



Western Australia

Children and Community Services Legislation Amendment and Repeal Act 2015

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No. 23 of 2015

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Children and Community Services Legislation Amendment and Repeal Act 2015

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — Amendments and repeals relating to responsible parenting agreements		
Division 1 — <i>Children and Community Services Act 2004</i> amended		
3.	Act amended	3
4.	Section 3 amended	3
5.	Section 6 amended	3
6.	Section 32 amended	3
7.	Part 5A inserted	4
Part 5A — Responsible parenting agreements		
131A.	Terms used	4
131B.	Principle to be observed in administration of this Part	5
131C.	Responsible parenting agreements	5
131D.	Entering into responsible parenting agreement	6
131E.	Content of responsible parenting agreement	6
131F.	Formal requirements	7
131G.	Effect of responsible parenting agreement	7
131H.	Delegation by CEO (Corrective Services) and CEO (Education)	8

Children and Community Services Legislation Amendment and Repeal Act 2015

Contents

8.	Section 237 amended	9
9.	Schedule 1 Division 7 inserted	10
	Division 7 — Provisions for <i>Children and Community Services Legislation Amendment and Repeal Act 2015</i>	
29.	Terms used	10
30.	PSR Act parenting agreements	11
31.	Departmental parenting agreements	12
	Division 2 — Repeals	
10.	<i>Parental Support and Responsibility Act 2008</i> repealed	12
11.	<i>Parental Support and Responsibility Regulations 2009</i> repealed	12
12.	<i>Parental Support and Responsibility (Disclosure of Information) Guidelines 2009</i> repealed	12
	Division 3 — Other Acts amended	
	Subdivision 1 — <i>Children’s Court of Western Australia Act 1988</i> amended	
13.	Act amended	13
14.	Section 20 amended	13
15.	Section 24 deleted	13
16.	Section 36 amended	13
17.	Section 40 amended	13
	Subdivision 2 — <i>School Education Act 1999</i> amended	
18.	Act amended	14
19.	Section 26 amended	14
20.	Section 40 amended	14
	Subdivision 3 — <i>Young Offenders Act 1994</i> amended	
21.	Act amended	15
22.	Section 15A amended	15
23.	Section 46 amended	15
	Part 3 — Other amendments to <i>Children and Community Services Act 2004</i>	
24.	Act amended	16
25.	Section 3 amended	16
26.	Section 8 amended	17

*Children and Community Services Legislation
Amendment and Repeal Act 2015*

Contents

27.	Section 9 amended	17
28.	Section 23 amended	17
29.	Section 24A replaced	19
	24A. Power of CEO to obtain copies of certain reports from CEO (Corrective Services)	19
30.	Part 3 Division 6 inserted	20
	Division 6 — Information sharing	
	28A. Terms used	20
	28B. Disclosure of information by prescribed authority or authorised entity	22
	28C. Delegation of powers under s. 28B	23
31.	Section 28 amended	24
32.	Section 35 amended	25
33.	Section 41 amended	25
34.	Section 62 replaced	26
	62. Duration of protection order (special guardianship)	26
35.	Section 65 amended	27
36.	Section 87 amended	27
37.	Section 89 amended	27
38.	Part 4 Division 5 Subdivision 4 heading amended	28
39.	Section 91 amended	28
40.	Section 92 amended	29
41.	Section 93 amended	29
42.	Section 94 amended	31
43.	Section 95 amended	32
44.	Section 101 amended	32
45.	Section 103 replaced	32
	103. Tattooing or branding	33
46.	Section 124A amended	33
47.	Section 124B amended	34
48.	Section 124C amended	34
49.	Section 145 amended	34



Western Australia

Children and Community Services Legislation Amendment and Repeal Act 2015

No. 23 of 2015

An Act to —

- **amend the *Children and Community Services Act 2004* to make provision for responsible parenting agreements and for other purposes; and**
- **repeal the *Parental Support and Responsibility Act 2008* and regulations and guidelines made under that Act; and**
- **make consequential amendments to other Acts.**

[Assented to 17 September 2015]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Children and Community Services Legislation Amendment and Repeal Act 2015*.

