



Western Australia

# **Children and Community Services Amendment Act 2021**

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# Children and Community Services Amendment Act 2021

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Western Australia

# Children and Community Services Amendment Act 2021

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No. 18 of 2021

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**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 certain persons; and**
- **for other purposes.**

[Assented to 19 October 2021]

The Parliament of Western Australia enacts as follows:

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**1. Short title**

This is the *Children and Community Services Amendment Act 2021*.

**2. Commencement**

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) section 75 — on the day on which section 3 comes into operation;
- (c) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

**3. Act amended**

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

**4. Section 3 amended**

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

*parent*  
*relative*

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

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

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

*community* means —

- (a) in relation to an Aboriginal child — the child's Aboriginal community; or



- (b) in relation to a Torres Strait Islander child —  
the child's Torres Strait Islander community;

***cultural support plan*** has the meaning given in  
section 89A;

***family***, of a child, means —

- (a) for a child who is not an Aboriginal child or  
Torres Strait Islander child — each of the  
following relatives of the child (whether the  
relationship is established by, or traced through,  
consanguinity, marriage, a de facto  
relationship, a written law or a natural  
relationship) —
- (i) parent, grandparent or other ancestor;
  - (ii) step-parent;
  - (iii) sibling;
  - (iv) uncle or aunt;
  - (v) cousin;
  - (vi) spouse or de facto partner;

or

- (b) for an Aboriginal child or Torres Strait Islander  
child — each person regarded under the  
customary law or tradition of the child's  
community as the equivalent of a person  
mentioned in paragraph (a);

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

***leaving care plan*** has the meaning given in  
section 89B;

**parent**, of a child —

- (a) means a person, other than the CEO, who at law has responsibility for —
  - (i) the long-term care, welfare and development of the child; or
  - (ii) the day-to-day care, welfare and development of the child;
- and
- (b) if a protection order (other than a protection order (supervision)) has been made for the child — includes a person who would have been a parent of the child if the order had not been made;

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

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

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

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

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

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

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

At the beginning of Part 2 insert:

**Division 1A — Preliminary**

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

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

**6. Section 6 amended**

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

to appropriately and safely manage

**7. Section 7 replaced**

Delete section 7 and insert:

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

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

**8. Section 8 amended**

In section 8(1):

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

what is in the best interests of a child,

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

members of the child’s family and with

- (c) in paragraph (g)(ii) delete “relative of the child; or” and insert:

member of the child’s family; or

- (d) in paragraph (g)(iii) delete “any”;

- (e) delete paragraph (g)(iv) and insert:

- (iv) other people who are significant in the child’s life;

- (f) delete paragraph (h) and insert:

- (h) the need for the child to develop and maintain contact with the child’s parents, siblings and other members of the child’s family and with other people who are significant in the child’s life;

- (g) delete paragraph (j) and insert:
  - (j) the child’s cultural, ethnic and religious identity (including the need for cultural support to develop and maintain a connection with the culture and traditions of the child’s family or community);

**9. Section 9 amended**

In section 9:

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

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

- (b) after paragraph (e) insert:
  - (ea) the principle that every child should be treated as a valued member of society in a manner that respects the child’s dignity and privacy;
- (c) delete paragraphs (g) and (ha) and insert:
  - (g) the principle that planning for the care of a child who is in the CEO’s care should occur as soon as possible in order to promote long-term stability for the child and should, as soon as possible, include consideration of whether it is appropriate to work towards returning the child to the child’s parents;

- (ga) the principle that objectives of planning for the care of a child who is in the CEO's care include the following —
  - (i) to achieve continuity and stability in the child's living arrangements;
  - (ii) to preserve and enhance the child's relationships with the child's family and with other people who are significant in the child's life (subject to protecting the child from harm and meeting the child's needs);
  - (iii) for an Aboriginal child, Torres Strait Islander child or child of a culturally or linguistically diverse background — to preserve and enhance the child's connection with the culture and traditions of the child's family or community;
- (gb) the principle that objectives of planning for a placement arrangement for a child include, subject to protecting the child from harm and meeting the child's needs, the following —
  - (i) to place the child with a member of the child's family;
  - (ii) to place the child with the child's siblings (subject also to protecting the siblings from harm);
  - (iii) to place the child with a person who is willing and able to encourage and support the child to develop and maintain contact with the child's parents, siblings and other members of the child's family and with other people who are significant in the child's life,

subject to decisions under this Act about that contact;

- (d) in paragraph (h) delete “child;” and insert:

child and to minimising the risk of detrimental effects arising from delay in decision-making;

- (e) in paragraph (j) delete “any”;  
(f) in paragraph (k) delete “any” (1<sup>st</sup> occurrence);  
(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.

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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).

