii) for the replacement of a protection order  
28                             (time-limited), protection order (until  
29                             18) or protection order (special  
30                             guardianship) by another protection

1 order (other than a protection order  
2 (special guardianship)),  
3

4 (3) Delete section 143(4) and (5) and insert:  
5

6 (4) If the CEO makes an application under section 68 for  
7 the replacement of a protection order (supervision) by a  
8 protection order (time-limited) or protection order  
9 (until 18), the CEO must provide the Court with a  
10 proposal for the child as soon as practicable after the  
11 application is made.

12 (5) The Court may, on an application for a protection order  
13 of a different type to the type that the Court is  
14 considering making or for revocation of a protection  
15 order, request the CEO to provide —

16 (a) a proposal for the type of protection order that  
17 the Court is considering making; or

18 (b) reports under section 61 if the Court is  
19 considering making a protection order (special  
20 guardianship).  
21

22 **61. Section 143A inserted**

23 After section 143 insert:  
24

25 **143A. Content of proposal**

26 (1) A proposal under section 143 for a protection order  
27 (supervision) must outline proposed arrangements for  
28 the supervision of the wellbeing of the child.

29 (2) A proposal under section 143 for a protection order  
30 (time-limited) or protection order (until 18) must

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- 1 outline proposed arrangements for safeguarding and  
2 promoting the wellbeing of the child, including —
- 3 (a) proposed arrangements for promoting, where  
4 appropriate, the relationship between the child  
5 and the child’s family or other people who are  
6 significant in the child’s life; and
- 7 (b) for an Aboriginal or Torres Strait Islander child  
8 or a child of a culturally or linguistically  
9 diverse background —
- 10 (i) proposed arrangements for placement of  
11 the child in accordance with the  
12 principle set out in section 12 or  
13 guidelines established under section 80  
14 (as the case requires) and the principle  
15 set out in section 9(gb); and
- 16 (ii) a cultural support plan for the child.
- 17 (3) A proposal under section 143 for a protection order  
18 (time-limited) or protection order (until 18) for an  
19 Aboriginal or Torres Strait Islander child must outline  
20 the consultation that has occurred or is proposed to  
21 occur as required under section 81.
- 22 (4) A proposal under section 143 for a protection order  
23 (time-limited) must —
- 24 (a) outline proposed arrangements for working  
25 towards the child being returned to or placed  
26 with the child’s parents; or
- 27 (b) if the CEO is of the opinion that such  
28 arrangements would be contrary to the best  
29 interests of the child or not practicable —  
30 contain a brief explanation of the reasons for  
31 the opinion.

- 1 (5) A proposal under section 143 for the extension of a  
2 protection order (time-limited) must include plans for  
3 securing long-term stability, security and safety in the  
4 child's relationships and living arrangements.  
5

6 **62. Section 144 amended**

7 In section 144(2) delete "section 143(4)" and insert:

8

9 section 143A(5),  
10

11 **63. Section 145 amended**

12 Delete section 145(3) and insert:

13

- 14 (3) Protection proceedings are to be concluded as  
15 expeditiously as possible so as to minimise the risk of  
16 detrimental effects arising from delay in  
17 decision-making.

18 (3A) Subsection (3) does not prevent an adjournment of  
19 proceedings to allow for a trial period for particular  
20 arrangements or for other appropriate reasons.  
21

22 **64. Section 147 amended**

23 Delete section 147(d) and insert:

24

- 25 (d) if the proceedings relate to a protection order  
26 (special guardianship) — the special guardian  
27 or proposed special guardian;  
28

1     **65.     Section 153 amended**

2             In section 153(2):

3                 (a)    in paragraph (a) before “has” insert:

4

5                         is a person who

6

7                 (b)    delete paragraph (b) and insert:

8

9                         (b)    is a person whose disability prevents or restricts  
10                                 the party’s understanding of, or participation in,  
11                                 protection proceedings,

12

13                 (c)    delete “that prevents or restricts the party’s  
14                                 understanding of, or participation in, protection  
15                                 proceedings,”.

