



Queensland

Criminal History Screening Legislation Amendment Act 2010

Act No. 5 of 2010



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Queensland

Criminal History Screening Legislation Amendment Act 2010

Act No. 5 of 2010

An Act to amend the Child Care Act 2002, the Child Protection Act 1999, the Child Protection (Offender Prohibition Order) Act 2008, the Commission for Children and Young People and Child Guardian Act 2000, the Community Services Act 2007, the Disability Services Act 2006, the Education (Accreditation of Non-State Schools) Act 2001, the Education (Queensland College of Teachers) Act 2005, the Evidence Act 1977, the Family Services Act 1987, the Guardianship and Administration Act 2000, the Health Practitioners (Professional Standards) Act 1999, the Nursing Act 1992, the Police Powers and Responsibilities Act 2000, the Public Service Act 2008, the Youth Justice Act 1992, the Juvenile Justice and Other Acts Amendment Act 2009 and the Acts mentioned in schedule 3, for particular purposes

[Assented to 4 March 2010]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Criminal History Screening Legislation Amendment Act 2010*.

2 Commencement

This Act, other than the following provisions, commences on a day to be fixed by proclamation—

- (a) sections 82, 149 and 152 to 155;
- (b) part 12.

Part 2 Amendment of Child Care Act 2002

3 Act amended

This part amends the *Child Care Act 2002*.

4 Amendment of s 26 (Suitability of licensee and related persons)

Section 26(2)—

omit, insert—

- ‘(2) An individual is not suitable to conduct a child care service unless the individual—
- (a) has a current positive prescribed notice; or

- (b) has a current positive exemption notice; or
- (c) is the subject of an application for an exemption notice.

Note—

See also the Commissioner’s Act, schedule 1, section 18. For a licensee that is a corporation, see also section 165 of this Act.’.

5 Amendment of s 27 (Prescribed notices for carers and staff members)

- (1) Section 27, heading, after ‘prescribed notices’—

insert—

‘or exemption notices’.

- (2) Section 27, from ‘*Commission*’ to ‘2000’—

omit, insert—

‘Commissioner’s Act’.

6 Amendment of s 45 (Suspension or revocation of licence)

Section 45(1)(e), from ‘*Commission*’ to ‘2000’—

omit, insert—

‘Commissioner’s Act’.

7 Replacement of s 50A (Chief executive may notify Commissioner for Children and Young People and Child Guardian about particular information)

Section 50A—

omit, insert—

‘50A Chief executive to give particular information to children’s commissioner

- ‘(1) This section applies if the chief executive—

- (a) amends, suspends or revokes a person’s licence under section 43, 45 or 46 (a *disciplinary action*); and

[s 7]

- (b) reasonably believes the disciplinary action may be relevant to the functions or powers of the children's commissioner under the Commissioner's Act.
- '(2) The chief executive must give written notice of the disciplinary action to the children's commissioner.
- '(3) A notice under subsection (2) must state the following—
- (a) the person's name and address;
 - (b) the person's date and place of birth, if known;
 - (c) that disciplinary action has been taken against the person, without stating anything further about the disciplinary action.
- '(4) Subsection (5) applies if the children's commissioner—
- (a) requests further information about the disciplinary action; and
 - (b) notifies the chief executive that the person is an applicant for, or holder of, a prescribed notice or exemption notice under the Commissioner's Act.
- '(5) The chief executive must give the children's commissioner a written notice stating the following—
- (a) the form of the disciplinary action taken;
 - (b) when the conduct happened that constituted a ground for the disciplinary action;
 - (c) the nature of the conduct that constituted a ground for the disciplinary action;
 - (d) any other information about the disciplinary action the chief executive considers may be relevant to employment screening under the Commissioner's Act, chapter 8, including, for example, details about the nature of the disciplinary action.
- '(6) However, if the notice given under subsection (2) did not contain the person's date and place of birth, subsection (5) applies only if—

-
- (a) the request from the children’s commissioner for the notice under subsection (5) includes the person’s date and place of birth; and
 - (b) the chief executive confirms the person’s date and place of birth with the person.
- ‘(7) A notice given under subsection (2) or (5) must not contain information that identifies, or is likely to identify, a particular child.
- ‘(8) If the chief executive gives the children’s commissioner information under subsection (5) about disciplinary action and the disciplinary action is set aside on review or appeal, the chief executive must notify the children’s commissioner of the following—
- (a) the disciplinary action has been set aside;
 - (b) the reasons given by the entity that set the disciplinary action aside for setting it aside.’.

8 Amendment of s 54 (Death of sole licensee)

- (1) Section 54(7), from ‘neither’—
omit, insert—
‘none of the following—
 - (a) the holder of a current positive prescribed notice or current positive exemption notice;
 - (b) a person about whom an application for a prescribed notice or exemption notice has been made and not withdrawn.’.
- (2) Section 54(8), from ‘*Commission*’ to ‘109’—
omit, insert—
‘Commissioner’s Act, section 197’.
- (3) Section 54—
insert—

[s 9]

‘(8A) The personal representative does not commit an offence against the Commissioner’s Act, section 259, by carrying on the child care service under the licence, without a current positive exemption notice during the first 30 days of the transitional licence period.’.

(4) Section 54(8A) and (9)—
renumber as section 54(9) and (10).

9 Amendment of pt 3, div 5, hdg (Prescribed notices)

Part 3, division 5, heading, after ‘prescribed notices’—
insert—
‘or exemption notices’.

10 Amendment of s 74 (Licensee must keep evidence of compliance with Commission for Children and Young People and Child Guardian Act 2000)

(1) Section 74, heading, from ‘*Commission*’ to ‘*2000*’—
omit, insert—
‘Commissioner’s Act’.

(2) Section 74(1)(b)—
omit, insert—
‘(b) the engagement would contravene the Commissioner’s Act if—
(i) the person did not have a current positive prescribed notice or current positive exemption notice; or
(ii) an application for a prescribed notice or exemption notice had not been made by the person.’.

(3) Section 74(2), after ‘prescribed notice’—
insert—
‘or current positive exemption notice’.

-
- (4) Section 74(2)(a), from ‘Commissioner’ to ‘Guardian’—
omit, insert—
‘children’s commissioner’.
- (5) Section 74(3), after ‘prescribed notice’—
insert—
‘or exemption notice’.

11 Amendment of s 80 (Licensee to inform chief executive of relevant changes)

Section 80(1), after ‘prescribed notice’—
insert—
‘or current positive exemption notice’.

12 Amendment of s 97 (Suitability of other persons in a home)

- (1) Section 97(1), after ‘prescribed notice’—
insert—
‘or current positive exemption notice’.
- (2) Section 97—
insert—
‘(3A) If a carer in a licensed home based service asks the licensee of the service to apply, under section 166(2), for a prescribed notice or exemption notice about an adult occupant required to have a prescribed notice or exemption notice under subsection (1), the licensee must comply with the request.
Maximum penalty—100 penalty units.’.
- (3) Section 97(4), after ‘prescribed notices’—
insert—
‘or exemption notices’.

[s 13]

(4) Section 97(5), definition *certified copy*, after ‘prescribed notice’—

insert—

‘or exemption notice’.

13 Replacement of s 107A (Chief executive to give notice to the Commissioner for Children and Young People and Child Guardian)

Section 107A—

omit, insert—

‘107A Chief executive to give notice to the children’s commissioner

- ‘(1) This section applies if the chief executive gives a person a prohibition notice under this part.
- ‘(2) The chief executive must give written notice of the giving of the prohibition notice to the children’s commissioner.
- ‘(3) A notice under subsection (2) must state the following—
- (a) the person’s name and address;
 - (b) the person’s date and place of birth, if known;
 - (c) the person has been given a prohibition notice, without stating anything further about the giving of the prohibition notice.
- ‘(4) Subsection (5) applies if the children’s commissioner—
- (a) requests further information about the prohibition notice; and
 - (b) notifies the chief executive that the person is an applicant for, or holder of, a prescribed notice or exemption notice under the Commissioner’s Act.
- ‘(5) The chief executive must give the children’s commissioner a written notice stating the following—
- (a) when the conduct that resulted in the prohibition notice happened;

-
- (b) the nature of the conduct that resulted in the prohibition notice;
 - (c) any other information about the prohibition notice the chief executive considers may be relevant to employment screening under the Commissioner's Act, chapter 8, including, for example, details about the nature of the prohibition notice.
- '(6) However, if the notice given under subsection (2) did not contain the person's date and place of birth, subsection (5) applies only if—
- (a) the request from the children's commissioner for the notice under subsection (5) includes the person's date and place of birth; and
 - (b) the chief executive confirms the person's date and place of birth with the person.
- '(7) If a prohibition notice is given in relation to conduct relating to a particular child, a notice given under subsection (2) or (5) about the prohibition notice must not contain information that identifies, or is likely to identify, the child.
- '(8) If the chief executive gives the children's commissioner information under subsection (5) about a prohibition notice and the prohibition notice is set aside on review or appeal, the chief executive must notify the children's commissioner of the following—
- (a) the prohibition notice has been set aside;
 - (b) the reasons given by the entity that set the disciplinary action aside for setting it aside.'

14 Amendment of s 137 (Power to require production of documents)

Section 137(1)(d), after 'prescribed notice'—

insert—

'or current positive exemption notice'.

[s 15]

15 Amendment of s 139 (Suitability of persons in home in which stand alone child care is provided)

(1) Section 139(1)—

omit, insert—

‘(1) An authorised officer may ask a carer who provides stand alone child care in a home to apply for a prescribed notice or exemption notice about a person if the officer knows, or reasonably suspects, the person—

(a) is an occupant of the home; and

(b) has a criminal history that may make the person unsuitable to be present in a home while child care is provided in the home.’.

(2) Section 139(2), ‘person to apply’ to ‘the person does’—

omit, insert—

‘carer to apply for the prescribed notice or exemption notice, the authorised officer must warn the carer that, if the carer does’.