**11. Section 12 amended**

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

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

- (2) In section 12(2):

- (a) delete “a Torres Strait Islander child,” and insert:

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

- (b) in paragraph (b) delete “a” (2<sup>nd</sup> occurrence);



- (c) delete paragraphs (c) and (d) and insert:
  - (c) placement with a person who is an Aboriginal person or Torres Strait Islander who lives in close proximity to the child's community;
  - (d) placement with either a person who is an Aboriginal person or Torres Strait Islander or a person who is not an Aboriginal person or Torres Strait Islander but who —
    - (i) lives in close proximity to the child's community; and
    - (ii) is responsive to the cultural support needs of the child and is willing and able to encourage and support the child to develop and maintain a connection with the culture and traditions of the child's family or community;
  - (e) placement with a person who is not an Aboriginal person or Torres Strait Islander but who is responsive to the cultural support needs of the child and is willing and able to encourage and support the child to develop and maintain a connection with the culture and traditions of the child's family or community.

**12. Section 13 amended**

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

Aboriginal people and Torres Strait Islanders have a right

**13. Section 14 amended**

- (1) In section 14 delete the passage that begins with “In the administration” and ends with “should” and insert:
  - (1) A family, community or representative organisation of Aboriginal people or Torres Strait Islanders must
- (2) At the end of section 14 insert:
  - (2) Consideration must be given to the wishes and views of the child, taking into account the maturity and understanding of the child, and the child’s parents about the participation of a family, community or organisation under subsection (1).

**14. Section 22 amended**

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

functions
- (2) After section 22(4) insert:
  - (4AA) A public authority prescribed by the regulations as a public authority to which this subsection applies must prioritise a request under subsection (3) to provide assistance to the following —
    - (a) a child in the CEO’s care;
    - (b) a person who under section 96 qualifies for assistance under Part 4 Division 6;

- (c) a child under a protection order (special guardianship).
- (4AB) If the relevant officer for a public authority to which subsection (4AA) applies forms the opinion that the public authority cannot comply with a request under subsection (3) consistently with its functions or so as to not unduly prejudice the performance of its functions, the relevant officer must, at the request of the CEO, give the CEO written reasons for the opinion.
- (4AC) In subsection (4AB) —
- relevant officer**, for a public authority, means —
- (a) if the public authority is an entity referred to in paragraph (a), (b) or (c) of the definition of **public authority** in section 3 — the principal officer (however described) of that entity; or
  - (b) if the public authority is a body referred to in paragraph (d) of the definition of **public authority** in section 3 — the principal officer (however described) of that body; or
  - (c) if the public authority is the holder of an office, post or position referred to in paragraph (d) of the definition of **public authority** in section 3 — that holder.

**15. Section 22A inserted**

After section 22 insert:

**22A. Approval of Aboriginal or Torres Strait Islander representative organisations**

- (1) The CEO may, in accordance with the regulations, approve an organisation as an Aboriginal or Torres

Strait Islander representative organisation for the purposes of this Act.

- (2) An approval may be subject to conditions specified in the instrument of approval.
- (3) The CEO must make an up-to-date list of Aboriginal or Torres Strait Islander representative organisations available for inspection by members of the public free of charge on the Internet or otherwise, as the CEO considers appropriate.

**16. Section 24A amended**

In section 24A(1) in the definition of *prescribed report* paragraph (d)(i) after “*Bail Act 1982*,” insert:

the former *Dangerous Sexual Offenders Act 2006*,

**17. Section 28 amended**

In section 28(2):

- (a) delete “Part” and insert:

Act,

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

the child’s

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

member of the child’s family

- (d) after paragraph (a) insert:
  - (aa) paragraph (a) applies and, on the parent or parents subsequently being found —
    - (i) there is no parent who is willing and able to care for the child; and
    - (ii) no suitable adult member of the child’s family or other suitable adult can be found who is willing and able to care for the child;

or

- (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

**18. 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

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**19. Section 30 amended**

In section 30 delete “Part” and insert:

Act,

**20. Section 32 amended**

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

member of the child’s family;

**21. Section 39 amended**

(1) Delete section 39(1).

(2) In section 39(2):

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

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

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

the child

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

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

- (2B) A provisional care plan for a child must —
- (a) be in writing; and
  - (b) identify the needs of the child while the child is in provisional protection and care; and
  - (c) outline steps or measures to be taken to address those needs; and
  - (d) record decisions made by the CEO about the care of the child, including —
    - (i) decisions about a placement arrangement for the child; and
    - (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
    - (iii) decisions about a secure care arrangement for the child;and
  - (e) contain a summary of —
    - (i) how the principle set out in section 10 has been applied in connection with the decisions recorded in the plan; and
    - (ii) the wishes and views expressed by the child about the decisions recorded in the plan.
- (2C) Subsection (2B)(e) only applies to the application of the principle set out in section 10, and to wishes and views expressed by the child, after the commencement of the *Children and Community Services Amendment Act 2021* section 21.

- (2D) The CEO must modify a provisional care plan for a child if a decision recorded in the plan is varied, revoked or substituted or a further decision about the care of the child is made by the CEO.
- (2E) The modification must be made as soon as practicable after the decision is varied, revoked or substituted or the further decision is made.

**22. Section 41 amended**

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

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

member of the child’s family; or

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

member of the child’s family,

**23. Section 42 amended**

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

*parent*

*special guardian*

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

made.



**24. Section 43 amended**

In section 43 delete “Part” and insert:

Act

**25. Section 44 amended**

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

sought and any proposed conditions of the order; and

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

proposed special guardian.

