

Serial 134
Care and Protection of Children Amendment (Additional Functions) Bill 2010
Ms Lambley

A Bill for an Act to amend the *Care and Protection of Children Act*

NORTHERN TERRITORY OF AUSTRALIA

CARE AND PROTECTION OF CHILDREN AMENDMENT (ADDITIONAL
FUNCTIONS) ACT 2010

Act No. [] of 2010

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2010

An Act to amend the *Care and Protection of Children Act*

[Assented to [] 2010]
[Second reading [] 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Care and Protection of Children Amendment (Additional Functions) Act 2010*.

2 Act amended

This Act amends the *Care and Protection of Children Act*.

3 Section 13 amended

(1) Section 13, definition *investigation*

omit

(2) Section 13

insert (in alphabetical order)

Growing them strong, together report, for Part 5.1, means the *Growing them strong, together* report of the Board of Inquiry into the Child Protection System in the Northern Territory, tabled in the Legislative Assembly on 19 October 2010.

investigation means any of the following:

(a) an investigation of a complaint by the Commissioner;

-
- (b) an investigation on the Commissioner's own initiative of a matter about the wellbeing of a child, whether or not the child is a protected child;
 - (c) an investigation of a matter referred to the Commissioner by the Committee.

4 Section 258 amended

- (1) Section 258(a)

omit

protected children

insert

children, including protected children

- (2) Section 258(b)

omit

Abuse.

insert

Abuse; and

- (3) After section 258(b)

insert

- (c) the monitoring of the implementation of any government decision arising from any of the following:
 - (i) the recommendations of the Growing them strong, together report;
 - (ii) any other inquiry under the *Inquiries Act* into the wellbeing of children in the Territory;
 - (iii) any report or judicial recommendation the Commissioner considers relevant to the wellbeing of children in the Territory.

5 Section 260 amended

(1) After section 260(1)(a)

insert

(aa) to investigate, on receiving a complaint under section 263(1)(c), the response to the report mentioned in that section by the CEO or Police Force about the wellbeing of a child, whether or not the child is a protected child; and

(ab) to investigate, on the Commissioner's own initiative, a matter about the wellbeing of a child, whether or not the child is a protected child; and

(ac) to investigate a matter referred to the Commissioner by the Committee; and

(2) After section 260(1)(d)

insert

(da) to monitor the implementation of any government decision arising from any of the following:

(i) the recommendations of the Growing them strong, together report;

(ii) any other inquiry under the *Inquiries Act* into the wellbeing of children in the Territory;

(iii) any report or judicial recommendation the Commissioner considers relevant to the wellbeing of children in the Territory.

(3) Section 260(1)(e)

omit

to (d) as requested by the Minister.

insert

to (da) as requested by the Minister; and

(4) After section 260(1)(e)

insert

- (f) to provide the Minister with a report on the progress of implementation of the recommendations of the Growing them strong, together report every 6 months from the date of tabling of that report in the Legislative Assembly.

6 Section 262 amended

Section 262

omit

Except as otherwise provided by another law of the Territory, the

insert

The

7 Section 263 amended

(1) Section 263(1)(b)

omit

child.

insert

child;

(2) After section 263(1)(b)

insert

- (c) a person who has made a report mentioned in section 26 to the CEO or a police officer about the wellbeing of a child, whether or not the child is a protected child, and is dissatisfied with the response to the report by the Department or Police Force (as appropriate).

8 Section 264 amended

Section 264(1)

omit, insert

- (1) The complaint must be made on one or more of the following grounds:

-
- (a) for a complaint mentioned in section 263(1)(a) or (b):
 - (i) a service provider (a *responsible service provider*) failed to provide services (*required services*) for the child, as a protected child, that the provider was reasonably expected to provide; or
 - (ii) the required services provided by the provider for the child failed to meet the standard that was reasonably expected of the provider;
 - (b) for a complaint mentioned in section 263(1)(c) – the Department or the Police Force failed to adequately respond, or respond in a timely way, to the report.

9 Section 269 replaced

Section 269

repeal, insert

269 Notice to interested persons before investigation

- (1) This section applies if the Commissioner decides to investigate:
 - (a) a complaint mentioned in section 260(1)(a); or
 - (b) a complaint mentioned in section 260(1)(aa); or
 - (c) a matter mentioned in section 260(1)(ab) or (ac).
- (2) If subsection (1)(a) applies, the Commissioner must, before investigating the complaint, notify each responsible service provider, and the Chief Executive Officer of each responsible Agency, of the following:
 - (a) details of the complaint;
 - (b) the Commissioner's decision to investigate and resolve the complaint;
 - (c) that the Agency and service provider may each make a written submission about the complaint within a reasonable time specified in the notice.

(3) If subsection (1)(b) or (c) applies, the Commissioner must, before investigating the complaint or matter, notify the interested persons of the following:

- (a) details of the complaint or matter;
- (b) the Commissioner's decision to investigate and resolve the complaint or matter;
- (c) that the interested persons may each make a written submission about the complaint or matter within a reasonable time specified in the notice.

(4) In subsection (3):

interested persons, for a complaint or matter, means:

- (a) the complainant (if any); and
- (b) any Agency that has had or may have an involvement in the complaint or matter; and
- (c) any other person the Commissioner considers appropriate.

10 Section 270 amended

(1) Section 270(1)

omit

investigating the complaint

insert

an investigation

(2) Section 270(1)(a) and (b)

omit, insert

(a) a child the subject of:

- (i) a complaint mentioned in section 260(1)(a) or (aa); or
- (ii) a matter mentioned in section 260(1)(ab) or (ac); or

(b) a witness in relation to the complaint or matter.

11 Section 271 amended

(1) Section 271(1)

omit

investigating the complaint

insert

an investigation, or in performing any other functions of the Commissioner,

(2) Section 271(4), penalty provision

omit

20 penalty units

insert

100 penalty units

12 Section 272 amended

Section 272(1) and (2)

omit, insert

- (1) The Commissioner must notify the following of the result of an investigation and any action taken or proposed to be taken for the complaint or matter to which the investigation relates:
- (a) for a complaint – the complainant;
 - (b) for a complaint relating to a protected child:
 - (i) each responsible service provider; and
 - (ii) the Chief Executive Officer of each responsible Agency;
 - (c) for a matter referred to the Commissioner by the Committee – the Committee.
- (2) The Commissioner may also give the report to a responsible Minister, or a Minister who otherwise has an involvement with the complaint or matter to which the investigation relates, if the Commissioner considers it appropriate to do so.

13 Section 278 amended

(1) After section 278(1)

insert

(1A) The Commissioner must also, at regular 6 monthly intervals, prepare and give the Minister a report mentioned in section 260(1)(f).

(1B) The Commissioner must also prepare and give the Minister a report for the period of 3 years after the tabling of the Growing them strong, together report about:

(a) which of the recommendations of the report have been implemented and the extent to which they have been implemented; and

(b) the extent to which the implementations were effective.

(1C) The report mentioned in subsection (1B) must be given to the Minister within 3 months of the end of the period of 3 years.

(2) Section 278(4)

omit

subsection (1) or (2)

insert

subsection (1), (1A), (1B) or (2)