

Serial 115  
Children's Commissioner Amendment Bill 2024  
Mr Paech

A Bill for an Act to amend the *Children's Commissioner Act 2013*



NORTHERN TERRITORY OF AUSTRALIA

CHILDREN'S COMMISSIONER AMENDMENT ACT 2024

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Act No. [ ] of 2024

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2024

An Act to amend the *Children's Commissioner Act 2013*

[Assented to [ ] 2024]  
[Introduced [ ] 2024]

The Legislative Assembly of the Northern Territory enacts as follows:

## 1 Short title

This Act may be cited as the *Children's Commissioner Amendment Act 2024*.

## 2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 12 February 2026, it commences on that day.

## 3 Act amended

This Act amends the *Children's Commissioner Act 2013*.

## 4 Section 6 amended (Definitions)

Section 6

*insert*

**Aboriginal** means:

- (a) a descendant of the Aboriginal people of Australia; or

- 
- (b) a descendant of the indigenous inhabitants of the Torres Strait Islands.

## **5 Section 9 amended (Children's Commissioner)**

Section 9(2) to (4)

*omit, insert*

- (2) The Administrator may, in writing, appoint an Aboriginal person to be the Children's Commissioner.
- (3) If no suitable Aboriginal candidate is identified, the Administrator may, in writing, appoint a non-Aboriginal person to be the Children's Commissioner.
- (4) An appointment under subsection (2) or (3) must be made on the recommendation of the Minister.
- (5) The Minister must not recommend a person to be the Commissioner unless satisfied that the person:
- (a) has qualifications or experience relating to the Commissioner's functions; and
  - (b) is committed to the objects of this Act and the underlying principles; and
  - (c) has the knowledge and experience to understand and respond to the needs of, and issues facing, vulnerable children who are Aboriginal.

## **6 Section 10 amended (Commissioner's functions and powers)**

- (1) Section 10(1)(h)

*omit*

children.

*insert*

children;

- (2) After section 10(1)(h)

*insert*

- (i) to promote and advocate for the rights, interests and wellbeing of vulnerable children;

- 
- (j) to consult with, advise, and make recommendations to ministers, public authorities and other bodies on matters related to the rights, interests and wellbeing of vulnerable children;
  - (k) to undertake or commission research in relation to issues relevant to the rights, interests and wellbeing of vulnerable children.

## **7 Section 29 amended (Report of investigation)**

- (1) Section 29(3)(b)

*omit*

report.

*insert*

report; and

- (2) After section 29(3)(b)

*insert*

(c) include a fair representation of those comments in the report.

- (3) Section 29(6)

*omit*

## **8 Section 29A inserted**

After section 29, in Part 5

*insert*

### **29A Response to recommendations**

- (1) If the Commissioner, in a report made under section 29, recommends that a responsible service provider or responsible Agency take a specified action, the service provider or Agency must, within the time specified by the Commissioner in the report, give the Commissioner a written notice specifying:
- (a) what the service provider or Agency has done, or proposes to do, to take the specified action; or
  - (b) if the service provider or Agency does not propose to take the specified action, the reason why the service provider or Agency does not propose to do so.

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- (2) The Commissioner may, if the Commissioner considers it appropriate to do so, give a copy of the notice under subsection (1) to:
    - (a) if the report recommending the action that is the subject of the notice was made in relation to an investigation of a complaint – the complainant; or
    - (b) the responsible Minister.
  - (3) If the Commissioner is not satisfied with the responsible service provider or responsible Agency's notice under subsection (1), the Commissioner may give a report to the Minister including:
    - (a) the report made under section 29 that contained the recommendation made to the service provider or Agency; and
    - (b) the notice received from the service provider or Agency in response to the recommendation; and
    - (c) the reason the Commissioner is not satisfied with the notice.
  - (4) The Minister must table a copy of a report received under subsection (3) in the Legislative Assembly within 6 sitting days after receiving the report.
  - (5) Despite subsection (4), if the Commissioner is satisfied on reasonable grounds that it is in the public interest to do so, the Commissioner may:
    - (a) direct that all or part of the report must not be tabled; or
    - (b) direct that any information identifying individuals named in the report be removed from the version of the report that is tabled.
  - (6) In deciding whether to make a direction under subsection (5):
    - (a) the Commissioner must have regard to the views of the CEO and the Minister; and
    - (b) the possibility that tabling all or part of the report may result in embarrassment to, or a lack of confidence in, the Territory Government or an Agency is irrelevant.
  - (7) If the Commissioner decides to make a direction under subsection (5), the Commissioner must give the Minister written reasons for the decision as soon as practicable after making it.