(3) Section 139(3) and (4)—

omit, insert—

‘(3) Subsection (4) applies if—

(a) the carer does not apply for the prescribed notice or exemption notice within 14 days; or

(b) the carer makes an application for the prescribed notice or exemption notice within 14 days but it is withdrawn before it is decided.

‘(4) The authorised officer may give a notice to the carer directing the carer not to provide child care in the home.

Note—

Under section 100, it is an offence for a carer in a stand alone service to provide child care at a home if a notice under this subsection is in force.’.

(4) Section 139(5), from ‘of whom’ to ‘prescribed notice’—

omit, insert—

‘in relation to whom a request has been made under subsection (1) has a current positive prescribed notice or current positive exemption notice’.

- (5) Section 139(7), ‘only to’—

omit, insert—

‘only in relation to an occupant of a home who is’.

16 Amendment of s 140 (Chief executive may obtain information about suitability checks)

- (1) Section 140(1)(g)—

omit, insert—

‘(g) an adult if a carer who provides stand alone child care in a home has been asked under section 139 to apply for a prescribed notice or exemption notice about the adult.’.

- (2) Section 140(2) and (3), from ‘Commissioner’ to ‘Guardian’—

omit, insert—

‘children’s commissioner’.

- (3) Section 140(2)(a) and (c), after ‘prescribed notice’—

insert—

‘or exemption notice’.

- (4) Section 140(2)(b)—

omit, insert—

‘(b) whether a prescribed notice or exemption notice is in force for the individual and, if so—

- (i) the date of issue of the notice; and
- (ii) whether it is a positive prescribed notice, negative prescribed notice, positive exemption notice or negative exemption notice;’.

[s 17]

17 Amendment of s 165 (Application of Act to corporations)

Section 165(1), from ‘*Commission*’ to ‘2000’—
omit, insert—
‘Commissioner’s Act’.

18 Amendment of s 165A (Pending application for a prescribed notice—corporate licensee)

- (1) Section 165A, heading, after ‘prescribed notice’—
insert—
‘**or exemption notice**’.
- (2) Section 165A(1)(b), after ‘prescribed notice’—
insert—
‘or positive exemption notice’.
- (3) Section 165A(1)(c), after ‘prescribed notice’—
insert—
‘or exemption notice’.

19 Replacement of s 166 (Applications for prescribed notices by occupants of homes)

Section 166—
omit, insert—

‘166 Applications for prescribed notices or exemption notices by occupants of homes

- ‘(1) Subsection (2) applies if a person is required under section 97(1) to have a current positive prescribed notice or current positive exemption notice because the person is an adult occupant of a home in which child care is provided for a licensed home based service.
- ‘(2) The licensee of the licensed home based service may apply for a prescribed notice or exemption notice, and the application must be dealt with under the Commissioner’s Act, as if the

licensee were proposing to start employing, or continue employing, the person in regulated employment as a volunteer.

Note—

Under the Commissioner's Act, the children's commissioner may notify the licensee of particular decisions about a prescribed notice or exemption notice issued to the person under subsection (2) because the licensee is a notifiable person for the person within the meaning of that Act, schedule 7, definition *notifiable person*, paragraph (a)(iv).

- '(3) Subsection (4) applies if a carer providing child care in the carer's home has been asked under section 139 to apply for a prescribed notice or exemption notice about an adult occupant, or suspected adult occupant, of the carer's home.
- '(4) Subject to subsection (5), the carer may apply for a prescribed notice or exemption notice, and the application must be dealt with under the Commissioner's Act, as if the carer were proposing to start employing, or continue employing, the adult occupant in regulated employment as a volunteer.

Note—

Under the Commissioner's Act, the children's commissioner may notify the chief executive of particular decisions about a prescribed notice or exemption notice issued to the adult occupant under subsection (4) because the chief executive is a notifiable person for the person within the meaning of that Act, schedule 7, definition *notifiable person*, paragraph (a)(v).

- '(5) For subsection (4), the certification mentioned in the Commissioner's Act, section 200(2)(b) or 261(2)(b) must be given by a prescribed person as defined in schedule 7 of that Act.
- '(6) To remove any doubt, it is declared that no fee is payable under this Act or the Commissioner's Act for an application for a prescribed notice or exemption notice made under subsection (2) or (4).
- '(7) In this section—

regulated employment see the Commissioner's Act, section 156.

volunteer see the Commissioner's Act, section 165.'

[s 20]

20 Insertion of new pt 10, div 5

Part 10—

insert—

**‘Division 5 Transitional provisions for Criminal
History Screening Legislation
Amendment Act 2010**

**‘196 Giving information about disciplinary action to
children’s commissioner**

‘(1) This section applies if—

- (a) before the commencement, the chief executive amended, suspended or revoked a person’s licence under section 43, 45 or 46 (the *disciplinary action*); and
- (b) at the commencement, the chief executive has neither given nor decided not to give the children’s commissioner written notice about the disciplinary action as provided under previous section 50A.

‘(2) Section 50A as in force immediately after the commencement applies in relation to the disciplinary action.

‘(3) In this section—

commencement means the commencement of this section.

previous section 50A means section 50A as in force from time to time before the commencement.

**‘197 Giving information about prohibition notice to
children’s commissioner**

‘(1) This section applies if—

- (a) before the commencement, the chief executive gave a person a prohibition notice; and
- (b) at the commencement, the chief executive has not given the children’s commissioner written notice of the

decision to give the prohibition notice as required by previous section 107A.

‘(2) Section 107A as in force immediately after the commencement applies in relation to the giving of the prohibition notice.

‘(3) In this section—

commencement means the commencement of this section.

previous section 107A means section 107A as in force from time to time before the commencement.

‘198 Existing applications for prescribed notices by occupants of home

‘(1) This section applies if—

- (a) a person has applied for a prescribed notice under the Commissioner’s Act under previous section 166; and
- (b) at the commencement, the application has not been decided or withdrawn.

‘(2) The application must be dealt with as mentioned in previous section 166 as if the *Criminal History Screening Legislation Amendment Act 2010* had not been enacted.

‘(3) In this section—

commencement means the commencement of this section.

previous section 166 means section 166 as in force before the commencement.’.

21 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions *negative prescribed notice* and *positive prescribed notice*—

omit.

(2) Schedule 2—

insert—

[s 21]

'apply for an exemption notice' means apply under the Commissioner's Act for an exemption notice.

children's commissioner means the Commissioner for Children and Young People and Child Guardian under the Commissioner's Act.

Commissioner's Act means the *Commission for Children and Young People and Child Guardian Act 2000*.

exemption notice means an exemption notice in force under the Commissioner's Act.

negative exemption notice means a negative exemption notice under the Commissioner's Act.

negative prescribed notice means a negative notice under the Commissioner's Act.

positive exemption notice means a positive exemption notice under the Commissioner's Act.

positive prescribed notice means positive notice under the Commissioner's Act.'

- (3) Schedule 2, definitions *apply for a prescribed notice* and *prescribed notice*, from 'Commission' to '2000'—

omit, insert—

'Commissioner's Act'.

- (4) Schedule 2, definition *disqualified person*, after 'prescribed notice'—

insert—

‘, a negative exemption notice’.

Part 3 **Amendment of Child Protection Act 1999**

22 **Act amended**

This part amends the *Child Protection Act 1999*.

23 **Amendment of s 99F (Review applications by commissioner)**

- (1) Section 99F, heading, after ‘by’—

insert—

‘**children’s**’.

- (2) Section 99F(1), after ‘is the’—

insert—

‘children’s’.

- (3) Section 99F(2), from ‘commissioner’ to ‘140B(4)’—

omit, insert—

‘children’s commissioner gives notice under the Commissioner’s Act, section 370(4)’.

- (4) Section 99F(3)—

omit.

24 **Amendment of s 125 (Application for, or renewal of, licence)**

- (1) Section 125(1)(d)(ii), from ‘or a’—

omit, insert—

‘, current negative prescribed notice, current positive exemption notice or current negative exemption notice; and’.

- (2) Section 125(1)(d)(iv)—

omit, insert—

[s 25]

‘(iv) if the person does not have a current prescribed notice or current exemption notice—states whether or not there is a current application for a prescribed notice or exemption notice about the person; and’.

25 Amendment of s 126 (Restrictions on granting application)

(1) Section 126(c), after ‘notice’—

insert—

‘or current positive exemption notice’.

(2) Section 126(d), ‘part 6’—

omit, insert—

‘chapter 8’.

26 Amendment of s 129 (Refusal of application)

Section 129(2)(c), after ‘prescribed notice’—

insert—

‘or current positive exemption notice’.

27 Amendment of s 130 (Nominees)

Section 130(1)(c), ‘part 6’—

omit, insert—

‘chapter 8’.

28 Amendment of s 133 (Process for initial issue of a certificate)

Section 133(3)(d), from ‘has a’—

omit, insert—

‘has—

- (i) a current positive prescribed notice, current negative prescribed notice, current positive exemption notice or current negative exemption notice; or
- (ii) a current application for a prescribed notice or exemption notice;’.

29 Amendment of s 134 (Process to renew a certificate)

Section 134(3)(d), from ‘has a’—

omit, insert—

‘has—

- (i) a current positive prescribed notice, current negative prescribed notice, current positive exemption notice or current negative exemption notice; or
- (ii) a current application for a prescribed notice or exemption notice;’.

30 Amendment of s 135 (Restrictions on granting application)

Section 135(1)(a)(iii) and (b)(iv), after ‘notice’—

insert—

‘or current positive exemption notice’.

31 Amendment of s 136 (Refusal of application)

Section 136(2)(c), after ‘prescribed notice’—

insert—

‘or current positive exemption notice’.

[s 32]

32 Amendment of s 137 (Amendment of authority on application of holder)

Section 137(5), from ‘consider’—

omit, insert—

‘consider—

- (a) whether the proposed nominee is a suitable person; and
- (b) whether the proposed nominee has—
 - (i) a current positive prescribed notice or current positive exemption notice; or
 - (ii) a current application for a prescribed notice or exemption notice.’.

33 Amendment of s 139 (Authority may be suspended or cancelled)

Section 139(5), after ‘notice’—

insert—

‘or current positive exemption notice’.

