

Legislative Council—Bill No 237

Amendments to be moved by Minister for Primary Industries and Regional
Development [1]
Filed 19.2.25

South Australia

Children and Young People (Safety and Support) Bill 2024

Amendment No 1 [PrimIndRegDev-1]—

Clause 3, page 13, after line 21 [clause 3(1)]—

Insert:

Complaints and Feedback Management Guidelines means the Complaints and Feedback Management Guidelines published by the Chief Executive under section 27A;

Amendment No 2 [PrimIndRegDev-1]—

Clause 3, page 15, after line 19 [clause 3(1)]—

Insert:

recognised peak body, in relation to a particular section of the community, means an entity from time to time recognised as the recognised peak body for that section of the community under section 34A;

Amendment No 3 [PrimIndRegDev-1]—

Clause 13, page 23, line 9 [clause 13(4)(a)]—

Delete subclause (4)(a)

Amendment No 4 [PrimIndRegDev-1]—

Clause 15, page 24, lines 34 to 36 [clause 15(2)]—

Delete subclause (2)

Amendment No 5 [PrimIndRegDev-1]—

Clause 27, page 32, after line 38 [clause 27(4)(a)]—

After subparagraph (i) insert:

(ia) each recognised peak body; and

Amendment No 6 [PrimIndRegDev-1]—

New Division, page 33, after line 15—

After clause 27 insert:

Division 3A—Management of complaints and feedback

27A—Complaints and Feedback Management Guidelines

- (1) The Chief Executive must publish guidelines (the *Complaints and Feedback Management Guidelines*) relating to the receipt and handling of complaints and feedback relating to the administration of this Act.
- (2) The Complaints and Feedback Management Guidelines must set out—
 - (a) the matters in relation to which the Complaints and Feedback Management Guidelines apply; and
 - (b) how, and by whom, complaints may be made and feedback may be given; and
 - (c) the process by which complaints and feedback are to be assessed; and
 - (d) the actions which may be taken in response to a complaint or feedback; and
 - (e) information explaining how the applicant can seek a review by the Complaints Review Panel under Part 13A in respect of how a complaint is dealt with; and
 - (f) the ways in which procedural fairness is to be afforded in relation to a complaint or feedback; and
 - (g) information about alternative independent complaints and feedback mechanisms and bodies; and
 - (h) any other information required by the regulations,and may contain any other provisions the Chief Executive thinks fit.
- (3) Subject to the regulations, the Chief Executive must ensure that procedural fairness is provided in the course of any action taken in response to a complaint or feedback.
- (4) Before publishing the Complaints and Feedback Management Guidelines, the Chief Executive must—
 - (a) invite submissions from, and have regard to any submissions made by—
 - (i) the Commissioner for Children and Young People; and
 - (ii) the Commissioner for Aboriginal Children and Young People; and
 - (iii) the Guardian for Children and Young People; and
 - (iv) each recognised peak body; and
 - (v) any other peak bodies prescribed by the regulations; and
 - (vi) Aboriginal and Torres Strait Islander persons and organisations; and
 - (vii) people, including children and young people, who have experiences of being in care under this Act or a repealed Act; and
 - (viii) any other person or body prescribed by the regulations; and

- (b) comply with any other requirements set out in the regulations.
- (5) The Chief Executive must cause the Complaints and Feedback Management Guidelines to be published on a website determined by the Chief Executive.
- (6) Each person or body involved in the receipt and handling of complaints and feedback to which the Complaints and Feedback Management Guidelines apply must comply with the Complaints and Feedback Management Guidelines.
- (7) However—
 - (a) the Complaints and Feedback Management Guidelines do not create legally enforceable rights or entitlements; and
 - (b) in the event of an inconsistency between a provision of the Complaints and Feedback Management Guidelines and a provision of this Act, the provision of the Complaints and Feedback Management Guidelines is, to the extent of the inconsistency, void and of no effect.