**26. Section 50 amended**

Delete section 50(3) and insert:

- (3) A protection order (supervision) may include a condition requiring the child to live with a specified parent of the child, but otherwise must not include a condition about —
- (a) the person or persons with whom the child is to live; or
  - (b) who is to have responsibility for the day-to-day care, welfare and development of the child.

**27. Section 61 amended**

- (1) Delete section 61(1).
- (2) In section 61(2)(b) delete “that, having regard to the report mentioned in subsection (3),” and insert:

that
- (3) After section 61(2) insert:
  - (2A) The Court must, in assessing the suitability of the proposed special guardian, have regard to the following as if the order were a placement arrangement —
    - (a) for an Aboriginal child or Torres Strait Islander child — the principle set out in section 12;
    - (b) for a child of a culturally or linguistically diverse background — the guidelines established under section 80;
    - (c) in any case — other principles set out in Part 2 affecting the placement of a child who is in the CEO’s care.
  - (2B) The Court must not make a protection order (special guardianship) for an Aboriginal child or Torres Strait Islander child if no Aboriginal person or Torres Strait Islander is to be the special guardian unless the CEO has given the Court a written report prepared by a person who meets criteria prescribed by the regulations.

- (4) In section 61(3):
- (a) in paragraph (a) delete “subsection (2)(b)(i) and (ii); and” and insert:  
  
subsections (2)(b)(i) and (ii) and (2A); and
  - (b) in paragraph (b) delete “child.” and insert:  
  
child; and
  - (c) after paragraph (b) insert:
    - (c) without limiting paragraph (b), outlines the proposed arrangements for encouraging and supporting the child to develop and maintain contact with the child’s parents, siblings and other members of the child’s family and with other people who are significant in the child’s life, subject to decisions under this Act about that contact; and
    - (d) for an Aboriginal child, Torres Strait Islander child or child of a culturally or linguistically diverse background — is accompanied by a cultural support plan for the child.
- (5) Delete section 61(4) and (5) and insert:
- (4) However, the report need not be accompanied by a cultural support plan if the application for the protection order (special guardianship) is made under section 69A.

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

**28. Section 63 replaced**

Delete section 63 and insert:

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

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

- (b) for a child who it is satisfied has sufficient maturity and understanding to consent to the change of name — the child consents to the change.
- (4) A protection order (special guardianship) must not include any conditions other than those referred to in this section.

**29. Section 64 amended**

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

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

**30. Section 69B inserted**

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

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

- (1) If the CEO becomes aware that each individual who is a special guardian under a protection order (special guardianship) has died, the CEO must give written notice of that fact to the Court as soon as practicable.
- (2) If the CEO gives written notice to the Court under subsection (1), the protection order (special guardianship) is revoked and replaced by a protection order (time-limited) in respect of the child on the day (*notification day*) on which the CEO gives the notice.

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- (3) The protection order (time-limited) —
  - (a) comes into force on notification day; and
  - (b) for the purposes of Subdivision 4, is taken to specify the shorter of the following periods —
    - (i) the period of 2 years beginning on notification day;
    - (ii) the period beginning on notification day and ending on the day before the day on which the child reaches 18 years of age.
- (4) As soon as practicable after notification day, the CEO must give written notice of the protection order (time-limited) to the following —
  - (a) the child;
  - (b) each other party to the initial proceedings (other than the special guardian);
  - (c) each other person considered by the CEO to have a direct and significant interest in the wellbeing of the child.
- (5) Section 67 applies in relation to a protection order (time-limited) that comes into force under this section as if the reference in section 67(1) to a party to the initial proceedings were a reference to a person notified of the order under subsection (4).

**31. Section 79 amended**

In section 79(2):

- (a) in paragraph (a)(iii) delete “authority;” and insert:

authority; or

- (b) after paragraph (a)(iii) insert:
  - (iv) as otherwise prescribed by the regulations;

**32. Section 81 replaced**

Delete section 81 and insert:

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

- (1) Before making a placement arrangement in respect of an Aboriginal child or Torres Strait Islander child, the CEO must consult with each of the following —
  - (a) Aboriginal persons or Torres Strait Islanders who are members of the child's family;
  - (b) subject to the regulations, an Aboriginal or Torres Strait Islander representative organisation;
  - (c) an officer who is an Aboriginal person or Torres Strait Islander who, in the opinion of the CEO, has relevant knowledge of the child, the child's family or the child's community.
- (2) If it is not practicable, for reasons of urgency or otherwise, to consult as required under subsection (1) before making a placement arrangement, the consultation must take place as soon as practicable after the placement arrangement is made.

**33. Section 88C amended**

After section 88C(5) insert:

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

**34. Section 88I amended**

- (1) Delete section 88I(1).

- (2) In section 88I(5):

- (a) in paragraph (b) delete “again.” and insert:

again; and

- (b) after paragraph (b) insert:

- (c) contains a summary of —

- (i) how the principle set out in section 10 has been applied in connection with the matters referred to in paragraphs (a) and (b); and
      - (ii) the wishes and views expressed by the child in connection with those matters.



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

(6) Subsection (5)(c) only applies to the application of the principle set out in section 10, and to wishes and views expressed by the child, after the commencement of the *Children and Community Services Amendment Act 2021* section 34.