2. Commencement

This Act comes into operation as follows —

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

**Part 2 — Amendments and repeals relating to
responsible parenting agreements**

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

3. Act amended

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

4. Section 3 amended

In section 3 insert in alphabetical order:

responsible parenting agreement has the meaning
given in section 131C;

5. Section 6 amended

After section 6(c) insert:

(da) to support and reinforce the role and
responsibility of parents in exercising
appropriate control over the behaviour of their
children; and

6. Section 32 amended

After section 32(1)(b) insert:

(ca) enter into a responsible parenting agreement in
respect of the child;

Children and Community Services Legislation Amendment and Repeal Act 2015

Part 2 Amendments and repeals relating to responsible parenting agreements

Division 1 Children and Community Services Act 2004 amended
s. 7

7. Part 5A inserted

After section 130 insert:

Part 5A — Responsible parenting agreements

131A. Terms used

In this Part —

authorised CEO means —

- (a) the CEO; or
- (b) the CEO (Corrective Services); or
- (c) the CEO (Education);

CEO (Corrective Services) means the chief executive officer of the department of the Public Service principally assisting in the administration of the *Young Offenders Act 1994*;

CEO (Education) means the chief executive officer of the department of the Public Service referred to in the *School Education Act 1999* section 228;

corrective services officer means a person employed or engaged in the department of the Public Service principally assisting in the administration of the *Young Offenders Act 1994*, whether as a public service officer under the *Public Sector Management Act 1994*, under a contract for services, or otherwise;

education officer means a person employed or engaged in the department of the Public Service referred to in the *School Education Act 1999* section 228, whether in a category described in section 235(1) of that Act, under a contract for services, or otherwise;

official means an officer as defined in section 3, a corrective services officer, an education officer or

another person employed or engaged in a public authority;

parenting includes the provision of day-to-day care for a child by a responsible person for the child;

responsible person, for a child, means —

- (a) a parent of the child; or
- (b) an adult, other than a parent of the child, with whom the child usually lives and who provides day-to-day care for the child.

131B. Principle to be observed in administration of this Part

- (1) In the administration of this Part a principle to be observed is that public authorities should work together cooperatively and effectively to give responsible persons for a child the best chance of —
 - (a) safeguarding and promoting the child’s wellbeing; and
 - (b) exercising appropriate control over the behaviour of the child; and
 - (c) complying with any responsible parenting agreement they may enter into.
- (2) The principle set out in subsection (1) is in addition to, and does not derogate from, the principles set out in Part 2 Divisions 2 and 3.

131C. Responsible parenting agreements

A **responsible parenting agreement** is an agreement in respect of a child or children between —

- (a) any or all of the authorised CEOs; and
- (b) one or more responsible persons for the child or children.

131D. Entering into responsible parenting agreement

An authorised CEO may enter into a responsible parenting agreement if the authorised CEO is satisfied, in relation to each child in respect of whom the agreement is entered into, that —

- (a) the child engages in any of the following behaviour (the *relevant behaviour*) —
 - (i) criminal or antisocial behaviour;
 - (ii) persistent failure to attend school;and
- (b) the relevant behaviour is having, or is likely to have, a detrimental effect on the wellbeing of the child; and
- (c) the parenting of the child may be contributing to the child engaging in the relevant behaviour; and
- (d) the responsible parenting agreement may assist the responsible person or persons to exercise appropriate control over the behaviour of the child.