Amendment No 7 [PrimIndRegDev-1]—

New Division, page 38, after line 20—

Insert:

Division 5A—Recognised peak bodies

34A—Minister to recognise peak bodies

- (1) The Minister may, by notice in writing, recognise an entity as the *recognised peak body* for a particular section of the community for the purposes of this Act if satisfied that the entity—
 - (a) represents the interests of that section of the community; and
 - (b) agrees to be the recognised peak body for that section of the community.
- (2) Without limiting subsection (1), the Minister must recognise an entity as the recognised peak body for the following sections of the community:
 - (a) children and young people and their families;
 - (b) Aboriginal and Torres Strait Islander children and young people and their families;
 - (c) carers under this Act.
- (3) The recognition of an entity as a recognised peak body—
 - (a) may be conditional or unconditional; and
 - (b) has effect for the period specified in the notice; and
 - (c) must comply with any other requirements set out in the regulations.
- (4) The Minister may, by notice in writing and in accordance with any requirements set out in the regulations, vary or revoke the recognition of an entity as the recognised peak body for a particular section of the community.

Amendment No 8 [PrimIndRegDev-1]—

Clause 44, page 45, lines 16 and 17 [clause 44(6)]—

Delete subclause (6)

Amendment No 9 [PrimIndRegDev-1]—

Clause 45, page 45, lines 28 and 29 [clause 45(3)]—

Delete subclause (3)

Amendment No 10 [PrimIndRegDev-1]—

Clause 47, page 46, lines 32 to 34 [clause 47(3)]—

Delete subclause (3)

Amendment No 11 [PrimIndRegDev-1]—

Clause 53, page 51, lines 5 and 6 [heading to clause 53]—

Delete "Chief Executive to offer and convene family group conference in certain circumstances" and substitute:

Family group conference to be convened

Amendment No 12 [PrimIndRegDev-1]—

Clause 53, page 51, lines 16 to 18 [clause 53(1)]—

Delete "in accordance with any requirements set out in the regulations, offer to convene a family group conference under section 94 in respect of the child or young person." and substitute:

as soon as is reasonably practicable and in accordance with any requirements set out in the regulations, cause a family group conference under section 94 to be convened in respect of the child or young person.

Amendment No 13 [PrimIndRegDev-1]—

Clause 53, page 51, lines 19 to 22 [clause 53(2)]—

Delete subclause (2)

Amendment No 14 [PrimIndRegDev-1]—

Clause 53, page 51, lines 34 to 36 [clause 53(4)]—

Delete subclause (4)

Amendment No 15 [PrimIndRegDev-1]—

Clause 56, page 53, lines 17 and 18 [clause 56(4)]—

Delete subclause (4)

Amendment No 16 [PrimIndRegDev-1]—

Clause 57, page 53, line 21 [heading to clause 57]—

Delete "offered" and substitute:

convened

Amendment No 17 [PrimIndRegDev-1]—

Clause 57, page 53, lines 25 to 28 [clause 57(1)]—

Delete "offered in relation to the child or young person and either—

- (a) the offer to convene a family group conference was not accepted; or
- (b) a family group conference is convened in relation to the child or young person." and substitute:

convened in respect of the child or young person.

Amendment No 18 [PrimIndRegDev-1]—

New Part, page 109, after line 31—

Insert:

Part 13A—Complaints Review Panel

165A—Interpretation

In this Part—

prescribed complaint means a complaint of a kind to which the Complaints and Feedback Management Guidelines relate.

Note—

See section 27A(2)(a).

165B—Minister to establish Complaints Review Panel

- (1) The Minister must, in accordance with any requirements set out in the regulations, establish a panel (the *Complaints Review Panel*) for the purposes of this Part.
- (2) The Complaints Review Panel may be constituted of such persons as the Minister considers appropriate having regard to any requirements set out in the regulations.
- (3) The Complaints Review Panel has the following functions:
 - (a) to review, on application under this Part, whether, in the course of dealing with a prescribed complaint, the Chief Executive, a child protection officer or the Department (as the case requires) has complied with the Complaints and Feedback Management Guidelines;
 - (b) any other functions conferred on it by the regulations.
- (4) The regulations may make further provisions in relation to the Complaints Review Panel (including by limiting the kinds of complaints the Complaints Review Panel may review).