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**9 Section 33 amended (Report of inquiry)**

After section 33(1)

*insert*

- (1A) Without limiting what may be included in the report, the Commissioner may, in the report:
- (a) make specified findings about the matter to which the inquiry relates; and
  - (b) recommend one or more service providers or Agencies take specified actions within a specified time in relation to that matter.
- (1B) If the Commissioner proposes to make specified findings about or recommend specified actions to a service provider or Agency in the report, the Commissioner must:
- (a) give the service provider or Agency a reasonable opportunity to comment on those findings or recommendations; and
  - (b) take into account those comments in finalising the report; and
  - (c) include a fair representation of those comments in the report.
- (1C) If the Commissioner recommends in the report that a service provider or Agency take a specified action, the Commissioner must give the service provider or Agency a copy of the report.

**10 Section 33A inserted**

After section 33, in Part 6

*insert*

**33A Response to recommendations**

- (1) If the Commissioner, in a report made under section 33, recommends that a service provider or Agency take a specified action, the service provider or Agency must, within the time specified by the Commissioner in the report, give the Commissioner a written notice specifying:
- (a) what the service provider or Agency has done, or proposes to do, to take the specified action; or
  - (b) if the service provider or Agency does not propose to take the specified action, the reason why the service provider or Agency does not propose to do so.

- 
- (2) The Commissioner may give a copy of the notice to the Minister.
  - (3) The Commissioner must, as soon as practicable after the time for giving notices under subsection (1) has expired, give a further report to the Minister specifying:
    - (a) what has been done, or is proposed to be done, to take the actions recommended in the report made under section 33; and
    - (b) if an action is not proposed to be taken, the reason why the action is not proposed to be taken.
  - (4) The Minister must table a copy of the report received under subsection (3) in the Legislative Assembly within 6 sitting days after receiving the report.
  - (5) Despite subsection (4), if the Commissioner is satisfied on reasonable grounds that it is in the public interest to do so, the Commissioner may:
    - (a) direct that all or part of the report must not be tabled; or
    - (b) direct that any information identifying individuals named in the report be removed from the version of the report that is tabled.
  - (6) In deciding whether to make a direction under subsection (5):
    - (a) the Commissioner must have regard to the views of the CEO and the Minister; and
    - (b) the possibility that tabling all or part of the report may result in embarrassment to, or a lack of confidence in, the Territory Government or an Agency is irrelevant.
  - (7) If the Commissioner decides to make a direction under subsection (5), the Commissioner must give the Minister written reasons for the decision as soon as practicable after making it.

**11 Section 42 amended (Obstructing or improperly influencing investigation)**

- (1) Section 42, heading, after "**investigation**"  
*insert*  
**or inquiry**

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(2) Section 42(1), after "investigation"

*insert*

or inquiry

(3) Section 42(2)

*omit*

investigation.

*insert*

investigation or inquiry.

## **12 Section 42A inserted**

After section 42, in Part 8

*insert*

### **42A Reprisal against informant**

(1) A person commits an offence if:

- (a) the person intentionally takes an action against another person; and
- (b) the action is a detrimental action and the person is reckless in relation to that circumstance; and
- (c) the detrimental action is taken wholly or partly because the person believes the other person gave or disclosed information to the Commissioner.

Maximum penalty: 100 penalty units or imprisonment for 2 years.

(2) Strict liability applies to subsection (1)(c).

(3) A person may be found guilty of an offence under this section even if the other person did not in fact give or disclose information to the Commissioner.

(4) In this section:

**detrimental action** means action causing, comprising or involving any of the following:

- (a) injury, damage or loss;

- 
- (b) an adverse change in living conditions;
  - (c) intimidation or harassment;
  - (d) discrimination, disadvantage or adverse treatment in relation to employment;
  - (e) dismissal from, or prejudice in, employment;
  - (f) disciplinary proceedings;
  - (g) other disadvantage or prejudice of any kind.

**13 Section 44 replaced**

Section 44

*repeal, insert*

**44 Publication of reports**

- (1) The Commissioner may publish all or part of a report made under this Act if the Commissioner is satisfied it is in the public interest to do so.
- (2) The Commissioner may give a person all or part of a report made under this Act if the Commissioner is satisfied it is in the interests of a person to do so.

**14 Section 48 amended (Protection from liability – complainant and informants)**

(1) Section 48(1)

*omit, insert*

- (1) A person acting in good faith in making a complaint or providing information to the Commissioner or a member of the Commissioner's staff:
  - (a) does not incur any civil or criminal liability in relation to the making of the complaint or provision of information; and
  - (b) cannot be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted standard of conduct in relation to the making of the complaint or provision of the information; and
  - (c) cannot be held to have contravened any Act in relation to the making of the complaint or provision of the information.

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(2) After section 48(3)

*insert*

(4) This section has effect:

- (a) whether the complaint made or information provided is true or false; and
- (b) whether the person provides the information at the request of the Commissioner or a member of the Commissioner's staff or on the person's own initiative; and
- (c) despite any duty of secrecy or confidentiality or any other restriction on the provision of information applicable to the person.

## **15 Repeal of Act**

This Act is repealed on the day after it commences.