131E. Content of responsible parenting agreement

- (1) A responsible parenting agreement must be about one or more of the following matters —
 - (a) the responsible person engaging with a counselling service, a support service or any other relevant social service;
 - (b) the responsible person taking all reasonable steps to ensure that the child attends school;
 - (c) the responsible person taking all reasonable steps to ensure that the child avoids contact with a particular person or particular persons;

- (d) the responsible person taking all reasonable steps to ensure that the child avoids a particular place or particular places;
 - (e) other matters relating to the effective parenting of the child;
 - (f) the assistance to be given to the responsible person or the child by a public authority to assist the responsible person to comply with the agreement.
- (2) If more than one responsible person enters into the responsible parenting agreement, a reference in subsection (1) to the responsible person is a reference to any or all of those responsible persons.
- (3) If the responsible parenting agreement is entered into in respect of more than one child, a reference in subsection (1) to the child is a reference to any or all of those children.

131F. Formal requirements

A responsible parenting agreement must —

- (a) be in writing; and
- (b) specify the period covered by the agreement; and
- (c) be signed by each authorised CEO, and each responsible person, who enters into the agreement.

131G. Effect of responsible parenting agreement

- (1) A responsible parenting agreement does not create obligations that are enforceable.
- (2) An action in tort does not lie against the State, a Minister of the State, a public authority or an official

for any failure of a person to comply with a responsible parenting agreement.

131H. Delegation by CEO (Corrective Services) and CEO (Education)

- (1) The CEO (Corrective Services) may delegate to a corrective services officer any power or duty of the CEO (Corrective Services) under another provision of this Part or section 237(3) or (4).
- (2) The CEO (Education) may delegate to an education officer any power or duty of the CEO (Education) under another provision of this Part or section 237(3) or (4).
- (3) A delegation under this section must be in writing signed by the CEO (Corrective Services) or the CEO (Education), as the case requires.
- (4) A delegation under this section may expressly authorise the delegate to further delegate the power or duty.
- (5) A person exercising or performing a power or duty that has been delegated to the person under, or as authorised under, this section, is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section limits the ability of the CEO (Corrective Services) to perform a function through a corrective services officer or agent or the ability of the CEO (Education) to perform a function through an education officer or agent.

8. Section 237 amended

(1) In section 237(2):

(a) in paragraph (c) delete “order.” and insert:

order; or

(b) after paragraph (c) insert:

(d) a person who is or was a responsible person
under a responsible parenting agreement; or

(e) a person who is or was a child the subject of a
responsible parenting agreement.

(2) In section 237(3) delete “by the CEO.” and insert:

by —

(a) in the case of an identified person referred to in
subsection (2)(a), (b) or (c) — the CEO; or

(b) in the case of an identified person referred to in
subsection (2)(d) or (e) — each authorised CEO
(as defined in section 131A) who entered into
the responsible parenting agreement.

(3) In section 237(4)(b) delete “by the CEO.” and insert:

by —

(i) in the case of an identified person
referred to in subsection (2)(a), (b) or
(c) — the CEO; or

Children and Community Services Legislation Amendment and Repeal Act 2015

Part 2 Amendments and repeals relating to responsible parenting agreements

Division 1 Children and Community Services Act 2004 amended
s. 9

- (ii) in the case of an identified person referred to in subsection (2)(d) or (e) — each authorised CEO (as defined in section 131A) who entered into the responsible parenting agreement.

9. Schedule 1 Division 7 inserted

At the end of Schedule 1 insert:

Division 7 — Provisions for *Children and Community Services Legislation Amendment and Repeal Act 2015*

29. Terms used

In this Division —

authorised officer (Child Protection) means a person designated under the PSR Act section 35 as an authorised officer by the CEO (Child Protection) (as defined in the PSR Act section 3);

authorised officer (Education) means a person designated under the PSR Act section 35 as an authorised officer by the CEO (Education) (as defined in the PSR Act section 3);

CEO (Education), except in the definition of ***authorised officer (Education)***, has the meaning given in section 131A;

commencement day means the day on which the *Children and Community Services Legislation Amendment and Repeal Act 2015* section 7 comes into operation;

departmental parenting agreement means an agreement —

- (a) that is about one or more of the matters referred to in section 131E; and
- (b) that is not a PSR Act parenting agreement; and
- (c) that was entered into by an officer before commencement day; and