16     **66.     Section 157 amended**

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

18     **67.     Section 188 amended**

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

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

22

23                         member of the child’s family.

24

25     **68.     Section 192 amended**

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

27

28                         female child or a transgender or intersex child who identifies as  
29                                 female, the breasts;

30

1 **69. Section 195 deleted**

2 Delete section 195.

3 **70. Section 239 amended**

4 In section 239(1):

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

6

7 member of a child’s family; or

8

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

10

11 member of a child’s family

12

13 **71. Part 10A inserted**

14 After section 241 insert:

15

16 **Part 10A — Enforcement**

17 **Division 1 — Preliminary**

18 **241A. Terms used**

19 In this Part —

20 *authorised purpose* means —

21 (a) for an authorised officer — investigating a  
22 suspected offence under this Act; or

23 (b) for an industrial inspector or an authorised  
24 officer designated under section 25 as an  
25 authorised officer for Part 7 — investigating a  
26 suspected offence under that Part or monitoring  
27 compliance with that Part;

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

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- 1                    **magistrate** means a magistrate of the Court or a  
2                    magistrate of the Magistrates Court;
- 3                    **record** means a record of information, irrespective of  
4                    how the information is recorded or stored or able to be  
5                    recovered and includes —
- 6                    (a) any thing from which images, sounds or  
7                    writings can be reproduced, with or without the  
8                    aid of anything else; and
- 9                    (b) any thing on which information is recorded or  
10                    stored, whether electronically, magnetically,  
11                    mechanically or by some other means;
- 12                    **relevant record** means a record or document that —
- 13                    (a) is required to be kept under this Act; or
- 14                    (b) contains information that is or may be relevant  
15                    to an offence under this Act.

16                    **241B. Application of Part**

- 17                    (1) The powers conferred by this Part on an industrial  
18                    inspector are in addition to, and do not limit, the  
19                    powers conferred by the *Industrial Relations Act 1979*.
- 20                    (2) The powers conferred by this Part may be exercised in  
21                    relation to a suspected offence under this Act, or other  
22                    conduct, whether occurring before or after the  
23                    commencement of the *Children and Community*  
24                    *Services Amendment Act 2019* section 71.

25                    **Division 2 — General powers**

26                    **241C. Entry to places**

- 27                    (1) An authorised officer or industrial inspector may, for  
28                    an authorised purpose, enter a place if —
- 29                    (a) its occupier gives informed consent to the  
30                    entry; or
- 31                    (b) the entry is authorised by an entry warrant.



- 
- 1           (2) An occupier gives informed consent to entry to a place  
2           if the occupier gives consent after being informed by  
3           an authorised officer or industrial inspector —  
4           (a) of the powers the officer or inspector wants to  
5           exercise in respect of the place; and  
6           (b) of the reasons why the officer or inspector  
7           wants to exercise those powers; and  
8           (c) that the occupier can refuse to consent to the  
9           officer or inspector entering the place.
- 10          (3) To investigate a suspected offence under Part 7 or  
11          monitor compliance with that Part, an authorised  
12          officer or industrial inspector may, at any reasonable  
13          time, enter a place in which —  
14          (a) a child is employed; or  
15          (b) the officer or inspector believes on reasonable  
16          grounds a child is, or may in the future be,  
17          employed.
- 18          (4) Entry to a place under subsection (3) may be without  
19          informed consent of its occupier or an entry warrant.

20           **241D. Powers after entering place**

- 21           An authorised officer or industrial inspector who enters  
22           a place under section 241C may, for an authorised  
23           purpose, do any of the following —  
24           (a) inspect the place and any thing at the place;  
25           (b) search the place and any thing at the place;  
26           (c) measure, test, photograph or film any part of  
27           the place or any thing at the place;  
28           (d) take any thing, or a sample of or from any  
29           thing, at the place for analysis or testing;  
30           (e) operate equipment or facilities at the place or  
31           direct a person at the place to do so;

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- 1 (f) make a copy of, or take an extract from, any  
2 record or document at the place;
- 3 (g) seize any thing that is or may afford evidence  
4 of an offence under this Act;
- 5 (h) direct (orally or in writing) the occupier of the  
6 place, or a person at the place, to give the  
7 officer or inspector such assistance as the  
8 officer or inspector reasonably requires.