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

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

**Subdivision 3 — Plans**

**36. Section 88 deleted**

Delete section 88.

**37. Section 89 amended**

(1) Delete section 89(1).

(2) In section 89(2) delete “care plan” and insert:

plan (a *care plan*)

(3) After section 89(3) insert:

(3A) A care plan for a child must —

(a) be in writing; and

(b) identify the needs of the child; and

(c) outline steps or measures to be taken to address the needs of the child; and

- (d) for an Aboriginal child, Torres Strait Islander child or child of a culturally or linguistically diverse background — incorporate a cultural support plan for the child; and
  - (e) for a child who has reached 15 years of age (subject to subsection (3F)) — incorporate a leaving care plan for the child; and
  - (f) record decisions made by the CEO about the care of the child, including —
    - (i) decisions about a placement arrangement for the child; and
    - (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
    - (iii) secure care decisions;and
  - (g) contain a summary of —
    - (i) how the principle set out in section 10 has been applied in connection with the decisions recorded in the plan; and
    - (ii) the wishes and views expressed by the child about the decisions recorded in the plan.
- (3B) Subsection (3A)(d), (e) and (g) do not apply to a care plan in existence immediately before the commencement of the *Children and Community Services Amendment Act 2021* section 37 until the completion of the first review of the plan under section 90 after that commencement.
- (3C) Subsection (3A)(g) only applies to the application of the principle set out in section 10, and to wishes and

views expressed by the child, after the commencement of the *Children and Community Services Amendment Act 2021* section 37.

- (3D) The CEO must modify a care plan if a decision recorded in the plan is varied, revoked or substituted or a further decision about the care of the child is made by the CEO.
  - (3E) The modification must be made as soon as practicable after the decision is varied, revoked or substituted or the further decision is made.
  - (3F) The CEO must modify a care plan to include a leaving care plan as soon as practicable after the child reaches 15 years of age.
- (4) Delete section 89(5A) and (5) and insert:
- (5) However, the CEO cannot modify a care plan in a manner that would be contrary to section 94(3).

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

**Care plan**

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

After section 89 insert:

**89A. Cultural support plan**

A *cultural support plan* for a child is a plan that contains arrangements for developing and maintaining the child's connection with the culture and traditions of the child's family or community.

**89B. Leaving care plan**

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

- (a) identifies the needs of the child in preparing to leave the CEO's care and in transitioning to other living arrangements; and
- (b) outlines steps or measures to be taken to assist the child to meet those needs (including the social services proposed to be provided when the child leaves the CEO's care).

**39. Section 89C inserted**

Before section 90 insert:

**89C. Participation in cultural support plan for Aboriginal child or Torres Strait Islander child**

If a cultural support plan is required for an Aboriginal child or Torres Strait Islander child, the CEO must, subject to the regulations, give an Aboriginal or Torres Strait Islander representative organisation an opportunity to participate in the preparation of the cultural support plan for the child.

**40. Section 90 amended**

After section 90(2) insert:

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

**41. Section 91 amended**

- (1) In section 91 delete the definitions of:  
*care plan*  
*parent*
- (2) In section 91 in the definition of *care planning decision* delete “decision referred to in section 88G;” and insert:  
  
decision;
- (3) In section 91 in the definition of *care plan review panel* delete “section 92;” and insert:  
  
section 92.

**42. Section 92 amended**

- (1) After section 92(3) insert:  
  
(3A) At least 1 member of the care plan review panel must be an Aboriginal person or Torres Strait Islander.
- (2) After section 92(8) insert:  
  
(9) If there are more than 3 members of the care plan review panel —
  - (a) the panel to which an application under section 93(1) or (2A) is referred must be constituted by 3 members; and

- (b) the panel, separately constituted under paragraph (a), may sit simultaneously to hear and determine separate applications referred to the panel.
- (10) If an application referred to the care plan review panel concerns an Aboriginal child or Torres Strait Islander child, the panel constituted for the review must include at least 1 Aboriginal person or Torres Strait Islander.

**43. Section 94 amended**

In section 94(3) delete “in section 89(4)” and insert:

to modify a care plan

**44. Section 98 amended**

Delete section 98(1) and insert:

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

**45. Section 99 amended**

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

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

**46. Section 100A inserted**

At the end of Part 4 Division 6 insert:

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

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

**47. Section 101 amended**

After section 101(1) insert:

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

**48. Section 104 amended**

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

member of the child's family; or

**49. Section 105 amended**

After section 105(2)(a) insert:

- (aa) for a child who is the subject of a secure care arrangement — the act is done in accordance

with procedures approved by the CEO for the secure care facility where the child lives; or

**50. Section 115 amended**

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

subsection (3); and

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

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

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

**51. Section 120 amended**

Delete section 120(1).