- (d) that covers a period that had not expired immediately before commencement day; and
- (e) to which either or both of the following descriptions apply —
 - (i) the agreement relates to a child who has reached 15 years of age but has not reached 18 years of age;
 - (ii) the agreement was entered into by an adult, other than a parent of the child, with whom the child to whom the agreement relates usually lives and who provides day-to-day care for the child;

PSR Act means the *Parental Support and Responsibility Act 2008* as in force immediately before commencement day;

PSR Act parenting agreement means a responsible parenting agreement that —

- (a) was entered into under the *Parental Support and Responsibility Act 2008* before commencement day; and
- (b) covers a period that had not expired immediately before commencement day.

30. PSR Act parenting agreements

- (1) On and after commencement day —
 - (a) a PSR Act parenting agreement entered into by an authorised officer (Child Protection) is to be taken to be a responsible parenting agreement entered into by the CEO under section 131D; and
 - (b) a reference in a PSR Act parenting agreement referred to in paragraph (a) to the authorised officer (Child Protection) who entered into the agreement is to be taken to be a reference to the CEO.
- (2) On and after commencement day —

Children and Community Services Legislation Amendment and Repeal Act 2015

Part 2 Amendments and repeals relating to responsible parenting agreements

Division 2 Repeals

s. 10

- (a) a PSR Act parenting agreement entered into by an authorised officer (Education) is to be taken to be a responsible parenting agreement entered into by the CEO (Education) under section 131D; and
- (b) a reference in a PSR Act parenting agreement referred to in paragraph (a) to the authorised officer (Education) who entered into the agreement is to be taken to be a reference to the CEO (Education).

31. Departmental parenting agreements

On and after commencement day —

- (a) a departmental parenting agreement is to be taken to be a responsible parenting agreement entered into by the CEO under section 131D; and
- (b) a reference in a departmental parenting agreement to the officer who entered into the agreement is to be taken to be a reference to the CEO.

Division 2 — Repeals

10. *Parental Support and Responsibility Act 2008* repealed

The *Parental Support and Responsibility Act 2008* is repealed.

11. *Parental Support and Responsibility Regulations 2009* repealed

The *Parental Support and Responsibility Regulations 2009* are repealed.

12. *Parental Support and Responsibility (Disclosure of Information) Guidelines 2009* repealed

The *Parental Support and Responsibility (Disclosure of Information) Guidelines 2009* are repealed.

Division 3 — Other Acts amended

**Subdivision 1 — *Children’s Court of Western Australia
Act 1988* amended**

13. Act amended

This Subdivision amends the *Children’s Court of Western Australia Act 1988*.

14. Section 20 amended

In section 20(1):

- (a) in paragraph (d) delete “*Act 1911*; and” and insert:

Act 1911.

- (b) delete paragraph (e).

15. Section 24 deleted

Delete section 24.

16. Section 36 amended

Delete section 36(1)(ab).

17. Section 40 amended

- (1) In section 40(1) delete “person” (each occurrence) and insert:

child

Children and Community Services Legislation Amendment and Repeal Act 2015

Part 2 Amendments and repeals relating to responsible parenting agreements

Division 3 Other Acts amended

s. 18

(2) In section 40(2):

(a) in paragraph (a) delete “person,” and insert:

child,

(b) in paragraph (b) delete “if the person is a child, by” and insert:

by

Subdivision 2 — *School Education Act 1999* amended

18. Act amended

This Subdivision amends the *School Education Act 1999*.

19. Section 26 amended

In section 26(3) delete “*Parental Support and Responsibility Act 2008*” and insert:

Children and Community Services Act 2004

20. Section 40 amended

In section 40(3A) delete “*Parental Support and Responsibility Act 2008*” and insert:

Children and Community Services Act 2004

Subdivision 3 — *Young Offenders Act 1994* amended

21. Act amended

This Subdivision amends the *Young Offenders Act 1994*.