34 Amendment of s 140AB (Definitions for sdiv 3)

- (1) Section 140AB, definitions *apply for a review, disqualifying event* and *prescribed provision*—

omit.

- (2) Section 140AB—

insert—

‘***apply for a review***, of a decision under the Commissioner’s Act to issue or give a negative prescribed notice or negative exemption notice, means apply to the tribunal under section 309(3) or 354 of that Act for a review of the decision.

disqualifying event, for a person, means—

- (a) the person is issued with or given a negative prescribed notice or negative exemption notice other than—

- (i) under a prescribed provision; or
- (ii) on cancellation of a positive prescribed notice or positive exemption notice that is suspended; or
- (b) the person's positive prescribed notice or positive exemption notice is suspended; or
- (c) an application for a prescribed notice or exemption notice about the person is withdrawn.

prescribed provision means—

- (a) in relation to a prescribed notice—the Commissioner's Act, section 224 or 239; or
- (b) in relation to an exemption notice—the Commissioner's Act, section 224 (as applied under section 285) or 297'.

35 Amendment of s 140AC (Immediate suspension)

Section 140AC(3) to (5), after 'prescribed notice'—
insert—
'or negative exemption notice'.

36 Amendment of s 140AF (End of suspension)

- (1) Section 140AF(1), after 'prescribed notice'—
insert—
'or positive exemption notice'.
- (2) Section 140AF(2), after 'prescribed notice'—
insert—
'or negative exemption notice'.

[s 37]

37 Amendment of s 140AG (Cancellation of certificate of approval)

Section 140AG(1) to (4), after ‘prescribed notice’—

insert—

‘or negative exemption notice’.

38 Amendment of s 140AH (Cancellation of licence)

Section 140AH(1) and (2), after ‘prescribed notice’—

insert—

‘or negative exemption notice’.

39 Replacement of s 140A (Chief executive may notify children’s commissioner about particular information)

Section 140A—

omit, insert—

‘140A Chief executive to give particular information to children’s commissioner

‘(1) This section applies if the chief executive—

- (a) amends, suspends or cancels a person’s certificate of approval under this division (a *disciplinary action*); and
- (b) reasonably believes the disciplinary action may be relevant to the functions or powers of the children’s commissioner under the Commissioner’s Act.

‘(2) The chief executive must give written notice of the disciplinary action to the children’s commissioner.

‘(3) A notice under subsection (2) must state the following—

- (a) the person’s name and address;
- (b) the person’s date and place of birth;
- (c) that disciplinary action has been taken against the person, without stating anything further about the disciplinary action.

-
- ‘(4) Subsection (5) applies if the children’s commissioner—
- (a) requests further information about the disciplinary action; and
 - (b) notifies the chief executive that the person is an applicant for, or holder of, a prescribed notice or exemption notice under the Commissioner’s Act.
- ‘(5) The chief executive must give the children’s commissioner a written notice stating the following—
- (a) the form of disciplinary action taken;
 - (b) when the conduct happened that constituted a ground for the disciplinary action;
 - (c) the nature of the conduct that constituted a ground for the disciplinary action;
 - (d) any other information about the disciplinary action the chief executive considers may be relevant to employment screening under the Commissioner’s Act, chapter 8, including, for example, details about the nature of the disciplinary action.
- ‘(6) A notice given under subsection (2) or (5) must not contain information that identifies, or is likely to identify, a particular child.
- ‘(7) If the chief executive gives the children’s commissioner information under subsection (5) about disciplinary action and the disciplinary action is set aside on review or appeal, the chief executive must notify the children’s commissioner of the following—
- (a) the disciplinary action has been set aside;
 - (b) the reasons given by the entity that set the disciplinary action aside for setting it aside.’.

[s 40]

40 Amendment of s 141B (Personal history)

Section 141B(1)(b) and (c), after ‘prescribed notice’—
insert—
‘or current positive exemption notice’.

41 Amendment of s 141H (Nominee for licence)

- (1) Section 141H(1)(a) and (d), after ‘notice’—
insert—
‘or exemption notice’.
- (2) Section 141H(1)(c), ‘section 113 or 114’—
omit, insert—
‘section 324 or 325’.
- (3) Section 141H(1)(e)(ii), after ‘notice’—
insert—
‘or negative exemption notice’.
- (4) Section 141H(3)(b), after ‘notice’—
insert—
‘or current positive exemption notice’.

42 Amendment of s 141I (Director of licensee)

- (1) Section 141I(1)(a), after ‘notice’—
insert—
‘or exemption notice’.
- (2) Section 141I(1)(c), ‘section 113 or 114’—
omit, insert—
‘section 324 or 325’.

43 Amendment of s 142 (Meaning of *police information*)

Section 142, definition *police information*, paragraphs (f) and (g), after ‘prescribed notice’—

insert—

‘or current positive exemption notice’.

44 Amendment of s 148A (Chief executive to notify children’s commissioner about particular persons)

(1) Section 148A(1)(a), after ‘notice’—

insert—

‘or exemption notice’.

(2) Section 148A(1)(a)(i), ‘section 6G(1) or (2)’—

omit, insert—

‘section 14(1) or (2)’.

(3) Section 148A(3)(b), after ‘notice’—

insert—

‘or current positive exemption notice’.

45 Amendment of s 148B (Obtaining particular information from children’s commissioner)

Section 148B(1)(a) to (c)—

omit, insert—

‘(a) information about whether a relevant person—

(i) has a current positive prescribed notice, current negative prescribed notice, current positive exemption notice or current negative exemption notice; or

(ii) has a positive prescribed notice or positive exemption notice that is suspended under the Commissioner’s Act; or

[s 46]

- (iii) has a current application for a prescribed notice or exemption notice;
- (b) if the relevant person has a positive prescribed notice—the expiry date for the notice;
- (c) if the relevant person has a negative prescribed notice or negative exemption notice—the date of issue of the notice.’.

46 Amendment of s 148D (Pending application for prescribed notice)

- (1) Section 148D(2), ‘section 104B’—

omit, insert—

‘section 188’.

- (2) Section 148D(4), ‘section 109(1)’—

omit, insert—

‘section 197’.

47 Amendment of s 246G (Preparation of supplementary report)

- (1) Section 246G(1), ‘section 89T(3)’—

omit, insert—

‘section 134(3)’.

- (2) Section 246G(2), ‘section 89U(1)’—

omit, insert—

‘section 135(1)’.

48 Amendment of s 246H (Chief executive to give reports to State Coroner)

Section 246H(1)(a)(iii), ‘section 89U’—
omit, insert—
‘section 135’.

49 Insertion of new ch 9, pt 7

Chapter 9—
insert—

‘Part 7 Transitional provision for Criminal History Screening Legislation Amendment Act 2010

‘269 Giving information about disciplinary action to children’s commissioner

‘(1) This section applies if—

- (a) before the commencement, the chief executive amended, suspended or cancelled a certificate of approval under chapter 4, part 2, division 4 (the *disciplinary action*); and
- (b) at the commencement, the chief executive has neither given nor decided not to give the children’s commissioner written notice about the disciplinary action as provided under previous section 140A.

‘(2) Section 140A as in force immediately after the commencement applies in relation to the disciplinary action.

‘(3) In this section—

commencement means the commencement of this section.

previous section 140A means section 140A as in force from time to time before the commencement.’

[s 50]

50 Amendment of sch 2 (Reviewable decisions and aggrieved persons)

Schedule 2, left column, after ‘prescribed notice’—

insert—

‘or current positive exemption notice’.

51 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions *negative prescribed notice*, *positive prescribed notice*, *prescribed notice* and *traffic history*—

omit.

(2) Schedule 3—

insert—

‘apply for an exemption notice means apply for an exemption notice under the Commissioner’s Act.

exemption notice means an exemption notice under the Commissioner’s Act.

negative exemption notice means a negative exemption notice under the Commissioner’s Act.

negative prescribed notice means a negative notice under the Commissioner’s Act.

positive exemption notice means a positive exemption notice under the Commissioner’s Act.

positive prescribed notice means a positive notice under the Commissioner’s Act.

prescribed notice means a prescribed notice under the Commissioner’s Act.

traffic history, of a person, means the history of the person’s contraventions of the following provisions—

(a) the *Transport Operations (Road Use Management) Act 1995*, section 79;

[s 54]

(b) apply for a prescribed notice or exemption notice.’.

(2) Section 25(3), after ‘positive notice’—

insert—

‘or positive exemption notice’.

54 Amendment of s 28 (Revoking a disqualification order)

Section 28(4), after ‘positive notice’—

insert—

‘or positive exemption notice’.

55 Amendment of schedule (Dictionary)

(1) Schedule—

insert—

‘**exemption notice** means an exemption notice under the *Commission for Children and Young People and Child Guardian Act 2000*.

positive exemption notice means a positive exemption notice under the *Commission for Children and Young People and Child Guardian Act 2000*.

prescribed notice means a prescribed notice under the *Commission for Children and Young People and Child Guardian Act 2000*.’.

(2) Schedule, definition *appearance notice*, paragraph (e)(ii), ‘positive notice’—

omit, insert—

‘prescribed notice or exemption notice’.

(3) Schedule, definition *appearance notice*, paragraph (e)(iii), ‘or positive notice blue card’—

omit, insert—

‘, positive notice blue card or positive exemption notice’.

Part 5 **Amendment of Commission for Children and Young People and Child Guardian Act 2000**

56 **Act amended**

- (1) This part and schedules 1 and 2 amend the *Commission for Children and Young People and Child Guardian Act 2000* (**the Act**).
- (2) Schedule 1 makes minor amendments of particular provisions of the Act.
- (3) Schedule 2 amends parts 1 to 5, 6A, 6B and 7A to 9 of the Act to—
 - (a) convert parts into chapters, divisions into parts and subdivisions into divisions; and
 - (b) renumber provisions within parts 1 to 5, 6A, 6B and 7A to 9; and
 - (c) make amendments consequential to the conversions and renumbering mentioned in paragraph (a) and (b) or arising out of the replacement of part 6 under section 58.
- (4) If this part or schedule 1 amends a provision renumbered in schedule 2, the renumbering in schedule 2 takes effect immediately after the amendment of the provision in this part or schedule 1.

