



# **Working with Children Legislation (Indigenous Communities) Amendment Bill 2018**





Queensland

# Working with Children Legislation (Indigenous Communities) Amendment Bill 2018

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# 2018

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## A Bill

for

**An Act to amend the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984* and the *Working with Children (Risk Management and Screening) Act 2000* to allow for particular persons to provide services involving children in particular indigenous communities**

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Working with Children  
Legislation (Indigenous Communities) Amendment Act 2018.* 4  
5

**Part 2 Amendment of Working with  
Children (Risk Management  
and Screening) Act 2000** 6  
7  
8

**Clause 2 Act amended** 9

This part amends the *Working with Children (Risk  
Management and Screening) Act 2000.* 10  
11

**Clause 3 Amendment of s 195 (Person holding negative notice or  
negative exemption notice not to apply for, or start or  
continue in, regulated employment etc.)** 12  
13  
14

Section 195— 15

*insert—* 16

(4) Subsection (1) does not apply to a person in 17  
relation to a community area application for a 18  
community area, or regulated employment in a 19  
community area, if the current negative notice or 20  
current negative exemption notice was not issued 21  
for a community area application for the 22  
community area. 23

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<b>Clause 4</b>	<b>Amendment of s 200 (Form of application)</b>	1
	Section 200(2)—	2
	<i>insert—</i>	3
	(f) stating whether the application is for, or includes an application for, a restricted positive notice for 1 or more stated community areas; and	4 5 6 7
	(g) for an application mentioned in paragraph (f), the employee’s consent to the chief executive giving documents and information about the employee to the community justice group for each community area to which the application relates, as provided for under division 9A.	8 9 10 11 12 13 14
<b>Clause 5</b>	<b>Amendment of s 212 (Form of application)</b>	15
	Section 212(2)—	16
	<i>insert—</i>	17
	(d) stating whether the application is for, or includes an application for, a restricted positive notice for 1 or more stated community areas; and	18 19 20 21
	(e) for an application mentioned in paragraph (d), the applicant’s consent to the chief executive giving documents and information about the applicant to the community justice group for each community area to which the application relates, as provided for under division 9A.	22 23 24 25 26 27 28
<b>Clause 6</b>	<b>Amendment of s 219 (Application of div 9)</b>	29
	Section 219—	30
	<i>insert—</i>	31

[s 7]

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	<i>Note—</i>	1
	For a community area application, see also division 9A.	2
<b>Clause 7</b>	<b>Insertion of new ch 8, pt 4, div 9A</b>	3
	Chapter 8, part 4—	4
	<i>insert—</i>	5
	<b>Division 9A Prescribed notice application relating to a community area</b>	6 7 8
	<b>231A Application of division</b>	9
	(1) This division applies to a community area application made about a person if—	10 11
	(a) the application is not withdrawn; and	12
	(b) the person has not been convicted of a prescribed serious offence.	13 14
	(2) This division applies despite anything to the contrary in division 9.	15 16
	(3) However, nothing in this division prevents the chief executive from issuing a positive notice to the person under division 9.	17 18 19
	(4) In this section—	20
	<i>prescribed serious offence</i> means an offence that is a serious offence other than an offence against, or relating to an offence against—	21 22 23
	(a) the Criminal Code, section 409, 419 or 427; or	24 25
	(b) the <i>Drugs Misuse Act 1986</i> , section 5, 6, 8 or 9D.	26 27



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<b>231B Notifying community justice group of application</b>	1 2
(1) The chief executive must, within 5 business days after the community area application is made, give notice of the application to the community justice group for each community area to which the application relates.	3 4 5 6 7
(2) The notice must—	8
(a) be in writing; and	9
(b) include a copy of the application.	10
<b>231C Community justice group may recommend issue of interim restricted positive notice</b>	11 12
(1) A community justice group for a community area given notice of the community area application under section 231B may, at any time before the chief executive decides the application, recommend to the chief executive that an interim restricted positive notice for the community area be issued to the person.	13 14 15 16 17 18 19
(2) The community justice group may make a recommendation under this section only if a majority of the group’s members are satisfied that issuing the interim restricted positive notice would not harm the best interests of children in the community area.	20 21 22 23 24 25
(3) The recommendation must—	26
(a) be in writing; and	27
(b) include the community justice group’s reasons for making the recommendation.	28 29
(4) In deciding whether to make the recommendation, the community justice group must have regard to the following—	30 31 32

[s 7]

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- (a) any police information, investigative information or disciplinary information about the person that the group is aware of and considers relevant; 1  
2  
3  
4
  - (b) whether, and in what capacity, the person has previously worked with children; 5  
6
  - (c) the person’s social standing and participation within the community area; 7  
8
  - (d) whether, in the group’s reasonable opinion, withholding the recommendation would have a negative impact on the social or economic wellbeing of the community area’s inhabitants; 9  
10  
11  
12  
13
  - (e) anything else the group reasonably considers to be relevant to the decision. 14  
15
- (5) If the community justice group makes a recommendation under this section about the person, the chief executive must issue to the person a positive notice that applies— 16  
17  
18  
19
- (a) only for regulated employment or carrying on a regulated business in the community area; and 20  
21  
22
  - (b) only until the chief executive decides whether to approve or refuse the application. 23  
24
- 231D Giving community justice group information about application** 25  
26
- (1) Within 21 days after the community area application is made, the chief executive must give the community justice group for each community area to which the application relates a written notice containing all information the chief executive considers is relevant to deciding the application. 27  
28  
29  
30  
31  
32  
33
  - (2) The notice must— 34