**52. Section 124A amended**

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

***departmental officer*** —

- (a) means an officer —
- (i) who is a public service officer; or
  - (ii) who holds an office or position prescribed, or of a class prescribed, for the purposes of this subparagraph; or
  - (iii) whose duties include duties prescribed, or of a class prescribed, for the purposes of this subparagraph;
- but
- (b) does not include an officer who is —
- (i) employed or engaged as a student or volunteer; or
  - (ii) under 18 years of age;

- (2) In section 124A insert in alphabetical order:

***early childhood worker*** means an adult who is —

- (a) any of the following for the purposes of the *Education and Care Services National Law (Western Australia)* —
- (i) an approved provider;
  - (ii) a person with management or control of an education and care service;
  - (iii) a nominated supervisor for an approved education and care service;
  - (iv) an educator;

- (v) a family day care co-ordinator;
- (vi) a family day care educator assistant;

or

- (b) a licensee as defined in the *Child Care Services Act 2007* section 3; or
- (c) a supervising officer as defined in the *Child Care Services Act 2007* section 5A(1); or
- (d) a member of staff of a child care service, as defined in the *Child Care Services Act 2007* section 4, whose duties include the provision of education and care to children;

- (3) In section 124A insert in alphabetical order:

***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);

- (4) In section 124A insert in alphabetical order:

***out-of-home care service provider*** means a person who has entered into an agreement under section 15(1) for the provision of placement services;

***out-of-home care worker*** —

- (a) means an adult who holds an office or position with, or is otherwise employed or engaged by, an out-of-home care service provider and whose duties include —
  - (i) the provision of social services to children who are the subject of a placement arrangement or to carers of those children; or
  - (ii) duties prescribed, or of a class prescribed, for the purposes of this subparagraph;

but

- (b) does not include an adult who —
  - (i) provides care, at the adult's usual place of residence, for children who are the subject of a placement arrangement; or
  - (ii) is employed or engaged as a student or volunteer;

- (5) In section 124A insert in alphabetical order:

***psychologist*** means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession (other than as a student);

- (6) In section 124A insert in alphabetical order:

***school counsellor*** —

- (a) means an adult who is employed or engaged in a school, as defined in the *School Education Act 1999* section 4, to provide counselling or pastoral care to children who attend the school; but
- (b) does not include an adult who is employed or engaged as a student or volunteer;

- (7) In section 124A insert in alphabetical order:

***youth justice worker*** —

- (a) means an adult who is —
  - (i) a custodial officer, as defined in the *Young Offenders Act 1994* section 3, whose duties include the supervision or monitoring of children; or
  - (ii) a member of the council, as defined in the *Young Offenders Act 1994* section 17A, of an Aboriginal community and is involved in the supervision of a child under an agreement entered into by the council under section 17B of that Act; or
  - (iii) appointed as a monitor under the *Young Offenders Act 1994* section 17C(1); or
  - (iv) appointed as a Juvenile Justice Team Coordinator under the *Young Offenders Act 1994* section 36(1); or

- (v) assigned as a supervising officer under the *Young Offenders Act 1994* section 77, 108 or 139; or
  - (vi) employed or engaged in the department of the Public Service principally assisting in the administration of the *Children's Court of Western Australia Act 1988* or the *Young Offenders Act 1994* and whose duties include duties prescribed, or of a class prescribed, for the purposes of this subparagraph;
- but
- (b) does not include an adult who is employed or engaged as a student or volunteer.
- (8) In section 124A in the definition of ***commencement day***:
- (a) delete “means —” and insert:  
  
means the following —
  - (b) in paragraph (a) delete “operation; or” and insert:  
  
operation;
- (9) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
- (c) in relation to a minister of religion — the day on which the *Children and Community Services Amendment Act 2021* section 52(9) came into operation;

- (10) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
- (d) in relation to an assessor — the day on which the *Children and Community Services Amendment Act 2021* section 52(10) came into operation;
- (11) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
- (e) in relation to a departmental officer — the day on which the *Children and Community Services Amendment Act 2021* section 52(11) came into operation;
- (12) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
- (f) in relation to an early childhood worker — the day on which the *Children and Community Services Amendment Act 2021* section 52(12) came into operation;
- (13) In section 124A in the definition of ***commencement day*** insert in alphabetical order according to paragraph designation:
- (g) in relation to an out-of-home care worker — the day on which the *Children and Community Services Amendment Act 2021* section 52(13) came into operation;

(14) In section 124A in the definition of **commencement day** insert in alphabetical order according to paragraph designation:

(h) in relation to a psychologist — the day on which the *Children and Community Services Amendment Act 2021* section 52(14) came into operation;

(15) In section 124A in the definition of **commencement day** insert in alphabetical order according to paragraph designation:

(i) in relation to a school counsellor — the day on which the *Children and Community Services Amendment Act 2021* section 52(15) came into operation;

(16) In section 124A in the definition of **commencement day** insert in alphabetical order according to paragraph designation:

(j) in relation to a youth justice worker — the day on which the *Children and Community Services Amendment Act 2021* section 52(16) came into operation;

(17) In section 124A in the definition of **doctor** delete “profession;” and insert:

profession (other than as a student);

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- (18) In section 124A in the definition of *midwife* delete “profession;” and insert:

profession (other than as a student);

- (19) In section 124A in the definition of *nurse* delete “profession;” and insert:

profession (other than as a student);

- (20) In section 124A in the definition of *teacher* paragraph (e) delete “section.” and insert:

section;

