

Children and Community Services Amendment Bill 2021

Comparison between cl.71 'Part 10A inserted' and the *Child Care Services Act 2007*, Part 4 'Compliance and enforcement'

Provisions that are the same

	Amendment Bill	<i>Child Care Services Act 2007</i>
Ability to enter a place	s.241C(1)(a) and (b)	s.42(2)(d) and (e)
Informed consent	s.241C(2)	s.42(3)
An officer can enter certain places without an entry warrant	s.241C(4)	s.43I(2)
Powers after entering a place	s.241D	s.43A
Powers in obtaining information, records etc.	s.241E(1)(b) and (c)	s.43B(1)(b) and (c)
Directions given by an officer to give information, answer questions etc.	s.241E(2)(a) and (b)(i) to (iii)	s.43B(2)(a) and (b)(i) to (iii)
Directions given by an officer to provide information or a record	s.241E(3)	s.43B(3)
Not excused from complying with direction	s.241E(4)	s.43(1)
Additional power for relevant records	s.241F	s.43C
Failing to comply with a direction is an offence	s.241G	s.43D(1)
Exercise of powers may be recorded	s.241H	s.43E
Additional Authorises people to assist, and can use reasonable force	s.241I	s.43F(1),(2) and (3)
Procedure for seizing things	s.241J	s.43G
Application of <i>Criminal and Found Property Disposal Act 2006</i>	s.241K	s.43H
An application for an entry warrant must be in writing and include any prescribed information	s.241L(2)(a)	s.43I(3) and s.43J(4)
An applicant must appear in person to provide information in support of the application on oath	s.241L(2)©	s.43J(3) and (5)

	Amendment Bill	<i>Child Care Services Act 2007</i>
If a warrant is needed urgently, then an application can be made by remote communication	s.241L(3)	s.43J(3)
If an application for an entry warrant is made by remote communication, it must be rejected unless satisfied that it is needed urgently and the person is not available within a reasonable distance.	s.241L(4)	s.43J(3)
If an application is made by remote communication, and it is not practicable to send written material, an application can be made orally	s.241L(5)	s.43J(4)
Issue and content of entry warrants	s.241M(1),(2) and (3)	s.43K(1),(2) and (3)
When an entry warrant is issued on application by remote communication	s.241M(4)	s.43J(6)
Refusal of an entry warrant	s.241N	s.43K(4)
Effect of entry warrant	s.241O(1) and (2)	s.43L
If an applicant contravenes the verification of the information, then any information obtained is inadmissible	s.241O(3)	s.43J(8)

Provisions that are different

	Amendment Bill	<i>Child Care Services Act 2007</i>
1. Directing a person to give information or answer question: The Bill does not express that a direction can be made in relation to any matter	s.241E(1)(a)	s.43B(1)(a)
2. Direction may require the information provided to be verified: The Bill does not allow information to be verified by oath or affirmation, only statutory declaration	s.241E(2)(b)(iv)	s.43B(2)(b)(iv)
3. Information etc. given in compliance with a direction is not admissible in	s.241E(5)	s.43(2)

	Amendment Bill	<i>Child Care Services Act 2007</i>
<p>evidence against the individual in other proceedings:</p> <p>The Bill includes civil proceedings, whereas the Care Act refers specifically to the licensing of child care services and disciplinary matters.</p>		
<p>4. Informing person that it is an offence to contravene a direction:</p> <p>The Bill states that a “an officer must explain to a person’, whereas the Care Act states that if provided orally then the officer must ‘inform’ and if in writing ‘the direction must state’.</p>	s.241E(6)	s.43B(4) and (5)
<p>5. Application for an entry warrant:</p> <p>The Bill states that an officer can apply for a warrant from a Magistrate, whereas the Care Act states that an officer must apply to a JP.</p>	s.241L(1)	s.43I(1)
<p>6. An application for an entry warrant must be verified by affidavit:</p> <p>The Care Act does not have this requirement.</p>	s.241L(2)(b)	
<p>7. An officer may administer an oath or affirmation for the purposes of:</p> <p>The Bill does not have this additional power</p>		s.43B(6)
<p>8. An additional authorised person who assists an officer in exercising their powers, is to be taken to be performing a function under the Act:</p> <p>The Bill does not have this additional provision.</p>		s.43F(4)
<p>9. Directions can be given orally or in writing:</p> <p>The Care Act provides that a direction under the relevant Division may be given orally or in writing and this applies to the whole Division, whereas the Bill</p>	s.241D(h), s.241E(7), s.241F(b)	s.43D(1)

	Amendment Bill	<i>Child Care Services Act 2007</i>
provides that ability only in specific subsections of the relevant Division.		