



Queensland

Working with Children Legislation (Indigenous Communities) Amendment Bill 2017



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2017

A Bill

for

An Act to amend the *Working with Children (Risk Management and Screening) Act 2000*, and the Acts mentioned in schedule 1, to allow for particular persons to provide services involving children in particular indigenous communities

[s 1]

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 2017*. 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

Clause 4	Amendment of s 200 (Form of application)	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
Clause 5	Amendment of s 212 (Form of application)	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
Clause 6	Amendment of s 219 (Application of div 9)	29
	Section 219—	30
	<i>insert—</i>	31

[s 7]

	<i>Note—</i>	1
	For a community area application, see also division 9A.	2
Clause 7	Insertion of new ch 8, pt 4, div 9A	3
	Chapter 8, part 4—	4
	<i>insert—</i>	5
	Division 9A Prescribed notice application relating to a community area	6 7 8
	231A Application of division	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

231B Notifying community justice group of application

- | | | |
|-----|--|---------------------------------|
| (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. | 1
2
3
4
5
6
7 |
| (2) | The notice must— | 8 |
| | (a) be in writing; and | 9 |
| | (b) include a copy of the application. | 10 |

231C Community justice group may recommend issue of interim restricted positive notice

- | | | |
|-----|---|--|
| (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. | 11
12
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]

-
- (a) any police information, investigative information or disciplinary information about the person that the group is aware of and considers relevant;
 - (b) whether, and in what capacity, the person has previously worked with children;
 - (c) the person's social standing and participation within the community area;
 - (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;
 - (e) anything else the group reasonably considers to be relevant to the decision.
- (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—
- (a) only for regulated employment or carrying on a regulated business in the community area; and
 - (b) only until the chief executive decides whether to approve or refuse the application.

231D Giving community justice group information about application

- (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 relevant to deciding the application.
- (2) The notice must—

-
- (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]

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

(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]

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

[s 8]

- (b) if the notice is issued in relation to a regulated business—only for carrying on a regulated business in the community area.
- (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.

Clause 8	Insertion of new ch 11, pt 19	8
	Chapter 11—	9
	<i>insert—</i>	10
	Part 19	11
	Transitional provision	12
	for Working with	13
	Children Legislation	14
	(Indigenous	15
	Communities)	16
	Amendment Act 2017	17
	549 Existing applications for prescribed notice	18
	(1) This section applies to a prescribed notice application made before the commencement if it has not been decided or withdrawn on the commencement.	19
	(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 community area.	20
	(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	21

[s 9]

- chapter 8, part 4, division 9A. 1
- (4) If the applicant gives the chief executive a written 2
notice under this section, the application is 3
taken— 4
- (a) to be an application for, or to include an 5
application for, a restricted positive notice 6
for a community area stated in the notice; 7
and 8
- (b) to have been made on the day the notice was 9
given to the chief executive. 10

Clause 9 Amendment of sch 7 (Dictionary) 11

(1) Schedule 7— 12

insert— 13

community area means a community area under 14
the *Aboriginal and Torres Strait Islander* 15
Communities (Justice, Land and Other Matters) 16
Act 1984. 17

community area application means a prescribed 18
notice application that is for, or includes a 19
prescribed notice application for, a restricted 20
positive notice for a community area. 21

community justice group, for a community area, 22
means a community justice group established 23
under the *Aboriginal and Torres Strait Islander* 24
Communities (Justice, Land and Other Matters) 25
Act 1984, part 4 for the community area. 26

interim restricted positive notice, for a 27
community area, means a positive notice issued 28
for the area to a person under section 231C(5). 29

restricted positive notice, for a community area, 30
means a positive notice issued for the area to a 31
person under section 231E(5). 32

(2) Schedule 7, definition *positive notice blue card*— 33

[s 10]

insert—

- (e) if the positive notice is an interim restricted
positive notice, or restricted positive notice,
for a community area—that the notice is an
interim restricted positive notice, or
restricted positive notice, for the community
area.

Part 3 Amendment of other Acts

Clause 10 Acts amended

Schedule 1 amends the Acts it mentions.