57 **Replacement of s 30 (Criminal history screening of commission's staff)**

Section 30—

omit, insert—

'30 Employment screening of commission's staff

- (1) This section applies in relation to a person who—
 - (a) is or proposes to be a member of the commission's staff; and

- (b) is to start, or continue in, regulated employment in that capacity.

Note—

See the *Public Service Act 2008* for the employment of the commission's employees generally, including in child-related duties that are not regulated employment.

- '(2) The commissioner may ask the person for written consent for the commissioner to undertake employment screening of the person under chapter 8.
- '(3) Subsection (2) applies even if the person is a public service employee at the time the person is to start, or continue in, the regulated employment.
- '(4) If the person does not give the consent, or withdraws his or her consent, the commissioner must ensure the person does not start, or continue in, the regulated employment.
- '(5) If the person gives the consent, the commissioner may—
- (a) if the person is not a police officer or registered teacher—undertake employment screening of the person under chapter 8, and issue a prescribed notice to the person, as if the commissioner were deciding a prescribed notice application about the person; or
 - (b) if the person is a police officer or registered teacher—undertake employment screening of the person under chapter 8, and issue an exemption notice to the person, as if the commissioner were deciding an exemption notice application about the person
- '(6) The person's consent to employment screening may be withdrawn—
- (a) if the person is not a police officer or registered teacher—under sections 204 to 208 as if a prescribed notice application has been made about the person; or
 - (b) if the person is a police officer or registered teacher—under sections 264 to 269 as if an exemption notice application has been made about the person.'

58 Replacement of pt 6 (Screening for regulated employment and regulated businesses)

Part 6—

omit, insert—

‘Chapter 8 Screening for regulated employment and regulated businesses

‘Part 1 Preliminary

‘Division 1 General

‘154 Main purpose of ch 8

‘The main purpose of this chapter is to ensure that persons employed in particular employment, or carrying on particular businesses, as prescribed under this Act undergo screening under this chapter.

‘155 Safety and wellbeing of children to be paramount consideration

‘Without limiting section 6, the paramount consideration in making a decision under this chapter is a child’s entitlement to be cared for in a way that protects the child from harm and promotes the child’s wellbeing.

‘Division 2 Application of chapter

‘156 Employment and businesses regulated by this chapter

‘(1) This chapter concerns—

- (a) employment of a type mentioned in schedule 1, part 1 (*regulated employment*); and
 - (b) the carrying on of a business of a type mentioned in schedule 1, part 2 (a *regulated business*).
- ‘(2) Schedule 1, part 3 provides for employment to which this chapter does not apply.

‘157 This chapter applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986

‘This chapter applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

‘158 Declaration relating to exemption to category of regulated employment

- ‘(1) This section applies if, under a section of schedule 1, part 1, the employment of a person is regulated employment.
- ‘(2) The employment is regulated employment even if—
- (a) another section of schedule 1, part 1 expressly provides that employment of the person is not regulated employment; or
 - (b) a section of schedule 1, part 2 expressly provides that a business carried on by the person is not a regulated business.

Example—

An Australian lawyer is employed at a school as a student counsellor and the lawyer is not an approved teacher or a volunteer who is a parent of a child attending the school. The employment of the Australian lawyer at the school is regulated employment under schedule 1, section 3 even though, under schedule 1, section 6(3)(a), the employment of the Australian lawyer is not regulated employment.

‘159 Declaration relating to exemption to category of regulated business

- ‘(1) This section applies if, under a section of schedule 1, part 2, a business carried on by a person is a regulated business.
- ‘(2) The business is a regulated business even if—
- (a) another section of schedule 1, part 2 expressly provides that a business carried on by the person is not a regulated business; or
 - (b) a section of schedule 1, part 1 expressly provides that employment of the person is not regulated employment.

Example—

If a person carries on a business that includes private tutoring of children at a school, the person is carrying on a regulated business under schedule 1, section 17 even if employment of the person is not regulated employment under schedule 1, section 3 because the person is an approved teacher.

‘160 Application of chapter to children

‘This chapter applies to the unpaid employment of a child only if the child is a trainee student of an education provider and the employment is part of the course undertaken by the trainee student with the education provider.

‘Part 2 Interpretation

‘161 What is employment

- ‘(1) For this chapter, a person is employing another person if the first person has an agreement with the other person for the other person to carry out work.
- ‘(2) It is immaterial for this section—
- (a) whether the agreement is written or unwritten; and

- (b) whether the work is carried out voluntarily or for financial reward; and
 - (c) what a person's motivation is for carrying out the work; and
 - (d) the time for which the person is engaged to carry out the work; and
 - (e) whether the agreement provides for the other person to carry out work on 1 occasion or on an ongoing basis, whether regularly or irregularly.
- '(3) Also, for this section, the nature of the work is immaterial.
- '(4) This section is subject to section 162.

Examples of employment—

- 1 A person is engaged by a school as a cleaner under a written contract of employment.
- 2 A person orally agrees with the manager of a club to coach a children's sporting team during a season.
- 3 The manager of a counselling organisation agrees with an adult student that the student attend the organisation's office each day during a semester and carry out various duties.
- 4 A tour operator arranges with the parents of a family to provide a child accommodation service in their home to an international student.

'162 What is employment when education provider arranges trainee student to carry out work for someone else

- '(1) This section applies if—
- (a) the first person mentioned in section 161 is an education provider; and
 - (b) the other person mentioned in section 161 is a trainee student of the education provider; and
 - (c) the work to be carried out is part of the course that the trainee student is undertaking with the education provider; and

-
- (d) the work is to be carried out for someone else.
- ‘(2) For section 161, the person for whom the trainee student is to carry out work, or carries out work, is employing the trainee student.
- ‘(3) Subsection (2) applies even if—
- (a) there is no agreement for the trainee student to carry out the work made expressly between the person and the trainee student; or
 - (b) the education provider—
 - (i) applies for a prescribed notice about the trainee student as mentioned in section 199(2); or
 - (ii) applies for an exemption notice about the trainee student as mentioned in section 260(2).
- ‘(4) For this chapter, if the education provider applies for a prescribed notice or exemption notice about the trainee student as mentioned in subsection (3)(b)—
- (a) the person for whom the trainee student is to carry out work, or carries out work, need not apply for the prescribed notice or exemption notice; but
 - (b) the person is—
 - (i) if the education provider has applied for a prescribed notice about the trainee student—taken to have applied for a prescribed notice about the trainee student for part 4, divisions 3 and 4; or
 - (ii) if the education provider has applied for an exemption notice about the trainee student—taken to have applied for an exemption notice about the trainee student for part 5, divisions 2 and 3.

‘163 What is employment in child care

- ‘(1) This section applies to the employment of a person as a carer in, or staff member of, a child care service.

- ‘(2) A reference in this Act to employment of the person includes a reference to engagement of the person within the meaning of the *Child Care Act 2002*, section 58.

‘164 Matters about particular regulated employment relating to care of children

- ‘(1) This section applies if a person is engaged, or proposes to be engaged, in regulated employment mentioned in schedule 1, section 14(1) or (2).
- ‘(2) For this chapter, and for no other purpose, the State is taken to be employing, or proposing to employ, the person in the regulated employment.
- ‘(3) For this chapter—
- (a) the chief executive (child safety) may carry out a function of the State relating to the person; and
 - (b) if the person must disclose information to the person’s employer, or notify the employer about a matter—the person must disclose the information to, or notify, the chief executive (child safety).

Note—

This declaration arises out of the volunteer or non-employee status of persons engaged in regulated employment mentioned in schedule 1, section 14(1) or (2).

‘165 Who is a *volunteer*

- ‘(1) A *volunteer* is a person who is employed by another person and does not carry out any work for the other person for a financial reward.
- ‘(2) In this section—
- financial reward* does not include—
- (a) a payment that is a reimbursement for out-of-pocket expenses; or

- (b) for a person who is an approved carer—an allowance or other amount paid to the person under the *Child Protection Act 1999*, section 159.

‘166 Executive officers of a corporation carrying on a regulated business

- ‘(1) This section applies in relation to a corporation that carries on, or proposes to carry on, a regulated business.
- ‘(2) For this chapter other than section 172, a person is taken to be carrying on, or proposing to carry on, the regulated business by being, or proposing to be, an executive officer of the corporation.
- ‘(3) Subsection (2) applies only if the person’s principal place of residence is in Australia.

Note—

In relation to section 172 and other provisions of this Act applying to corporations, see section 383.

‘167 What is a *serious offence*

- ‘(1) A *serious offence* is—
 - (a) an offence against a provision of an Act mentioned in schedule 2 or 3, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
 - (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or
 - (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
 - (d) an offence that has, as an element, an intention to commit an offence of a kind mentioned in paragraph (a); or
 - (e) an offence that, at the time it was committed, was an offence of a kind mentioned in paragraph (a); or

- (f) another offence that is a class 1 offence or a class 2 offence under the Offender Reporting Act that is not otherwise a serious offence under this Act; or
- (g) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a) to (f).

Note—

Column 2 in schedules 2 and 3 is included for information purposes only and states a section heading for the provision mentioned opposite in column 1.

- ‘(2) For this section, it is immaterial if a provision mentioned in schedule 2 or 3, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.

‘168 **What is a *disqualifying offence***

- ‘(1) A *disqualifying offence* is—
 - (a) an offence against a provision of an Act mentioned in schedule 4 or 5, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
 - (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or
 - (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
 - (d) an offence that has, as an element, intention to commit an offence of a kind mentioned in paragraph (a); or
 - (e) an offence that, at the time it was committed was an offence of a kind mentioned in paragraph (a); or
 - (f) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a) to (e).

Note—

Column 2 in schedules 4 and 5 is included for information purposes only and states a section heading for the provision mentioned opposite in column 1.

- ‘(2) For this section, it is immaterial if a provision mentioned in schedule 4 or 5, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.