**53. Section 124B amended**

- (1) Delete section 124B(1)(a) and insert:

- (a) is a person specified in the Table (a *specified person*); and

**Table**

boarding supervisor	doctor
midwife	nurse
police officer	teacher



- (2) In section 124B(1)(a) in the Table insert in alphabetical order:

assessor

- (3) In section 124B(1)(a) in the Table insert in alphabetical order:

departmental officer

- (4) In section 124B(1)(a) in the Table insert in alphabetical order:

early childhood worker

- (5) In section 124B(1)(a) in the Table insert in alphabetical order:

minister of religion

- (6) In section 124B(1)(a) in the Table insert in alphabetical order:

out-of-home care worker

- (7) In section 124B(1)(a) in the Table insert in alphabetical order:

psychologist

- (8) In section 124B(1)(a) in the Table insert in alphabetical order:

school counsellor

- (9) In section 124B(1)(a) in the Table insert in alphabetical order:

youth justice worker

- (10) In section 124B(1)(c)(i) delete “doctor, nurse, midwife, police officer, teacher or boarding supervisor; and” and insert:

specified person; and

- (11) In section 124B(4):

- (a) delete “A requirement” and insert:

The duty

- (b) delete “doctor, nurse, midwife, police officer, teacher or boarding supervisor.” and insert:

specified person.

**54. Section 124BA inserted**

After section 124B insert:

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

- (1) In this section —  
*religious confession* means a confession made by a person to a minister of religion in the minister's capacity as a minister of religion in accordance with the tenets of the minister's faith or religion.
- (2) For the purposes of section 124B(1)(c)(i), a minister of religion who forms a belief on the basis of information disclosed to the minister in the minister's capacity as a minister of religion is taken to form the belief in the course of the minister's work.
- (3) A minister of religion is not excused from criminal responsibility for an offence under section 124B(1) on the grounds that —
  - (a) the minister's belief is based on information disclosed to the minister during a religious confession; or
  - (b) disclosure of the minister's belief or information on which the belief is based is otherwise contrary to the tenets of the minister's faith or religion.

**55. Section 125A amended**

In section 125A(4A) delete "relative of a child in a facility," and insert:

member of the child's family,

**56. Section 131B amended**

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

appropriately and safely managing

**57. Section 131D amended**

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

appropriately and safely manage

**58. Section 131 amended**

- (1) In section 131 delete the definition of *parent*.
- (2) In section 131 in the definition of *child* delete “proceedings;” and insert:

proceedings.

**59. Section 132 amended**

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

(1) The Court

- (2) At the end of section 132 insert:
  - (2) However, protection proceedings must not be adjourned if the proceedings are for an interim order (secure care).
  - (3) Subsection (2) does not apply if the Court is satisfied that there are exceptional reasons for an adjournment and adjourns the proceedings for a period not exceeding 2 working days.

**60. Section 133 amended**

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

sibling, other member of the child’s family or

**61. Section 143 amended**

- (1) Delete section 143(1).
- (2) Delete section 143(3)(c) and insert:
  - (c) an application under section 68 —
    - (i) for the replacement of a protection order (supervision) by another protection order (supervision); or
    - (ii) for the replacement of a protection order (time-limited), protection order (until 18) or protection order (special guardianship) by another protection order (other than a protection order (special guardianship)),

- (3) Delete section 143(4) and insert:
- (4) If the CEO makes an application under section 68 for the replacement of a protection order (supervision) by a protection order (time-limited) or protection order (until 18), the CEO must provide the Court with a proposal for the child as soon as practicable after the application is made.

**62. Section 143A inserted**

After section 143 insert:

**143A. Content of proposal**

- (1) A proposal under section 143 for a protection order (supervision) must outline proposed arrangements for the supervision of the wellbeing of the child.
- (2) A proposal under section 143 for a protection order (time-limited) or protection order (until 18) must outline proposed arrangements for safeguarding and promoting the wellbeing of the child, including —
- (a) proposed arrangements for promoting, where appropriate, the relationship between the child and the child's family or other people who are significant in the child's life; and
- (b) for an Aboriginal child, Torres Strait Islander child or child of a culturally or linguistically diverse background —
- (i) proposed arrangements for placement of the child in accordance with the principle set out in section 12 or guidelines established under section 80

- (as the case requires) and the principle set out in section 9(gb); and
- (ii) a cultural support plan for the child.
- (3) A proposal under section 143 for a protection order (time-limited) or protection order (until 18) for an Aboriginal child or Torres Strait Islander child must outline the consultation that has occurred or is proposed to occur as required under section 81.
  - (4) A proposal under section 143 for a protection order (time-limited) must —
    - (a) outline proposed arrangements for working towards the child being returned to or placed with the child’s parents; or
    - (b) if the CEO is of the opinion that such arrangements would be contrary to the best interests of the child or not practicable — contain an explanation of the reasons for the opinion.
  - (5) A proposal under section 143 for the extension of a protection order (time-limited) must include plans for securing long-term stability, security and safety in the child’s relationships and living arrangements.

