

Serial 85
Care and Protection of Children Amendment (Investigative Powers) Bill 2009
Ms Carney

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

NORTHERN TERRITORY OF AUSTRALIA

**CARE AND PROTECTION OF CHILDREN AMENDMENT
(INVESTIGATIVE POWERS) ACT 2009**

Act No. [] of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

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

[Assented to [] 2009]
[Second reading [] 2009]

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 (Investigative Powers) Act 2009*.

2 Act amended

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

3 Amendment of section 13 (Definitions)

Section 13, definition *investigation*

omit, substitute

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 Amendment of section 258 (Object of Part)

Section 258(a)

omit, substitute

(a) the wellbeing of children, including protected children; and

5 Amendment of section 260 (Commissioner's functions)

After section 260(1)(a)

insert

(aa) to investigate, on receiving a complaint, the response by the Department 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

6 Amendment of section 263 (Making complaint)

After section 263(1)(b)

insert

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

7 Amendment of section 264 (Grounds for complaint)

Section 264(1)

omit, substitute

(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

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- (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.

8 Repeal and substitution of section 269

Section 269

repeal, substitute

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.

9 Amendment of section 270 (Access to child)

(1) Section 270(1)

omit

investigating the complaint

substitute

an investigation

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

omit, substitute

(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.

10 Amendment of section 271 (Access to information)

Section 271(1)

omit

investigating the complaint

substitute

an investigation

11 Amendment of section 272 (Notification at end of investigation)

Section 272(1) and (2)

omit, substitute

- (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.