9 **241E. Directions to provide information or documents**

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

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

25           **241F. Additional powers for relevant records**

26           An authorised officer or industrial inspector may, for

27           an authorised purpose, do any of the following —

- 28               (a) operate a computer or other thing on which the
- 29               officer or inspector suspects on reasonable
- 30               grounds a relevant record is or may be stored or
- 31               direct a person who has the custody or control
- 32               of the computer or thing to do so;

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- 1 (b) direct (orally or in writing) a person who is or  
2 appears to be in control of a record or document  
3 that the officer or inspector suspects on  
4 reasonable grounds is a relevant record to give  
5 the officer or inspector a translation, code,  
6 password or other information necessary to  
7 gain access to or interpret and understand the  
8 record or document;
- 9 (c) make a copy of or take an extract from, or  
10 download or print out, or photograph or film, a  
11 record or document that the officer or inspector  
12 suspects on reasonable grounds is a relevant  
13 record;
- 14 (d) seize a record or document that the officer or  
15 inspector suspects on reasonable grounds is a  
16 relevant record and retain it for as long as is  
17 necessary for the purposes of this Act;
- 18 (e) seize a computer or other thing on which the  
19 officer or inspector suspects on reasonable  
20 grounds a relevant record is or may be stored  
21 and retain it for as long as is necessary for the  
22 purposes of this Act;
- 23 (f) take reasonable measures to secure or protect a  
24 relevant record, or computer or other thing on  
25 which a relevant record is or may be stored,  
26 against damage or unauthorised removal or  
27 interference.

28 **241G. Contravention of directions**

29 A person who, without reasonable excuse, fails to  
30 comply with a direction given to the person under this  
31 Division commits an offence.

32 Penalty: a fine of \$12 000.

1           **241H. Exercise of power may be recorded**

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

5           **241I. Assistance and use of force to exercise power**

6           (1) An authorised officer or industrial inspector exercising  
7           a power under this Division may authorise as many  
8           other people to assist in exercising the power as are  
9           reasonably necessary in the circumstances.

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

14          **241J. Procedure on seizing things**

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

19          (2) If an authorised officer or industrial inspector seizes  
20          any thing under this Division, the officer or inspector  
21          must, if practicable, allow a person who is otherwise  
22          entitled to possession of it to have reasonable access to  
23          it.

24          (3) An authorised officer or industrial inspector who seizes  
25          any thing under this Division may take reasonable  
26          measures to prevent the thing being concealed, lost,  
27          damaged or destroyed.

28          (4) If it is not practicable to move any thing that has been  
29          seized, an authorised officer or industrial inspector may  
30          do whatever is reasonably necessary to secure it where  
31          it is situated and to notify people that it is under  
32          seizure.

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- 1 (5) A person must not, without the approval of an  
2 authorised officer or industrial inspector, interfere or  
3 deal with any thing that the person knows, or ought  
4 reasonably to know, has been seized by an authorised  
5 officer or industrial inspector.

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

7 **241K. Application of *Criminal and Found Property***  
8 ***Disposal Act 2006***

9 (1) The *Criminal and Found Property Disposal Act 2006*  
10 applies to any thing that is seized under this Division.

11 (2) For the purposes of the *Criminal and Found Property*  
12 *Disposal Act 2006*, the Department is a prescribed  
13 agency.

14 **Division 3 — Entry warrants**

15 **241L. Application for entry warrant**

16 (1) An authorised officer or industrial inspector may apply  
17 to a magistrate for a warrant (an *entry warrant*)  
18 authorising the entry of a place for an authorised  
19 purpose.

20 (2) Subject to this section —

21 (a) an application for an entry warrant must be in  
22 writing and include the information prescribed  
23 by the regulations; and

24 (b) the grounds of the application must be verified  
25 by affidavit; and

26 (c) the applicant must appear in person before the  
27 magistrate to provide information in support of  
28 the application on oath.