22. Section 15A amended

Delete section 15A(3a), (3b) and (3c).

23. Section 46 amended

After section 46(2)(c) insert:

- (da) any responsible parenting agreement entered into in respect of the offender under the *Children and Community Services Act 2004* section 131D; and

Part 3 — Other amendments to *Children and Community Services Act 2004*

24. Act amended

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

25. Section 3 amended

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

police officer
wellbeing

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

act of family and domestic violence has the meaning given in the *Restraining Orders Act 1997* section 6(1);
exposed, in relation to an act of family and domestic violence, includes the following —

- (a) to see or hear the act of family and domestic violence;
- (b) to witness physical injuries resulting from the act of family and domestic violence;

wellbeing, of a child, includes the following —

- (a) the care of the child;
- (b) the physical, emotional, psychological and educational development of the child;
- (c) the physical, emotional and psychological health of the child;
- (d) the safety of the child;

26. Section 8 amended

In section 8(1):

- (a) in paragraph (k) delete “spiritual, developmental and educational” and insert:

spiritual and developmental

- (b) after paragraph (k) insert:

(la) the child’s educational needs;

27. Section 9 amended

After section 9(h) insert:

- (ia) the principle that decisions about a child with disability should be made giving special consideration to any difficulties or discrimination that may be encountered by the child because of the child’s disability and should support the child’s full and effective participation in society;

28. Section 23 amended

- (1) In section 23(1) delete the definition of *relevant information*.
(2) In section 23(1) insert in alphabetical order:

non-government provider has the meaning given in section 28A;

s. 28

relevant information means —

- (a) information that, in the opinion of the CEO, is, or is likely to be, relevant to —
 - (i) the wellbeing of a child or a class or group of children; or
 - (ii) the wellbeing of a person who under section 96 qualifies for assistance for the purposes of Part 4 Division 6; or
 - (iii) the safety of a person who has been subjected to, or exposed to, one or more acts of family and domestic violence; or
 - (iv) the performance of a function under this Act;

or

- (b) other information of a kind prescribed by the regulations for the purposes of this paragraph.

- (3) In section 23(1) in the definition of *interested person* delete “wellbeing of a child or a class or group of children;” and insert:

wellbeing of —

- (a) a child or a class or group of children; or
- (b) a person who under section 96 qualifies for assistance for the purposes of Part 4 Division 6;

- (4) In section 23(2) and (3) delete “service provider” and insert:

non-government provider

- (5) In section 23(4) delete “written law relating to secrecy or confidentiality.” and insert:

enactment that prohibits or restricts its disclosure.

29. Section 24A replaced

Delete section 24A and insert:

24A. Power of CEO to obtain copies of certain reports from CEO (Corrective Services)

- (1) In this section —

CEO (Corrective Services) means the chief executive officer of the department of the Public Service principally assisting in the administration of the *Sentence Administration Act 2003* Part 8;

prescribed report means any of the following —

- (a) a written pre-sentence report, or a record of an oral pre-sentence report, made under the *Sentencing Act 1995* Part 3 Division 3;
- (b) a report prepared for the purposes of the *Sentence Administration Act 2003* section 11A, 17 or 51;
- (c) a report prepared for the purposes of the *Young Offenders Act 1994* section 47, 48(1) or 159;
- (d) a report —
 - (i) made under, or prepared for the purposes of, the *Bail Act 1982*, the *Dangerous Sexual Offenders Act 2006*, the *Sentence Administration Act 2003*, the *Sentencing Act 1995*, the *Prisons*

s. 30

Act 1981 or the Young Offenders Act 1994; and

- (ii) of a kind prescribed by the regulations for the purposes of this definition.
- (2) The CEO may request the CEO (Corrective Services) to give to the CEO a copy of a prescribed report if, in the opinion of the CEO, the report is, or is likely to be, relevant to the wellbeing of a child or a class or group of children.
- (3) The CEO (Corrective Services) must comply with a request under subsection (2).
- (4) Subsection (3) applies despite any enactment that prohibits or restricts disclosure of the report or information in it.
- (5) This section does not limit the operation of section 23.