‘169 Who is a *disqualified person*

- ‘(1) A person is a *disqualified person* if the person—
- (a) has been or is convicted of a disqualifying offence; or
 - (b) is subject to—
 - (i) offender reporting obligations; or
 - (ii) an offender prohibition order; or
 - (iii) a disqualification order; or
 - (iv) a sexual offender order.
- ‘(2) However, a person to whom subsection (1)(a) applies is not a disqualified person if the commissioner issued an eligibility declaration to the person and the eligibility declaration has not expired.

Notes—

- 1 See part 4, division 2 for obtaining an eligibility declaration.
- 2 Under section 181, a person who is issued a positive notice, or whose negative notice or negative exemption notice is cancelled, is taken to be issued with an eligibility declaration.
- 3 See section 185 for when an eligibility declaration expires, including if the person is charged with a disqualifying offence or becomes a relevant disqualified person after the declaration was issued.

‘170 Who is a *relevant disqualified person*

‘A person is a *relevant disqualified person* if the person—

- (a) has been or is convicted of a disqualifying offence for which an imprisonment order was or is imposed; or
- (b) is subject to—
 - (i) offender reporting obligations; or
 - (ii) an offender prohibition order; or
 - (iii) a disqualification order; or
 - (iv) a sexual offender order.

‘Part 3 Risk management strategies

‘171 Risk management strategies about persons employed in regulated employment

- ‘(1) A person who employs someone else in employment that is regulated employment must, for each year, develop and implement a written strategy about the person’s employees in regulated employment that—
- (a) implements employment practices and procedures to promote the wellbeing of a child affected by the regulated employment and to protect the child from harm; and
 - (b) includes the matters prescribed under a regulation.

Maximum penalty—20 penalty units.

- ‘(2) In this section—
- employees in regulated employment*, for a person, includes each of the following whom the person employs in regulated employment—
- (a) persons about whom the person has applied for a prescribed notice or exemption notice;
 - (b) persons who hold a positive notice or positive exemption notice;

-
- (c) persons who need not hold a positive notice or exemption notice;
 - (d) persons about whom the person is notified under section 339.

‘172 Risk management strategies about regulated businesses

‘A person who carries on a regulated business must, for each year, develop and implement a written strategy about the regulated business that—

- (a) implements employment practices and procedures to promote the wellbeing of a child affected by the regulated business and to protect the child from harm; and
- (b) includes the matters prescribed under a regulation.

Maximum penalty—20 penalty units.

‘Part 4 Prescribed notices

‘Division 1 Preliminary

‘173 Part does not apply to police officers or registered teachers

‘This part does not apply in relation to the employment of a person, or the carrying on of a business by a person, who is—

- (a) a police officer; or
- (b) a registered teacher.

‘174 Offences for disqualified person

‘(1) A disqualified person must not—

- (a) sign an application about the person made by someone else under division 7; or
- (b) make an application under division 8; or
- (c) apply for, or start or continue in, regulated employment.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

See section 197 in relation to carrying on a regulated business.

- ‘(2) Subsection (1)(c) applies even though it may not be an offence for a person to employ the disqualified person in regulated employment.

‘175 Commissioner to give notice if person signing or making prescribed notice application is disqualified person

- ‘(1) This section applies if the commissioner is satisfied a person who has signed or made a prescribed notice application is a disqualified person.
- ‘(2) The commissioner must give the person a written notice stating the following—
 - (a) the commissioner is satisfied the person is a disqualified person;
 - (b) the application is invalid;
 - (c) the person must not start or continue in regulated employment or carry on a regulated business.
- ‘(3) Also, the commissioner must give each notifiable person for the person a written notice stating that the commissioner is satisfied that the person is a disqualified person and—
 - (a) if the notice is given to a notifiable person in relation to the regulated employment or proposed regulated employment of the person—the notifiable person must not allow the person to start or continue to perform work that is regulated employment; or

- (b) otherwise—the person must not start or continue to carry on a regulated business.
- ‘(4) Further, the commissioner must consider whether notice must be given under section 342(3).

Note—

Under section 342, the commissioner is required to notify the accreditation board about particular decisions relating to a director of a school’s governing body.

‘176 Giving notification under pt 4

- ‘(1) This section applies in relation to a provision of this part that provides that a person (the *employer*) must notify the commissioner about the employment of someone else (the *employee*) in regulated employment.
- ‘(2) The notification must—
 - (a) be in the approved form; and
 - (b) if the employer did not give the certification mentioned in subsection (3)(b)—be accompanied by a certification, in the approved form, by the employer that the employer did not sight the documents only because—
 - (i) the employee’s usual place of residence is more than 50km from the employer’s business address; or
 - (ii) the employee is a person with a disability that affects mobility.
- ‘(3) The approved form mentioned in subsection (2)(a) must include provision for—
 - (a) identifying information about the employee; and
 - (b) certification by the employer or a prescribed person that the employer or prescribed person has sighted the documents, relating to proof of the employee’s identity, prescribed under a regulation.

‘Division 2 Eligibility declaration

‘177 Purpose of div 2

‘The purpose of this division is to allow a person who may be a disqualified person to apply to the commissioner for a declaration (*eligibility declaration*) that the person is not a disqualified person and is eligible—

- (a) to sign an application about the person made by someone else under division 7; or
- (b) to make an application under division 8.

‘178 Application for an eligibility declaration

- ‘(1) A person may make an application (*eligibility application*) to the commissioner for an eligibility declaration.
- ‘(2) The person can not make an eligibility application less than 2 years after making a previous eligibility application that has been refused, unless—
 - (a) the decision to refuse the previous eligibility application was based on wrong or incomplete information; or
 - (b) the previous eligibility application was refused because the person was a relevant disqualified person and the person is no longer a relevant disqualified person.
- ‘(3) The eligibility application must be—
 - (a) in the approved form; and
 - (b) signed by the person; and
 - (c) accompanied by the prescribed fee.
- ‘(4) The approved form must include provision for—
 - (a) identifying information about the person; and
 - (b) certification by a prescribed person that the prescribed person has sighted the documents, relating to proof of the person’s identity, prescribed under a regulation.

‘179 Notice of change of name and contact details in eligibility application

- ‘(1) This section applies if, after a person makes an eligibility application, the person’s name or contact details, as stated in the application, change before the commissioner decides the application.
- ‘(2) Within 14 days after the change happens, the person must give notice of it, in the approved form, to the commissioner.
- Maximum penalty—10 penalty units.

‘180 Commissioner’s decision on eligibility application

- ‘(1) The commissioner may issue an eligibility declaration to a person only if the person—
- (a) has been convicted of a disqualifying offence; and
 - (b) is not a relevant disqualified person.
- ‘(2) The commissioner must decide the eligibility application as if it were a decision about a prescribed notice application and, for that purpose, sections 222 to 229 applies to the decision.
- ‘(3) For subsection (2), sections 222 to 229 apply as if—
- (a) a reference in the sections to a prescribed notice application were a reference to an eligibility application; and
 - (b) a reference in the sections to issuing a positive notice were a reference to issuing an eligibility declaration; and
 - (c) a reference in the sections to issuing a negative notice were a reference to refusing to issue an eligibility declaration.
- ‘(4) If the eligibility application is granted, the commissioner must issue the eligibility declaration to the person.
- ‘(5) If the eligibility application is refused, the commissioner must give the person a written notice stating—
- (a) the reasons for the refusal; and

- (b) if the reasons include investigative information—
 - (i) that, within 28 days after the person is given the notice, the person may appeal to a Magistrates Court about the police commissioner’s decision that the information is investigative information; and
 - (ii) how the person may appeal to the Magistrates Court.
- ‘(6) If the commissioner considers the person has not been convicted of a disqualifying offence, the commissioner must give written notice to the person stating the following—
- (a) the commissioner may only issue an eligibility declaration if the person has been convicted of a disqualifying offence;
 - (b) the commissioner does not consider the person has been convicted of a disqualifying offence and, for that reason, the commissioner can not issue an eligibility declaration to the person;
 - (c) that, if the person is not a disqualified person for another reason, a prescribed notice application may be made about the person;
 - (d) that the eligibility application will not be further dealt with by the commissioner.
- ‘(7) There is no review or appeal under this Act in relation to a decision of the commissioner under this section to refuse an eligibility application.

‘181 Eligibility declaration taken to have been issued

‘The commissioner is taken to have issued an eligibility declaration to a disqualified person if the commissioner—

- (a) issues a positive notice to the person; or
- (b) cancels a negative notice or negative exemption notice issued to the person.

‘182 Withdrawing eligibility application generally

‘A person may withdraw the person’s eligibility application at any time before the commissioner issues an eligibility declaration or a notice relating to the application under section 180 to the person.

‘183 Deemed withdrawal of eligibility application if identity can not be established

‘A person is taken to have withdrawn the person’s eligibility application if—

- (a) the commissioner gives the person a written notice—
 - (i) asking the person to provide, within a reasonable stated time, stated information that the commissioner reasonably needs to establish the person’s identity; and
 - (ii) warning the person that, if the person does not comply with the request, the person’s eligibility application may be taken to have been withdrawn; and
- (b) the person does not comply with the request within the stated time; and
- (c) the commissioner can not establish with certainty the person’s identity; and
- (d) the commissioner gives the person a written notice stating that the person is taken to have withdrawn the eligibility application.

‘184 Deemed withdrawal of eligibility application if particular requests not complied with

‘A person is taken to have withdrawn the person’s eligibility application if—

- (a) the commissioner gives the person—

- (i) a written notice asking the person to provide, within a reasonable stated time, stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application; or
 - (ii) a written notice under section 330; or
 - (iii) a written notice asking the person to give the necessary consent for section 332 or 333; or
 - (iv) a written notice asking the person to give the necessary consent for section 337 or 338; and
- (b) the notice includes a warning that, if the person does not comply with the notice, the person's eligibility application may be taken to have been withdrawn; and
 - (c) the person does not comply with the notice; and
 - (d) the commissioner gives the person a written notice stating that the person is taken to have withdrawn the eligibility application.