29 (3) If the warrant is needed urgently and the applicant  
30 reasonably suspects that a magistrate is not available  
31 within a reasonable distance of the applicant, an

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

20 **241M. Issue and content of entry warrant**

- 21 (1) On an application for an entry warrant, a magistrate  
22 may issue the warrant if satisfied that it is necessary for  
23 an authorised officer or industrial inspector to enter a  
24 place for an authorised purpose.
- 25 (2) An entry warrant must contain the following  
26 information —
- 27 (a) a reasonably particular description of the place  
28 to which it relates;  
29 (b) a reasonably particular description of the  
30 authorised purpose for which entry to the place  
31 is required;

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- 1 (c) if the authorised purpose is investigating a  
2 suspected offence under this Act — the  
3 provision of the Act suspected of being  
4 contravened;
- 5 (d) the period, not exceeding 14 days, during which  
6 it may be executed;
- 7 (e) the name of the magistrate who issued it;
- 8 (f) the date and time when it was issued.
- 9 (3) An entry warrant must be in the form prescribed by the  
10 regulations.
- 11 (4) If a magistrate issues an entry warrant on an  
12 application made by remote communication —
- 13 (a) if it is practicable to send a copy of the original  
14 warrant to the applicant by remote  
15 communication, the magistrate must do so; or
- 16 (b) if that is not practicable —
- 17 (i) the magistrate must provide the  
18 applicant by remote communication  
19 with the information that must be set out  
20 in the warrant; and
- 21 (ii) the applicant must complete a form of  
22 warrant with the information received  
23 and give the magistrate a copy of the  
24 form as soon as practicable after doing  
25 so; and
- 26 (iii) the magistrate must attach the copy of  
27 the form to the original warrant and any  
28 affidavit received from the applicant  
29 and make them available for collection  
30 by the applicant.
- 31 (5) The copy of the original warrant sent, or the form of  
32 the warrant completed, under subsection (4) has the  
33 same force and effect as the original warrant.



1           **241N. Refusal of entry warrant**

2                   If a magistrate refuses to issue an entry warrant, the  
3                   magistrate must record on the application, or the  
4                   written record of the application, the fact of, the date  
5                   and time of, and the reasons for, the refusal.

6           **241O. Effect of entry warrant**

7                   (1) An entry warrant comes into force when it is issued by  
8                   a magistrate.

9                   (2) An entry warrant may be executed according to its  
10                  terms by an authorised officer or industrial inspector  
11                  entitled to enter the place for the authorised purpose  
12                  specified in the warrant.

13                  (3) However, if an applicant for an entry warrant  
14                  contravenes section 241L(5)(c) or 241M(4)(b)(ii),  
15                  evidence obtained under the entry warrant is not  
16                  admissible in proceedings in a court or tribunal.  
17

18   **72. Section 243 amended**

19                  In section 243 delete “assessor or an authorised officer.” and  
20                  insert:

21  
22                  assessor, authorised officer or industrial inspector.  
23

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

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

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1 **73. Section 246 amended**

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

4  
5 officer, authorised officer or industrial inspector, assists the  
6 officer or inspector

7  
8 **74. Section 249 replaced**

9 Delete section 249 and insert:

10

11 **249. Review of Act**

12 (1) The Minister must review the operation and  
13 effectiveness of this Act, and prepare a report based on  
14 the review —

15 (a) as soon as practicable after the 5<sup>th</sup> anniversary  
16 of the day on which the *Children and*  
17 *Community Services Amendment Act 2019*  
18 section 74 comes into operation; and

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

20 (2) The Minister must cause the report to be laid before  
21 each House of Parliament as soon as practicable after  
22 it is prepared, but not later than 12 months after the  
23 5<sup>th</sup> anniversary or the expiry of the period of 5 years, as  
24 the case may be.

25

1 **75. Various penalties amended**

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

3

4 Penalty for this subsection:

5

6

**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)

7

Note:

8

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

9