- 
- (a) include or be accompanied by— 1
- (i) a copy of each document received by 2  
the chief executive in relation to the 3  
application; and 4
- (ii) a written summary of any oral 5  
information received by the chief 6  
executive in relation to the application; 7  
and 8
- (b) if the chief executive proposes to decide the 9  
application by issuing a negative notice to 10  
the person, state— 11
- (i) the section under which the chief 12  
executive proposes to issue the 13  
negative notice; and 14
- (ii) the reasons for the chief executive’s 15  
proposed decision. 16
- (3) This section does not apply if the chief executive 17  
decides to issue a positive notice to the person 18  
within the 21 day period mentioned in subsection 19  
(1). 20

**231E Community justice group may recommend 21  
issue of restricted positive notice 22**

- (1) A community justice group given a notice under 23  
section 231D may, within 8 weeks after receiving 24  
the notice, recommend to the chief executive that 25  
a restricted positive notice for the community area 26  
be issued to the person. 27
- (2) The community justice group may make a 28  
recommendation under this section only if a 29  
majority of the group’s members are satisfied that 30  
issuing the restricted positive notice would not 31  
harm the best interests of children in the 32  
community area. 33
- (3) The recommendation must— 34

[s 7]

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- |     |   |                                  |
|-----|---|----------------------------------|
| (a) | be in writing; and  | 1                                |
| (b) | include the community justice group's reasons for making the recommendation.  | 2<br>3                           |
| (4) | In deciding whether to make the recommendation, the community justice group must have regard to the following—  | 4<br>5<br>6                      |
| (a) | all documents and information mentioned in or accompanying the notice given under section 231D;   | 7<br>8<br>9                      |
| (b) | whether, and in what capacity, the person has previously worked with children;  | 10<br>11                         |
| (c) | the person's social standing and participation within the community area;   | 12<br>13                         |
| (d) | whether, in the group's reasonable opinion, withholding the recommendation would have a negative impact on the social or economic wellbeing of the community area's inhabitants;  | 14<br>15<br>16<br>17<br>18       |
| (e) | anything else the group reasonably considers to be relevant to the decision.  | 19<br>20                         |
| (5) | If the community justice group makes a recommendation under this section about the person, the chief executive must issue to the person a positive notice that applies only for regulated employment or carrying on a regulated business in the community area. | 21<br>22<br>23<br>24<br>25<br>26 |
| (6) | The chief executive must not decide the community area application until the earlier of the following happens—  | 27<br>28<br>29                   |
| (a) | each community justice group that was given a notice under section 231D has either made a recommendation, or notified the chief executive it will not be making a recommendation, under this section in relation to the application;                            | 30<br>31<br>32<br>33<br>34<br>35 |

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(b) the period mentioned in subsection (1) ends. 1

**231F Notifying community justice group of changes in police information** 2  
3

(1) This section applies if the chief executive is notified of a change in the person's police information under section 323(3), 324(2) or 325(3). 4  
5  
6  
7

(2) The chief executive must give each community justice group that has made, and not revoked, a recommendation under section 231C or 231E about the person— 8  
9  
10  
11

(a) a copy of the notice given under section 323(3), 324(2) or 325(3); and 12  
13

(b) any other document or information obtained by the chief executive under this Act in relation to the change in police information. 14  
15  
16

**231G Community justice group may revoke recommendation** 17  
18

(1) A community justice group for a community area may, by written notice given to the chief executive, revoke a recommendation made by the group about a person under section 231C or 231E. 19  
20  
21  
22

(2) The community justice group may revoke the recommendation only if a majority of the group's members are satisfied that— 23  
24  
25

(a) the recommendation was based on wrong or incomplete information and, based on the correct or complete information, the group would not have made the recommendation; or 26  
27  
28  
29  
30

(b) there has been a change in circumstances affecting the person and, had the changed circumstances existed when the group made 31  
32  
33

[s 7]

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- the recommendation, the group would not have made the recommendation. 1  
2
- (3) The revocation must include the community justice group’s reasons for the revocation. 3  
4
- (4) In deciding whether to revoke a recommendation, the community justice group must have regard to— 5  
6  
7
- (a) the matters to which the group had regard when deciding to make the recommendation; and 8  
9  
10
- (b) any documents or information given to the group under section 231F; and 11  
12
- (c) anything else the group reasonably considers is relevant to the decision. 13  
14
- (5) If a community justice group revokes a recommendation under this section, the chief executive must— 15  
16  
17
- (a) cancel the interim restricted positive notice or restricted positive notice (a *cancelled notice*) issued as a result of the recommendation; and 18  
19  
20  
21
- (b) if the cancelled notice is a restricted positive notice—substitute a negative notice. 22  
23
- 231H Effect of interim restricted positive notice or restricted positive notice for this Act** 24  
25
- (1) A person who is issued an interim restricted positive notice or restricted positive notice for a community area is taken to hold a positive notice— 26  
27  
28  
29
- (a) if the notice is issued in relation to regulated employment—only for regulated employment in the community area; or 30  
31  
32