'185 Expiry of eligibility declaration

'An eligibility declaration issued to a person expires if, after it is issued—

- (a) the person—
 - (i) is charged with a disqualifying offence; or
 - (ii) is convicted of a serious offence; or
 - (iii) becomes a relevant disqualified person; or
 - (iv) is issued with a negative notice or negative exemption notice; or
- (b) any positive notice or positive exemption notice held by the person is cancelled.

‘186 Reversal of decision refusing an eligibility declaration

- ‘(1) The commissioner may revoke a decision to refuse an eligibility application and issue an eligibility declaration if the commissioner is satisfied—
- (a) the decision on the application was based on wrong or incomplete information; and
 - (b) based on the correct or complete information, the commissioner decides under section 180 that the commissioner may issue the eligibility declaration.
- ‘(2) The commissioner may exercise the power under subsection (1) on the commissioner’s own initiative or on application by the person whose eligibility application was refused.

‘Division 3 Prescribed notice required for employment of volunteers in regulated employment

‘187 Application of div 3

‘This division applies to employment of a volunteer.

‘188 Starting employment of volunteers

- ‘(1) A person (the *employer*) must not employ another person (the *employee*) in regulated employment unless—
- (a) the employee has a current positive notice and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or
- Note—*
- See section 176 for how the notification must be given.
- (b) the employee is a transitioning person and the employer has applied for a prescribed notice about the employee.

Maximum penalty—50 penalty units.

Note—

For the application of this section to persons taken to be volunteers engaged in regulated employment mentioned in schedule 1, section 14(2), see the *Child Protection Act 1999*, section 148D.

(2) In this section—

transitioning person means a person who was, but is no longer, a police officer or registered teacher if—

- (a) the person was, immediately before a prescribed notice application about the person was made as mentioned in subsection (1)(b), employed in regulated employment on the basis the person was a police officer or registered teacher—
 - (i) who held a positive exemption notice; or
 - (ii) about whom an exemption notice application was made; and
- (b) if paragraph (a)(i) applies—the person’s positive exemption notice—
 - (i) ceased to have effect—
 - (A) for a person who was a police officer—under section 289(2); or
 - (B) for a person who was a registered teacher—under section 289(3) because the person’s registration under the *Education (Queensland College of Teachers) Act 2005* ended under section 26(3), 47(2)(b)(i), 59 or 66(6) of that Act; or
 - (ii) was cancelled under section 302 but was not suspended under section 298 when it was cancelled; and
- (c) if paragraph (a)(ii) applies—the person’s exemption notice application was withdrawn—
 - (i) under section 263; or

- (ii) under section 270 because the person's consent to employment screening was withdrawn under section 265.

'189 Currency of prescribed notice for person continuing employment

- '(1) This section applies if—
 - (a) a person has a positive notice (the *previous notice*) and is employed in regulated employment; and
 - (b) the person's employer applied for a further prescribed notice about the person at least 30 days before the previous notice expires; and
 - (c) the application has not been decided.
- '(2) Despite section 231(2), the previous notice remains current from the day it would otherwise end under that subsection until the application is decided or withdrawn unless the previous notice is earlier cancelled under division 11.

Note—

See, however, section 240 or 242 for the effect of a suspension of a prescribed notice.

'Division 4 Prescribed notice required for employment of other persons in regulated employment

'190 Application of div 4

'This division does not apply to employment of a volunteer.

'191 Continuing employment of certain regular employees

- '(1) This section applies if—

- (a) a person (the *employee*) is employed in regulated employment under an agreement with another person (the *employer*); and
 - (b) after considering any agreement relating to the employment and the hours or times that the employee previously carried out work for the employer, the employer reasonably expects that the employee is likely to carry out work as part of the employment for the minimum frequency for regulated employment; and
 - (c) the employee does not have a current positive notice.
- ‘(2) The employer must not continue to employ the employee in regulated employment unless the employer has applied for a prescribed notice, or further prescribed notice, about the employee.

Maximum penalty—50 penalty units.

‘192 Starting employment of certain regular employees

- ‘(1) This section applies if—
- (a) a person (the *employee*) is not employed in regulated employment but has previously been employed in regulated employment under 1 or more agreements with another person (the *employer*); and
 - (b) it is less than 1 year since the employee last carried out the regulated employment for the employer; and
 - (c) after considering any agreement relating to the proposed employment between the employer and employee and the employee’s employment during the period when the employee was last employed by the employer, the employer reasonably expects that the employee is likely to carry out work as part of the proposed employment for the minimum frequency for regulated employment.
- ‘(2) The employer must not employ the employee in regulated employment unless—

-
- (a) the employee has a current positive notice and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or

Note—

See section 176 for how the notification must be given.

- (b) the employer has applied for a prescribed notice about the employee.

Maximum penalty—50 penalty units.

‘193 Starting employment of new employees

‘(1) This section applies if—

- (a) a person (the *employee*) is not employed in regulated employment; and
- (b) another person (the *employer*) proposes to employ the employee in regulated employment; and
- (c) after considering any agreement relating to the proposed employment between the employer and employee, the employer reasonably expects that the employee is likely to carry out work as part of the proposed employment for the minimum frequency for regulated employment; and
- (d) section 192 does not apply to the proposed employment.

‘(2) The employer must not employ the employee in regulated employment unless—

- (a) the employee has a current positive notice and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or

Note—

See section 176 for how the notification must be given.

- (b) the employer has applied for a prescribed notice about the employee.

Maximum penalty—50 penalty units.

‘194 Prohibited employment

- ‘(1) This section applies if a person (the *employee*) does not have a current positive notice.
- ‘(2) A person (the *employer*) must not employ, or continue to employ, the employee in regulated employment if—
- (a) the employer has applied for a prescribed notice about the employee and the commissioner gives the employer—
- (i) a notice of deemed withdrawal relating to the employee other than under section 208; or
- (ii) a notice of deemed withdrawal relating to the employee under section 208; or

Editor’s note—

Section 208 (Deemed withdrawal of consent to employment screening if charged with disqualifying offence etc.)

- (b) the employer is aware that a negative notice or negative exemption notice has been issued to the employee and the notice is current; or
- (c) the employer has been given a notice in relation to the employee—
- (i) under section 175(3) or 244(4); or
- (ii) under section 339(3) because of a change in police information mentioned in section 339(3)(g).

Editor’s note—

- section 175 (Commissioner to give notice if person signing or making prescribed notice application is disqualified person)
- section 244 (Cancelling positive notice on holder’s request)

- section 339 (Commissioner to give notice to particular entities about a change in police information)

Maximum penalty—

- (a) for subsection (2)(a)(i)—40 penalty units; or
- (b) otherwise—200 penalty units or 2 years imprisonment.

‘Division 5 Obligations if holder of negative notice or negative exemption notice, or prescribed notice application is withdrawn

‘195 Person holding negative notice or negative exemption notice not to apply for, or start or continue in, regulated employment etc.

- ‘(1) A person who holds a current negative notice or current negative exemption notice must not—
 - (a) sign an application about the person made by someone else under division 7; or
 - (b) make an application under division 8; or
 - (c) apply for, or start or continue in, regulated employment.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

See section 197 in relation to carrying on a regulated business.

- ‘(2) However, if the person held a positive notice but a negative notice or negative exemption notice was substituted for it under section 237, 239, 241 or 243, a court may not find the person contravened subsection (1) unless the court is satisfied that written notice of the substitution was given to the person.

- ‘(3) Also, if the person held a positive exemption notice but a negative exemption notice was substituted for it under section 295, 297 or 299, a court may not find the person contravened subsection (1) unless the court is satisfied that written notice of the substitution was given to the person.

‘196 Person who has withdrawn consent to employment screening not to start or continue in regulated employment

- ‘(1) This section applies if—
- (a) an application about a person was made under division 7; and
 - (b) before a prescribed notice was issued, the application was withdrawn under section 209 because the person’s consent to employment screening under this chapter was withdrawn under section 204 or 208.

- ‘(2) The person must not start or continue in regulated employment unless a positive notice is issued to the person.

Maximum penalty—

- (a) if the person’s consent to employment screening under this chapter was withdrawn under section 204—100 penalty units or 1 year’s imprisonment; or
- (b) otherwise—500 penalty units or 5 years imprisonment.

‘Division 6 Prescribed notice required for regulated business

‘197 Carrying on regulated business

- ‘(1) A person must not carry on a regulated business unless—
- (a) the person has a current positive notice; or
 - (b) the person—
 - (i) is a transitioning person; and

(ii) has applied for a prescribed notice.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

Under section 166, particular executive officers of a corporation that carries on a regulated business are taken to carry on the regulated business.

(2) In this section—

transitioning person means a person who was, but is no longer, a police officer or registered teacher if—

(a) the person was, immediately before the person applied for a prescribed notice as mentioned in subsection (1)(b)(ii), carrying on a regulated business on the basis the person was a police officer or registered teacher who—

(i) held a positive exemption notice; or

(ii) had made an exemption notice application; and

(b) if paragraph (a)(i) applies—the person's positive exemption notice—

(i) ceased to have effect—

(A) for a person who was a police officer—under section 289(2); or

(B) for a person who was a registered teacher—under section 289(3) because the person's registration under the *Education (Queensland College of Teachers) Act 2005* ended under section 26(3), 47(2)(b)(i), 59 or 66(6) of that Act; or

(ii) was cancelled under section 302 and was not suspended under section 298 when it was cancelled; or

(c) if paragraph (a)(ii) applies—the person's exemption notice application was withdrawn under section 276.

‘198 Currency of prescribed notice for person carrying on regulated business

- ‘(1) This section applies if—
- (a) a person who carries on a regulated business has a positive notice (a *previous notice*); and
 - (b) the person applies for a further prescribed notice about the person at least 30 days before the previous notice expires.
- ‘(2) Despite section 231(2), the previous notice remains current from the day it would otherwise end under that subsection until the application is decided or withdrawn unless the previous notice is earlier cancelled under division 11.

Note—

See, however, section 240 or 242 for the effect of a suspension of a prescribed notice.