30. Part 3 Division 6 inserted

After section 27 insert:

Division 6 — Information sharing

28A. Terms used

In this Division —

authorised entity means —

- (a) the CEO of a non-government provider; or
- (b) the governing body of a registered school or school system under the *School Education Act 1999* Part 4;

CEO means —

- (a) in relation to a prescribed authority —
 - (i) if the prescribed 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
 - (ii) if the prescribed 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
 - (iii) if the prescribed 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;

or

- (b) in relation to a non-government provider —
 - (i) if the non-government provider is an individual — that individual; or
 - (ii) otherwise — the principal officer (however described) of the non-government provider;

non-government provider means —

- (a) a service provider; or
- (b) a person who provides social services under a contract or other agreement (excluding an agreement for a monetary grant) entered into between the person and a prescribed authority or an officer or employee of a prescribed authority;

s. 30

prescribed authority means a public authority (other than the Department) prescribed by the regulations for the purposes of this definition;

relevant information means —

- (a) information that is, or is likely to be, relevant to —
 - (i) the wellbeing of a child or a class or group of children; or
 - (ii) the safety of a person who has been subjected to, or exposed to, one or more acts of family and domestic violence;
- or
- (b) other information of a kind prescribed by the regulations for the purposes of this paragraph.

28B. Disclosure of information by prescribed authority or authorised entity

- (1) The CEO of a prescribed authority (the ***disclosing CEO***) may disclose information to the CEO of another prescribed authority or an authorised entity if, in the opinion of the disclosing CEO, the information is relevant information.
- (2) The CEO of a prescribed authority (the ***requesting CEO***) may request the CEO of another prescribed authority or an authorised entity to disclose information to the requesting CEO if, in the opinion of the requesting CEO, the information is relevant information.
- (3) An authorised entity may disclose information to the CEO of a prescribed authority if, in the opinion of the authorised entity, the information is relevant information.

- (4) An authorised entity may request the CEO of a prescribed authority to disclose information to the authorised entity if, in the opinion of the authorised entity, the information is relevant information.
- (5) Information may be disclosed under subsection (1) or (3), or in compliance with a request under subsection (2) or (4), despite any enactment that prohibits or restricts its disclosure.
- (6) If information is disclosed, in good faith, under subsection (1) or (3) or in compliance with a request under subsection (2) or (4) —
 - (a) no civil or criminal liability is incurred in respect of the disclosure; and
 - (b) the disclosure is not to be regarded as a breach of any duty of confidentiality or secrecy imposed by law; and
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or any principles of conduct applicable to a person's employment or as unprofessional conduct.

28C. Delegation of powers under s. 28B

- (1) The CEO of a prescribed authority may, in writing, delegate a power conferred by section 28B(1) or (2) to an officer or employee of the prescribed authority.
- (2) A delegation under subsection (1) must be in writing signed by the CEO of the prescribed authority.
- (3) An authorised entity may, in writing, delegate a power conferred by section 28B(3) or (4) to —
 - (a) if the authorised entity is the CEO of a non-government provider — an officer or employee of the non-government provider; or

s. 31

- (b) if the authorised entity is the governing body of a registered school or school system —
 - (i) an officer or employee of the governing body; or
 - (ii) in the case of the governing body of a school system — the principal of a school that is a member of the school system.
- (4) A delegation under subsection (3) must be in writing signed or executed by the authorised entity.
- (5) A person to whom a power is delegated under this section cannot delegate the power.
- (6) A person exercising a power that has been delegated to the person under this section is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (7) Nothing in this section limits the ability of the CEO of a prescribed authority or an authorised entity to exercise a power through an officer or agent.