**63. Section 144 amended**

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

section 143A(5),

**64. Section 145 amended**

Delete section 145(3) and insert:

- (3) Protection proceedings are to be concluded as expeditiously as possible so as to minimise the risk of detrimental effects arising from delay in decision-making.
- (3A) Subsection (3) does not prevent an adjournment of proceedings to allow for a trial period for particular arrangements or for other appropriate reasons.

**65. Section 147 amended**

Delete section 147(d) and insert:

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

**66. Section 153 amended**

In section 153(2):

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

is a person who

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

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



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

**67. Section 157 amended**

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

**68. Section 188 amended**

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

member of the child’s family.

**69. Section 192 amended**

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

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

**70. Section 195 deleted**

Delete section 195.

**71. Section 239 amended**

In section 239(1):

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

member of a child’s family; or

- (b) in paragraph (c) delete “child’s relative” and insert:
- member of a child’s family

**72. Part 10A inserted**

After section 241 insert:

**Part 10A — Enforcement**

**Division 1 — Preliminary**

**241A. Terms used**

In this Part —

*authorised purpose* means —

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

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

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

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

- (a) any thing from which images, sounds or writings can be reproduced, with or without the aid of anything else; and

- (b) any thing on which information is recorded or stored, whether electronically, magnetically, mechanically or by some other means;

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

- (a) is required to be kept under this Act; or
- (b) contains information that is or may be relevant to an offence under this Act.

**241B. Application of Part**

- (1) The powers conferred by this Part on an industrial inspector are in addition to, and do not limit, the powers conferred by the *Industrial Relations Act 1979*.
- (2) The powers conferred by this Part may be exercised in relation to a suspected offence under this Act, or other conduct, whether occurring before or after the commencement of the *Children and Community Services Amendment Act 2021* section 72.

**Division 2 — General powers**

**241C. Entry to places**

- (1) An authorised officer or industrial inspector may, for an authorised purpose, enter a place if —
  - (a) its occupier gives informed consent to the entry; or
  - (b) the entry is authorised by an entry warrant.
- (2) An occupier gives informed consent to entry to a place if the occupier gives consent after being informed by an authorised officer or industrial inspector —
  - (a) of the powers the officer or inspector wants to exercise in respect of the place; and

- (b) of the reasons why the officer or inspector wants to exercise those powers; and
  - (c) that the occupier can refuse to consent to the officer or inspector entering the place.
- (3) To investigate a suspected offence under Part 7 or monitor compliance with that Part, an authorised officer or industrial inspector may, at any reasonable time, enter a place in which —
  - (a) a child is employed; or
  - (b) the officer or inspector believes on reasonable grounds a child is, or may in the future be, employed.
- (4) Entry to a place under subsection (3) may be without informed consent of its occupier or an entry warrant.

**241D. Powers after entering place**

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

- (a) inspect the place and any thing at the place;
- (b) search the place and any thing at the place;
- (c) measure, test, photograph or film any part of the place or any thing at the place;
- (d) take any thing, or a sample of or from any thing, at the place for analysis or testing;
- (e) operate equipment or facilities at the place or direct a person at the place to do so;
- (f) make a copy of, or take an extract from, any record or document at the place;
- (g) seize any thing that is or may afford evidence of an offence under this Act;

- (h) direct (orally or in writing) the occupier of the place, or a person at the place, to give the officer or inspector such assistance as the officer or inspector reasonably requires.

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

- (1) An authorised officer or industrial inspector may, for an authorised purpose, do any of the following —
  - (a) direct a person —
    - (i) to give information; or
    - (ii) to answer a question put to the person;
  - (b) direct a person to produce a record or document that is in the person's possession or under the person's control;
  - (c) make a copy of a record or document produced in response to a direction under paragraph (b).
- (2) A direction under subsection (1)(a) —
  - (a) must specify the time at or within which the information or answer is to be given; and
  - (b) may require that the information or answer —
    - (i) be given orally or in writing; and
    - (ii) be given at, or sent or delivered to, a place specified in the direction; and
    - (iii) in the case of written information or a written answer, be sent or delivered by a means specified in the direction; and
    - (iv) be verified by statutory declaration.
- (3) A direction under subsection (1)(b) —
  - (a) must specify the time at or within which the record or document is to be produced; and

- (b) may require that the record or document be produced —
  - (i) at a place specified in the direction; and
  - (ii) by a means specified in the direction.
- (4) A person is not excused from complying with a direction under this section to give information, answer a question or produce a record or document on the ground that complying with the direction might tend to incriminate the person or render the person liable to a penalty.
- (5) However, any information or answer given by an individual in compliance with such a direction is not admissible in evidence against the individual in criminal or civil proceedings other than proceedings for perjury or for an offence under section 244.
- (6) In giving a direction to a person under this section, an authorised officer or industrial inspector must explain to the person that it is an offence to contravene the direction and the effect of subsections (4) and (5).
- (7) A direction under this section may be given orally or in writing.