‘Division 7 Applying for prescribed notice for regulated employment

‘199 Who makes application

- ‘(1) A person who proposes to start employing, or continue employing, another person in regulated employment may apply to the commissioner for a prescribed notice about the other person.
- ‘(2) If, as part of a course undertaken by a trainee student of an education provider, the education provider proposes for the trainee student to perform work that is regulated employment, the education provider may apply to the commissioner for a prescribed notice about the trainee student.

Note—

Under section 162, if the education provider makes a prescribed notice application about the trainee student, the person who proposes to start employing the trainee student is not required to make a prescribed notice application about the trainee student.

- ‘(3) If a person who makes an application under this division asks the person about whom the application is made to sign the application, the person making the application must warn the person asked to sign it that it is an offence for a disqualified person to sign the application.

Maximum penalty for subsection (3)—10 penalty units.

‘200 Form of application

- ‘(1) An application under this division must be—
- (a) in the approved form; and
 - (b) signed by, or on behalf of, the person making the application (the *applicant*); and
 - (c) signed by the person about whom the application is made (the *employee*); and
 - (d) if the applicant did not sight the documents as mentioned in subsection (2)(b)—accompanied by a certification, in the approved form, by the applicant that the applicant did not sight the documents only because—
 - (i) the employee’s usual place of residence is more than 50km from the applicant’s business address; or
 - (ii) the employee is a person with a disability that affects mobility; and
 - (e) accompanied by the prescribed fee.
- ‘(2) The approved form mentioned in subsection (1)(a) must include provision for—
- (a) identifying information about the employee; and
 - (b) certification by the applicant or a prescribed person that the applicant or prescribed person has sighted the documents, relating to proof of the employee’s identity, prescribed under a regulation; and

- (c) a declaration by the applicant that the applicant has given the employee a warning as required under section 199(3); and
 - (d) a declaration by the employee that he or she is not a disqualified person; and
 - (e) the employee's consent to employment screening under this chapter.
- '(3) The approved form mentioned in subsection (1)(a) must include—
- (a) a warning that it is an offence for a disqualified person to sign the application; and
 - (b) a statement about applying for an eligibility declaration.

'201 Commissioner may obtain further information

'On receiving an application under this division, the commissioner may, orally or in writing—

- (a) ask the person making the application, or the person about whom the application is made (the *employee*), to provide, within a reasonable stated time—
 - (i) stated information that the commissioner reasonably needs to establish the employee's identity; or
 - (ii) stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application; or
- (b) ask the person making the application about why the person did not sign the documents as mentioned in section 200(2)(b).

'202 Payment of fee for application

'(1) For an application under this division—

-
- (a) the person about whom the application is made is liable to pay the prescribed fee mentioned in section 200(1)(e); and
 - (b) if the person's employer pays the prescribed fee, the amount of the fee is a debt payable by the person to the employer.
- '(2) Subsection (1) applies subject to—
- (a) a written agreement entered into between the person and the employer; or
 - (b) an industrial instrument under the *Industrial Relations Act 1999*; or
 - (c) another document that regulates wages and conditions of employment and is enforceable under any of the following—
 - (i) the *Fair Work Act 2009* (Cwlth);
 - (ii) the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth);
 - (iii) the repealed *Workplace Relations Act 1996* (Cwlth).

'203 Withdrawal of application generally

- '(1) A person who makes an application under this division may withdraw the application at any time before it is decided.
- '(2) A person who makes an application under this division is taken to have withdrawn the application if—
 - (a) the commissioner gives the person a written notice—
 - (i) asking the person to provide information about why the person did not sign the documents as mentioned in section 200(2)(b); and
 - (ii) warning the person that, if the person does not comply with the request, the person's application may be taken to have been withdrawn; and

- (b) the person does not comply with the request within the stated time; and
- (c) the commissioner gives the person a notice of deemed withdrawal.

‘204 Withdrawal of consent to employment screening generally

- ‘(1) The person about whom an application is made under this division may, orally or by written notice to the commissioner, withdraw the person’s consent to employment screening under this chapter.
- ‘(2) If a person withdraws his or her consent to employment screening under this chapter under subsection (1), the commissioner must give written notice of the withdrawal to the person who made the application.

‘205 Deemed withdrawal of consent to employment screening if identity can not be established

‘The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—

- (a) the commissioner gives the person a written notice—
 - (i) asking the person to provide, within a reasonable stated time, stated information that the commissioner reasonably needs to establish the person’s identity; and
 - (ii) warning the person that, if the person does not comply with the request, the person’s consent to employment screening under this chapter may be taken to have been withdrawn; and
- (b) the person does not comply with the request within the stated time; and
- (c) the commissioner can not establish with certainty the person’s identity; and

-
- (d) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.

‘206 Deemed withdrawal of consent to employment screening if particular requests not complied with

‘The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—

- (a) the commissioner gives the person—
 - (i) a written notice asking the person to provide, within a reasonable stated time, stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application; or
 - (ii) a written notice under section 330; or
 - (iii) a written notice asking the person to give the necessary consent for section 332 or 333; or
 - (iv) a written notice asking the person to give the necessary consent for section 337 or 338; and
- (b) the notice includes a warning that, if the person does not comply with the notice, the person’s consent to employment screening under this chapter may be taken to have been withdrawn; and
- (c) the person does not comply with the notice; and
- (d) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.

‘207 Deemed withdrawal of consent to employment screening if employment changes

- ‘(1) The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—

- (a) the relevant person for the person has given the commissioner written notice that the person is no longer employed by the employer stated in the application, or the commissioner can not obtain information, in writing, from the relevant person that the person is employed by the employer; and
- (b) the person has not given written notice to the commissioner about the end of the employment as required under section 230; and

Note—

If the person gives a written notice about the end of the employment under section 230, the written notice should provide for the withdrawal of the person's consent to employment screening under this chapter. See section 230(3).

- (c) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.
- ‘(2) For subsection (1), the relevant person for a person about whom an application is made under this division may give written notice to the commissioner that the person—
- (a) is employed, or continues to be employed, by the employer stated in the application; or
 - (b) is no longer employed by the employer stated in the application.

‘(3) In this section—

relevant person, for a person, means—

- (a) the person's employer; or
- (b) if the person is a trainee student and the prescribed notice application is made by an education provider—the person's employer or the education provider.

‘208 Deemed withdrawal of consent to employment screening if charged with disqualifying offence etc.

‘The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—

- (a) the person gives the commissioner, or the commissioner gives the person, written notice that the person—
 - (i) is charged with a disqualifying offence; or
 - (ii) is named as the respondent in an application for an offender prohibition order and the proceeding for the offender prohibition order has not ended; or
 - (iii) is subject to a temporary offender prohibition order or interim sexual offender order made after the day the application was made; and
- (b) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.

‘209 Effect of withdrawal of consent to employment screening

- ‘(1) This section applies if the person about whom an application is made under this division withdraws his or her consent to employment screening under this chapter before the commissioner issues a prescribed notice to the person.
- ‘(2) The application is taken to have been withdrawn and the commissioner must not issue the prescribed notice.

‘210 Notice about withdrawal of application or negative notice or negative exemption notice

- ‘(1) This section applies if—
 - (a) an application is made about a person under this division; and
 - (b) the application is withdrawn or the person already has a current negative notice or current negative exemption notice.

- ‘(2) The commissioner must give written notice about the withdrawal or the negative notice or negative exemption notice to each notifiable person for the person.
- ‘(3) If the notice under subsection (2) is about the person having a current negative notice or current negative exemption notice, it must state—
 - (a) the date of issue of the negative notice or negative exemption notice; and
 - (b) for a notice given to the chief executive (child safety) about a negative notice or negative exemption issued on the basis the person is or was a relevant disqualified person—the provision of this chapter under which the negative notice or negative exemption notice was issued.

‘Division 8 Applying for prescribed notice for regulated businesses

‘211 Who makes application

‘A person who proposes to carry on, or continue carrying on, a regulated business may apply to the commissioner for a prescribed notice about the person.

‘212 Form of application

- ‘(1) An application under this division must be—
 - (a) in the approved form; and
 - (b) signed by the applicant; and
 - (c) accompanied by the prescribed fee.
- ‘(2) The approved form must include provision for—
 - (a) identifying information about the applicant; and
 - (b) certification by a prescribed person that the prescribed person has sighted the documents, relating to proof of

the applicant's identity, prescribed under a regulation;
and

- (c) a declaration by the applicant that he or she is not a disqualified person.

'(3) The approved form must include—

- (a) a warning that it is an offence for a disqualified person to make the application; and
- (b) a statement about applying for an eligibility declaration.

'213 Commissioner may obtain further information

'On receiving an application under this division, the commissioner may ask the applicant, orally or in writing, to provide, within a reasonable stated time—

- (a) stated information that the commissioner reasonably needs to establish the applicant's identity; or
- (b) stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application.

'214 Withdrawal of application generally

'A person may withdraw the person's application under this division at any time before it is decided.

'215 Deemed withdrawal of application if identity can not be established

'A person who makes an application under this division is taken to have withdrawn the application if—

- (a) the commissioner gives the person a written notice—
 - (i) asking the person to provide, within a reasonable stated time, stated information that the commissioner reasonably needs to establish the person's identity; and

- (ii) warning the person that, if the person does not comply with the request, the person's application may be taken to have been withdrawn; and
- (b) the person does not comply with the request within the stated time; and
- (c) the commissioner can not establish with certainty the person's identity; and
- (d) the commissioner gives the person a notice of deemed withdrawal.

'216 Deemed withdrawal of application if particular requests not complied with

'A person who makes an application under this division is taken to have withdrawn the application if—

- (a) the commissioner gives the person—
 - (i) a written notice asking the person to provide, within a reasonable stated time, stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application; or
 - (ii) a written notice under section 330; or
 - (iii) a written notice asking the person to give the necessary consent for section 332 or 333; or
 - (iv) a written notice asking the person to give the necessary consent for section 337 or 338; and
- (b) the notice includes a warning that, if the person does not comply with the notice, the person's application may be taken to have been withdrawn; and
- (c) the person does not comply with the notice; and
- (d) the commissioner gives the person a notice of deemed withdrawal.