31. Section 28 amended

- (1) In section 28(1) insert in alphabetical order:

emotional abuse includes —

- (a) psychological abuse; and
- (b) being exposed to an act of family and domestic violence;

- (2) In section 28(1) in the definition of *harm* delete “wellbeing;” and insert:

wellbeing, whether caused by —

- (a) a single act, omission or circumstance; or
- (b) a series or combination of acts, omissions or circumstances;

- (3) Delete section 28(2)(c)(iv).

32. Section 35 amended

- (1) After section 35(1)(b) insert:

- (ca) in a case where the child is temporarily in a safe place (for example, a hospital) — believes that, when the child leaves that place, the child is likely to be living in circumstances that pose an unacceptable risk to the child’s wellbeing; or

- (2) In section 35(3)(b)(ii) delete “(1)(b) or (c).” and insert:

(1)(b), (ca) or (c).

33. Section 41 amended

- (1) In section 41(1) delete the definition of *responsible person*.
- (2) In section 41(1) insert in alphabetical order:

appropriate person, in relation to a child, means —

- (a) a parent of the child; or

s. 34

- (b) an adult, other than a parent of the child, who is a relative of the child; or
 - (c) an adult, other than a parent or other relative of the child, with whom the child usually lives;
- (3) In section 41(1) in the definition of *officer* delete “police officer;” and insert:

police officer.

- (4) In section 41(6), (7) and (8) delete “a responsible person” (each occurrence) and insert:

an appropriate person

34. Section 62 replaced

Delete section 62 and insert:

62. Duration of protection order (special guardianship)

A protection order (special guardianship) remains in force, unless it is revoked under Subdivision 7, until the earlier of—

- (a) the child reaching 18 years of age; or
- (b) an adoption order being made in relation to the child under the *Adoption Act 1994*.

35. Section 65 amended

After section 65(3) insert:

- (4A) An order made under subsection (1) ceases to be in force if the protection order (special guardianship) in relation to which it was made ceases to be in force.

36. Section 87 amended

(1) After section 87(2) insert:

- (3A) An officer may apprehend a child and take the child to such place as the CEO directs if —
- (a) a person has failed to comply with a requirement under section 84 to hand over the child; and
 - (b) the officer suspects on reasonable grounds that there is an immediate or substantial risk to the wellbeing of the child.

(2) In section 87(3) after “subsection (2)” insert:

or (3A)

37. Section 89 amended

(1) After section 89(4) insert:

- (5A) The power in subsection (4) is subject to section 94(3).

s. 38

- (2) In section 89(6) delete “ensure that a copy of the care plan or modification, as the case requires, is given to —” and insert:

give a copy of the care plan or modification, as the case requires, to —

- (3) After section 89(6) insert:

(7) Despite subsection (6), the CEO may decide not to give a copy of the care plan or modification to a person mentioned in that subsection if the CEO considers that to do so would pose an unacceptable risk to the safety of the child or another person.

(8) If the CEO decides under subsection (7) not to give a person a copy of the care plan or modification, the CEO must give the person written notice of the decision and written reasons for it.

38. Part 4 Division 5 Subdivision 4 heading amended

In the heading to Part 4 Division 5 Subdivision 4 delete “**care planning**” and insert:

certain

39. Section 91 amended

- (1) In section 91 delete the definition of *case review panel*.
- (2) In section 91 insert in alphabetical order:

care plan review panel means the care plan review panel established under section 92;

- (3) In section 91 in the definition of *applicant* delete “section 93(1);” and insert:

section 93(1) or (2A);

40. Section 92 amended

- (1) In section 92(1), (2) and (3) delete “case review panel” and insert:

care plan review panel

- (2) In section 92(4) and (5) delete “case review panel.” and insert:

care plan review panel.