- 
- (b) if the notice is issued in relation to a regulated business—only for carrying on a regulated business in the community area. 1  
2  
3
- (2) An interim restricted positive notice for a community area remains in force only until the chief executive issues another prescribed notice to the person. 4  
5  
6  
7
- 231I Effect of interim restricted positive notice or restricted positive notice for other Acts** 8  
9
- (1) This section applies if an Act (a *relevant Act*) authorises or permits a person to perform a function or duty, provide a service or carry out another activity, whether generally or for a particular place, if the person or another person is the holder of a positive notice. 10  
11  
12  
13  
14  
15
- (2) For the relevant Act, a person who is issued an interim restricted positive notice or restricted positive notice for a community area is taken to hold a positive notice only for— 16  
17  
18  
19
- (a) performing the function or duty, providing the service or carrying out the activity in the community area; or 20  
21  
22
- (b) a place in the community area. 23
- 231J Information requirement about positive notice that is an interim restricted positive notice or restricted positive notice** 24  
25  
26
- (1) This section applies if a provision of an Act requires— 27  
28
- (a) a document, including for example, an application, to include information about a positive notice held by a person; or 29  
30  
31

[s 8]

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	(b) information about a positive notice held by a person to be given to another person in another way.	1 2 3	
	(2) If a person holds an interim restricted positive notice or restricted positive notice for a community area, the provision is taken to require the inclusion or giving of the following information for the person—	4 5 6 7 8	
	(a) whether the person’s positive notice is an interim restricted positive notice or restricted positive notice;	9 10 11	
	(b) the community area to which the notice relates.	12 13	
<b>Clause 8</b>	<b>Insertion of new ch 11, pt 19</b>	14	
	Chapter 11—	15	
	<i>insert—</i>	16	
	<b>Part 19</b>	<b>Transitional provision for Working with Children Legislation (Indigenous Communities) Amendment Act 2018</b>	17 18 19 20 21 22
	<b>549 Existing applications for prescribed notice</b>	23	
	(1) This section applies to a prescribed notice application made before the commencement if it has not been decided or withdrawn on the commencement.	24 25 26 27	
	(2) At any time before the application is decided, the applicant may give the chief executive written notice that the application is for, or includes an application for, a restricted positive notice for a	28 29 30 31	



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community area.	1
(3) The notice must include the person’s consent to the chief executive giving documents and information about the person to the community justice group for each community area to which the application relates, as provided for under chapter 8, part 4, division 9A.	2 3 4 5 6 7
(4) If the applicant gives the chief executive a written notice under this section, the application is taken—	8 9 10
(a) to be an application for, or to include an application for, a restricted positive notice for a community area stated in the notice; and	11 12 13 14
(b) to have been made on the day the notice was given to the chief executive.	15 16
<b>Clause 9 Amendment of sch 7 (Dictionary)</b>	17
(1) Schedule 7—	18
<i>insert—</i>	19
<b><i>community area</i></b> means a community area under the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i> .	20 21 22 23
<b><i>community area application</i></b> means a prescribed notice application that is for, or includes a prescribed notice application for, a restricted positive notice for a community area.	24 25 26 27
<b><i>community justice group</i></b> , for a community area, means a community justice group established under the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i> , part 4 for the community area.	28 29 30 31 32
<b><i>interim restricted positive notice</i></b> , for a	33

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[s 10]

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- community area, means a positive notice issued 1  
for the area to a person under section 231C(5). 2
- restricted positive notice*, for a community area, 3  
means a positive notice issued for the area to a 4  
person under section 231E(5). 5
- (2) Schedule 7, definition *positive notice blue card*— 6  
*insert*— 7
- (e) if the positive notice is an interim restricted 8  
positive notice, or restricted positive notice, 9  
for a community area—that the notice is an 10  
interim restricted positive notice, or 11  
restricted positive notice, for the community 12  
area. 13

**Part 3** **Amendment of Aboriginal and** 14  
**Torres Strait Islander** 15  
**Communities (Justice, Land** 16  
**and Other Matters) Act 1984** 17

**Clause 10** **Act amended** 18  
This part amends the *Aboriginal and Torres Strait Islander* 19  
*Communities (Justice, Land and Other Matters) Act 1984*. 20

**Clause 11** **Amendment of s 19 (Functions and powers)** 21  
Section 19(1)— 22  
*insert*— 23

(da) making recommendations under the 24  
*Working with Children (Risk Management* 25  
*and Screening) Act 2000*, chapter 8, part 4, 26  
division 9A; 27