165C—Review by Complaints Review Panel

- (1) Subject to this Part, a person who—
 - (a) has, in accordance with the Complaints and Feedback Management Guidelines, made a prescribed complaint; and
 - (b) is aggrieved by a decision, action or omission of the Chief Executive, a child protection officer or the Department in response to the complaint,may apply to the Complaints Review Panel for a review of the way in which the prescribed complaint was dealt with by the Chief Executive, a child protection officer or the Department, and, in particular, whether in doing so the Chief Executive, the child protection officer or the Department (as the case requires) complied with the Complaints and Feedback Management Guidelines.
- (2) An application under subsection (1) must be made within 2 years after the applicant is notified of the outcome of the prescribed complaint (or such longer period as the Complaints Review Panel may allow).
- (3) An application under subsection (1)—
 - (a) must be made in a manner and form determined by the Complaints Review Panel; and
 - (b) must be accompanied by such information and documents as the Complaints Review Panel may reasonably require.
- (4) The Complaints Review Panel must, as soon as is reasonably practicable after receiving an application under this section and in accordance with any requirements set out in the regulations, convene a panel of members of the Complaints Review Panel to review the matter the subject of the application.
- (5) A panel need not conduct a review under this section if the panel is of the opinion that the application for review—
 - (a) is frivolous, vexatious, misconceived or lacking in substance; or
 - (b) is being used for an improper purpose; or
 - (c) is otherwise an abuse of process,and, in such a case, a further application relating to the same matter may only be made with the permission of the Complaints Review Panel.
- (6) A review must be completed within 60 days after the panel is convened and must be conducted in accordance with any requirements set out in the regulations.
- (7) A panel must, within 14 days of the completion of a review, provide to the applicant and the Chief Executive notice in writing of the panel's review setting out the following information:
 - (a) the findings of the panel as to the extent to which the Chief Executive, the child protection officer or the Department complied with the Complaints and Feedback Management Guidelines;
 - (b) any recommendations the panel wishes to make in relation to the review;
 - (c) any other information required by the regulations.

- (8) Subject to this Act, a panel convened under this section may determine its own procedures.

Amendment No 19 [PrimIndRegDev-1]—

Clause 198, page 127, after line 5—

Insert:

- (3a) An internal review on an application under subsection (1) must be completed within 60 days after the application is made (and, if the internal review is not completed within that period, the decision will be taken to have been affirmed).

Amendment No 20 [PrimIndRegDev-1]—

Clause 220, page 139, after line 21—

Insert:

- (1a) The Minister must, in the course of the review, consult with the recognised peak bodies.

Amendment No 21 [PrimIndRegDev-1]—

Schedule 2, page 147, after line 32 [Schedule 2 Part 17]—

Insert:

31A—Amendment of section 12C—Time within which complaints may be made

Section 12C—after subsection (1) insert:

- (1a) Despite subsection (1), the Ombudsman may entertain a complaint under this Act of the following kinds if the complaint is made within 2 years from the day on which the complainant first had notice of the matters alleged in the complaint:
- (a) a prescribed child protection complaint (within the meaning of section 28A of the *Health and Community Services Complaints Act 2004*);
 - (b) a complaint, or complaint of a class, prescribed by the regulations (being a complaint relating to the performance of functions by or on behalf of the Department under the *Children and Young People (Safety and Support) Act 2025*).
- (1b) To avoid doubt, subsection (1a)(a) applies whether the prescribed child protection complaint—
- (a) is made by the Commissioner for Children and Young People, the Commissioner for Aboriginal Children and Young People or the Guardian for Children and Young People under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*; or
 - (b) is referred to the Ombudsman by the Commissioner under section 28A of the *Health and Community Services Complaints Act 2004*; or

(c) is made under this Act.

Amendment Filed