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

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

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

- (b) direct (orally or in writing) a person who is or appears to be in control of a record or document that the officer or inspector suspects on reasonable grounds is a relevant record to give the officer or inspector a translation, code, password or other information necessary to gain access to or interpret and understand the record or document;
- (c) make a copy of or take an extract from, or download or print out, or photograph or film, a record or document that the officer or inspector suspects on reasonable grounds is a relevant record;
- (d) seize a record or document that the officer or inspector suspects on reasonable grounds is a relevant record and retain it for as long as is necessary for the purposes of this Act;
- (e) seize a computer or other thing on which the officer or inspector suspects on reasonable grounds a relevant record is or may be stored and retain it for as long as is necessary for the purposes of this Act;
- (f) take reasonable measures to secure or protect a relevant record, or computer or other thing on which a relevant record is or may be stored, against damage or unauthorised removal or interference.

**241G. Contravention of directions**

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

Penalty: a fine of \$12 000.

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

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

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

- (1) An authorised officer or industrial inspector exercising a power under this Division may authorise as many other people to assist in exercising the power as are reasonably necessary in the circumstances.
- (2) In exercising the power, an authorised officer or industrial inspector, and a person authorised under subsection (1) to assist the officer or inspector, may use force that is reasonably necessary in the circumstances.

**241J. Procedure on seizing things**

- (1) If an authorised officer or industrial inspector seizes any thing under this Division, the officer or inspector must give the person who was in possession of it a receipt for it in the approved form.
- (2) If an authorised officer or industrial inspector seizes any thing under this Division, the officer or inspector must, if practicable, allow a person who is otherwise entitled to possession of it to have reasonable access to it.
- (3) An authorised officer or industrial inspector who seizes any thing under this Division may take reasonable measures to prevent the thing being concealed, lost, damaged or destroyed.
- (4) If it is not practicable to move any thing that has been seized, an authorised officer or industrial inspector may do whatever is reasonably necessary to secure it where



it is situated and to notify people that it is under seizure.

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

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

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

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

**Division 3 — Entry warrants**

**241L. Application for entry warrant**

- (1) An authorised officer or industrial inspector may apply to a magistrate for a warrant (an *entry warrant*) authorising the entry of a place for an authorised purpose.
- (2) Subject to this section —
  - (a) an application for an entry warrant must be in writing and include the information prescribed by the regulations; and
  - (b) the grounds of the application must be verified by affidavit; and
  - (c) the applicant must appear in person before the magistrate to provide information in support of the application on oath.

- (3) If the warrant is needed urgently and the applicant reasonably suspects that a magistrate is not available within a reasonable distance of the applicant, an application for an entry warrant may be made by remote communication.
- (4) A magistrate must reject an application for an entry warrant made by remote communication unless satisfied that —
  - (a) the warrant is needed urgently; and
  - (b) a magistrate is not available within a reasonable distance of the applicant.
- (5) If an application for an entry warrant is made by remote communication and it is not practicable to send the magistrate written material —
  - (a) the application may be made orally; and
  - (b) the magistrate must make a written record of the application and information given in support of it; and
  - (c) if the warrant is issued — the applicant must, as soon as practicable, send the magistrate an affidavit verifying the application and information given in support of it.

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

- (1) On an application for an entry warrant, a magistrate may issue the warrant if satisfied that it is necessary for an authorised officer or industrial inspector to enter a place for an authorised purpose.
- (2) An entry warrant must contain the following information —
  - (a) a reasonably particular description of the place to which it relates;

- (b) a reasonably particular description of the authorised purpose for which entry to the place is required;
  - (c) if the authorised purpose is investigating a suspected offence under this Act — the provision of the Act suspected of being contravened;
  - (d) the period, not exceeding 14 days, during which it may be executed;
  - (e) the name of the magistrate who issued it;
  - (f) the date and time when it was issued.
- (3) An entry warrant must be in the form prescribed by the regulations.
- (4) If a magistrate issues an entry warrant on an application made by remote communication —
- (a) if it is practicable to send a copy of the original warrant to the applicant by remote communication, the magistrate must do so; or
  - (b) if that is not practicable —
    - (i) the magistrate must provide the applicant by remote communication with the information that must be set out in the warrant; and
    - (ii) the applicant must complete a form of warrant with the information received and give the magistrate a copy of the form as soon as practicable after doing so; and
    - (iii) the magistrate must attach the copy of the form to the original warrant and any affidavit received from the applicant and make them available for collection by the applicant.

- (5) The copy of the original warrant sent, or the form of the warrant completed, under subsection (4) has the same force and effect as the original warrant.

**241N. Refusal of entry warrant**

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

**241O. Effect of entry warrant**

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

**73. Section 243 amended**

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

assessor, authorised officer or industrial inspector.

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

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

**74. Section 246 amended**

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

officer, authorised officer or industrial inspector, assists the officer or inspector

**75. Section 249 replaced**

Delete section 249 and insert:

**249. Review of Act**

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review —
  - (a) as soon as practicable after the 5<sup>th</sup> anniversary of the day on which the *Children and Community Services Amendment Act 2021* section 75 comes into operation; and
  - (b) after that, at intervals of not more than 5 years.
- (2) Without limiting subsection (1), the first review under that subsection must address —
  - (a) recommendations 4 and 11 set out in Report 44 of the Standing Committee on Legislation of the Legislative Council; and
  - (b) the need for the continuation of section 241E(4) and (5).

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

**76. Various penalties amended**

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

Penalty for this subsection:

**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)

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