Schedule 1	Amendment of other Acts	1
	section 10	2
	Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984	3
		4
1	Section 19(1)—	5
	<i>insert—</i>	6
	(da) making recommendations under the	7
	<i>Working with Children (Risk Management</i>	8
	<i>and Screening) Act 2000, chapter 8, part 4,</i>	9
	division 9A;	10
	Child Protection Act 1999	11
1	Chapter 1, part 1—	12
	<i>insert—</i>	13
	3A References to positive prescribed notice	14
	(1) This section applies to a person who holds a	15
	positive prescribed notice that is an interim	16
	restricted positive notice, or restricted positive	17
	notice, for a community area.	18
	(2) For this Act, the person is taken to hold a positive	19
	prescribed notice only for—	20
	(a) care services provided in the community	21
	area; or	22
	(b) a household situated in the community area.	23

2	Section 148B(1)(b)—	1
	<i>omit, insert—</i>	2
	(b) if the relevant person has a positive prescribed notice—	3
	(i) whether it is an interim restricted positive notice, or restricted positive notice, for a community area and, if so, the community area to which it applies; and	5
	(ii) when the notice expires;	10
3	Schedule 3—	11
	<i>insert—</i>	12
	community area means a community area under the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i> .	13
		14
		15
		16
	Disability Services Act 2006	17
1	Part 1, division 3—	18
	<i>insert—</i>	19
	16B References to WWC positive notice	20
	(1) This section applies to a person who holds a WWC positive notice that is an interim restricted positive notice, or restricted positive notice, for a community area.	21
	(2) For this Act, the person is taken to hold a WWC positive notice only for regulated engagement in the community area.	25
	(3) In this section—	28

Schedule 1

community area means a community area under
the *Aboriginal and Torres Strait Islander*
Communities (Justice, Land and Other Matters)
Act 1984.

Education (Accreditation of Non-State Schools) Act 5
2001 6

1 Section 39— 7
insert— 8
(3A) For subsection (3), if a person holds a current 9
positive notice that is an interim restricted 10
positive notice, or restricted positive notice, for a 11
community area, the person is taken to hold a 12
current positive notice only for a school in the 13
community area. 14

2 Section 39(6)— 15
insert— 16
community area means a community area under 17
the *Aboriginal and Torres Strait Islander* 18
Communities (Justice, Land and Other Matters) 19
Act 1984. 20

Education and Care Services Act 2013 21

1 Part 1, division 4— 22
insert— 23

10A	References to positive notice	1
(1)	This section applies to a person who holds a positive notice that is an interim restricted positive notice, or restricted positive notice, for a community area.	2 3 4 5
(2)	For this Act, the person is taken to hold a positive notice only for—	6 7
(a)	a QEC service operated in the community area; or	8 9
(b)	stand-alone education and care provided in a home in the community area.	10 11
2	Section 191(2)(b)—	12
	<i>insert—</i>	13
(iii)	if it is an interim restricted positive notice, or restricted positive notice, for a community area—the community area to which it applies;	14 15 16 17
3	Schedule 1—	18
	<i>insert—</i>	19
	<i>community area</i> 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
	Education (Queensland College of Teachers) Act 2005	24
1	Section 15D(2)—	25
	<i>insert—</i>	26

Schedule 1

	(aa) whether the applicant's positive notice is an interim restricted positive notice, or restricted positive notice, for a community area and, if so, the community area to which it applies; and	1 2 3 4 5
2	Section 15D—	6
	<i>insert—</i>	7
	(7) In this section—	8
	community area means a community area under the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i> .	9 10 11 12
	Public Service Act 2008	13
1	Chapter 5, part 6, division 1—	14
	<i>insert—</i>	15
	150A References to positive prescribed notice	16
	(1) This section applies to a person who holds a positive prescribed notice that is an interim restricted positive notice, or restricted positive notice, for a community area.	17 18 19 20
	(2) For this part, the person is taken to hold a positive prescribed notice only for prescribed duties carried out in the community area.	21 22 23
	(3) In this section—	24
	community area means a community area under the <i>Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984</i> .	25 26 27 28

2	Schedule 4—	1
	<i>insert—</i>	2
	<i>prescribed duties</i> see section 165A(1)(a).	3