- (3) In section 92(6), (7) and (8) delete “case review panel” and insert:

care plan review panel

Note: The heading to amended section 92 is to read:

Care plan review panel

41. Section 93 amended

- (1) After section 93(1) insert:

s. 41

- (2A) An application for the review of a decision under section 89(7) may be made to the CEO by the person given notice of the decision under section 89(8).
- (2) In section 93(2) delete “The application —” and insert:
- An application under subsection (1) or (2A) —
- (3) In section 93(3) delete “The application” and insert:
- An application under subsection (1)
- (4) After section 93(3) insert:
- (4A) An application under subsection (2A) must be made within —
- (a) 14 days after the day on which the applicant received written notice of the decision under section 89(8); or
 - (b) any longer period that the CEO in special circumstances allows.
- (5) In section 93(4):
- (a) delete “the application,” and insert:

an application under subsection (1) or (2A),
 - (b) delete “case review panel.” and insert:

care plan review panel.

- (6) In section 93(5) delete “case review panel” and insert:

care plan review panel

- (7) Delete section 93(6) and insert:

(6) The CEO, after considering the report of the care plan review panel and other information available to the CEO, must —

- (a) confirm, vary or reverse the care planning decision or decision under section 89(7); or
- (b) substitute another decision for the care planning decision or decision under section 89(7); or
- (c) refer the matter back to the care plan review panel for further consideration and report.

42. Section 94 amended

- (1) In section 94 delete “A person” and insert:

(1) A person

- (2) At the end of section 94 insert:

(2) Subsection (3) applies if —

- (a) an application is made to the State Administrative Tribunal under subsection (1);
and

s. 43

- (b) the State Administrative Tribunal's decision on the application (the *Tribunal decision*) results in the modification of a care plan (the *relevant modification*).
- (3) The CEO must not, within the period of 12 months after the Tribunal decision, exercise the power in section 89(4) so as to affect the relevant modification unless the CEO is satisfied that there has been a significant change in facts or circumstances, or that new facts or circumstances have arisen, since the Tribunal decision was made.

43. Section 95 amended

In section 95(1) and (2) delete "case review panel" (each occurrence) and insert:

care plan review panel

44. Section 101 amended

Delete section 101(1)(a)(iii) and (iv) and insert:

- (iii) emotional abuse as defined in section 28(1); or

45. Section 103 replaced

Delete section 103 and insert:

103. Tattooing or branding

- (1) A person must not in any manner tattoo or brand any part of the body of a child who has not reached 16 years of age.
Penalty: a fine of \$12 000 and imprisonment for one year.
- (2) A person must not in any manner tattoo or brand any part of the body of a child who has reached 16 years of age unless the person has first obtained the written consent of a parent of the child to tattoo or brand the child in that manner and on that part of the child's body.
Penalty: a fine of \$12 000 and imprisonment for one year.
- (3) This section does not apply to tattooing or branding carried out for a medical or therapeutic purpose.

46. Section 124A amended

- (1) In section 124A delete the definition of *commencement day*.
- (2) In section 124A insert in alphabetical order:

boarding facility means a place used to provide residential accommodation for children while they attend a school as defined in the *School Education Act 1999* section 4;

boarding supervisor means a person who holds an office or position at a boarding facility the duties of which include the supervision of children living at the facility;

s. 47

commencement day means —

- (a) in relation to a doctor, nurse, midwife, police officer or teacher — the day on which the *Children and Community Services Amendment (Reporting Sexual Abuse of Children) Act 2008* section 5 came into operation; or
- (b) in relation to a boarding supervisor — the day on which the *Children and Community Services Legislation Amendment and Repeal Act 2015* section 47 came into operation;

47. Section 124B amended

- (1) In section 124B(1)(a) and (c)(i) delete “police officer or teacher; and” and insert:

police officer, teacher or boarding supervisor; and

- (2) In section 124B(4) delete “police officer or teacher.” and insert:

police officer, teacher or boarding supervisor.

48. Section 124C amended

In section 124C(3)(c)(iii) delete “responsible” and insert:

appropriate

49. Section 145 amended

After section 145(3) insert:

- (4) Protection proceedings are to be conducted, as far as possible, in a way that promotes cooperation and consensus.