‘217 Deemed withdrawal of application if person charged with disqualifying offence etc.

‘A person who makes an application under this division is taken to have withdrawn the application if—

- (a) the person gives the commissioner, or the commissioner gives the person, written notice that the person—
 - (i) is charged with a disqualifying offence; or
 - (ii) is named as the respondent in an application for an offender prohibition order and the proceeding for the offender prohibition order has not ended; or
 - (iii) is subject to a temporary offender prohibition order or interim sexual offender order made after the date of the application for the prescribed notice; and
- (b) the commissioner gives the person a notice of deemed withdrawal.

‘218 Notice about withdrawal of application or negative notice or negative exemption notice

‘(1) This section applies if—

- (a) a person makes an application under this division; and
- (b) the application is withdrawn or the person already has a current negative notice or current negative exemption notice.

‘(2) The commissioner must—

- (a) if the application is withdrawn—give written notice of the withdrawal to each notifiable person for the person; or
- (b) if the person already has a current negative notice or current negative exemption notice—give written notice of the negative notice or negative exemption notice to the person and each notifiable person for the person.

- ‘(3) If the notice under subsection (2) is about the person having a current negative notice or current negative exemption notice, it must state—
- (a) the date of issue of the negative notice or negative exemption notice; and
 - (b) for a notice given to the chief executive (child safety) about a negative notice or negative exemption issued on the basis the person is or was a relevant disqualified person—the provision of this chapter under which the negative notice or negative exemption notice was issued.

‘Division 9 Deciding prescribed notice application

‘219 Application of div 9

‘This division applies if a prescribed notice application is made about a person and the application is not withdrawn.

‘220 Positive notice or negative notice to be issued

‘The commissioner must decide the prescribed notice application by issuing either of the following to the person—

- (a) a notice declaring the application is approved (a *positive notice*);
- (b) a notice declaring the application is refused (a *negative notice*).

‘221 Issuing prescribed notice to person with no conviction etc. or conviction for offence other than serious offence

- ‘(1) Subject to subsection (2), the commissioner must issue a positive notice to the person if—
- (a) the commissioner is not aware of any police information or disciplinary information about the person; or

- (b) the commissioner is not aware of a conviction of the person for any offence but is aware that there is 1 or more of the following about the person—
 - (i) investigative information;
 - (ii) disciplinary information;
 - (iii) a charge for an offence other than a disqualifying offence;
 - (iv) a charge for a disqualifying offence that has been dealt with other than by a conviction; or

Note for subparagraph (iv)—

For charges for disqualifying offences that have not been dealt with, see sections 208, 217 and 240 (in relation to prescribed notices), and sections 269, 279 and 298 (in relation to exemption notices).

- (c) the commissioner is aware of a conviction of the person for an offence other than a serious offence.
- ‘(2) If subsection (1)(b) or (c) applies to the person and the commissioner is satisfied it is an exceptional case in which it would not be in the best interests of children for the commissioner to issue a positive notice, the commissioner must issue a negative notice to the person.

‘222 Issuing prescribed notice to previous holder of a positive exemption notice

- ‘(1) Subject to subsection (2), the commissioner must issue a positive notice to the person if—
 - (a) the person was the holder of a positive exemption notice that was cancelled because the person resigned or retired from being a police officer, and there has not been a change in police information about the person since the resignation or retirement; or
 - (b) the person was the holder of a positive exemption notice that was cancelled because the person surrendered the person’s registration under the *Education (Queensland College of Teachers) Act 2005*, and there has not been a

change in police information about the person since the surrender.

- ‘(2) If subsection (1)(a) or (b) applies to the person and the commissioner is satisfied it is an exceptional case in which it would not be in the best interests of children for the commissioner to issue a positive notice, the commissioner must issue a negative notice to the person.

‘223 Issuing prescribed notice to person whose negative notice or negative exemption notice is cancelled or who holds eligibility declaration

- ‘(1) This section applies if—
- (a) the commissioner has—
 - (i) under section 236, cancelled a negative notice issued to the person; or
 - (ii) under section 294, cancelled a negative exemption notice issued to the person; or
 - (b) the commissioner has issued an eligibility declaration to the person, and the eligibility declaration has not expired.
- ‘(2) If the commissioner is not aware of any police information or disciplinary information about the person, other than information known to the commissioner at the time of taking the action mentioned in subsection (1)(a) or (b), the commissioner must issue a positive notice to the person.
- ‘(3) Subject to subsection (4), if the commissioner is aware of police information or disciplinary information about the person, other than information known to the commissioner at the time of taking the action mentioned in subsection (1)(a) or (b), the commissioner must issue a negative notice to the person.
- ‘(4) If subsection (3) applies to the person and the commissioner is satisfied it is an exceptional case in which it would not harm the best interests of children for the commissioner to issue a

positive notice, the commissioner must issue a positive notice to the person.

‘224 Issuing negative notice to relevant disqualified person except because of temporary or interim order

- ‘(1) The commissioner must issue a negative notice to the person if the commissioner is aware the person is a relevant disqualified person.
- ‘(2) Subsection (1) does not apply if the person is a relevant disqualified person only because the person is subject to either or both of the following—
 - (a) a temporary offender prohibition order;
 - (b) an interim sexual offender order.

‘225 Issuing prescribed notice to other persons

- ‘(1) Subject to section 223 and subsection (2), the commissioner must issue a negative notice to the person if the commissioner is aware the person—
 - (a) is a relevant disqualified person because the person is subject to a temporary offender prohibition order or interim sexual offender order; or
 - (b) has been a relevant disqualified person at any time but is no longer a relevant disqualified person (other than a person who was a relevant disqualified person by reason of a conviction, sentence or order that was set aside on appeal); or
 - (c) has been convicted of a serious offence.
- ‘(2) If subsection (1)(a), (b) or (c) applies to the person and the commissioner is satisfied it is an exceptional case in which it would not harm the best interests of children for the commissioner to issue a positive notice, the commissioner must issue a positive notice to the person.

‘226 Deciding exceptional case if conviction or charge

- ‘(1) This section applies if the commissioner—
- (a) is deciding whether or not there is an exceptional case for the person; and
 - (b) is aware that the person has been convicted of, or charged with, an offence.
- ‘(2) The commissioner must have regard to the following—
- (a) in relation to the commission, or alleged commission, of an offence by the person—
 - (i) whether it is a conviction or a charge; and
 - (ii) whether the offence is a serious offence and, if it is, whether it is a disqualifying offence; and
 - (iii) when the offence was committed or is alleged to have been committed; and
 - (iv) the nature of the offence and its relevance to employment, or carrying on a business, that involves or may involve children; and
 - (v) in the case of a conviction—the penalty imposed by the court and, if the court decided not to impose an imprisonment order for the offence or not to make a disqualification order under section 357, the court’s reasons for its decision;
 - (b) any information about the person given to the commissioner under section 318 or 319;
 - (c) any report about the person’s mental health given to the commissioner under section 335;
 - (d) any information about the person given to the commissioner under section 337 or 338;
 - (e) anything else relating to the commission, or alleged commission, of the offence that the commissioner reasonably considers to be relevant to the assessment of the person.

‘227 Deciding exceptional case if investigative information exists

- ‘(1) This section applies if the commissioner—
- (a) is deciding whether or not there is an exceptional case for the person; and
 - (b) is aware of investigative information about the person.
- ‘(2) The commissioner must have regard to the following—
- (a) when the acts or omissions constituting the alleged offence to which the investigative information relates were committed;
 - (b) anything else relating to the commission of the acts or omissions that the commissioner reasonably considers relevant to the assessment of the person.

‘228 Deciding exceptional case if disciplinary information exists

- ‘(1) This section applies if the commissioner—
- (a) is deciding whether or not there is an exceptional case for the person; and
 - (b) is aware of disciplinary information about the person.
- ‘(2) The commissioner must have regard to the following—
- (a) the decision or order of the decision-maker relating to the disciplinary information and the reasons for the decision or order;
 - (b) any decision or order of an entity hearing and deciding a review of, or appeal against, a decision or order mentioned in paragraph (a), and the reasons for the decision or order;
 - (c) the relevance of the disciplinary information to employment, or carrying on a business, that involves or may involve children;

- (d) anything else relating to the disciplinary information that the commissioner reasonably considers to be relevant to the assessment of the person.

‘229 Commissioner to invite submissions from person about particular information

- ‘(1) This section applies if the commissioner—
 - (a) must decide whether or not there is an exceptional case for the person; and
 - (b) is proposing to decide the prescribed notice application by issuing a negative notice to the person.
- ‘(2) The commissioner must give the person a written notice—
 - (a) stating the following—
 - (i) the police information about the person that the commissioner is aware of;
 - (ii) any disciplinary information about the person that the commissioner is aware of; and
 - (b) inviting the person to give the commissioner, within a stated time, a submission about—
 - (i) whether or not there is an exceptional case for the person; or
 - (ii) why the commissioner should issue a positive notice, or should not issue a negative notice, because of an exceptional case for the person.
- ‘(3) The stated time must be reasonable and, in any case, at least 7 days after the commissioner gives the notice to the person.
- ‘(4) Before deciding the application, the commissioner must consider any submission received from the person within the stated time.
- ‘(5) A submission mentioned in subsection (2)(b) may be made orally or in a language other than English if the commissioner considers a submission in that form is reasonable in the circumstances.

‘230 Commissioner to be notified of change of particular information

- ‘(1) This section applies if any of the following (each a *relevant change*) happens before the commissioner has issued a prescribed notice to the person in relation to the prescribed notice application—
- (a) the person’s name or contact details, as stated in the application, change;
 - (b) the person’s employment, as stated in the application, ends;
 - (c) the person stops carrying on the business as stated in the application.
- ‘(2) The person must give notice, in the approved form, to the commissioner of the relevant change within 14 days after the relevant change happens.
- Maximum penalty—10 penalty units.
- ‘(3) The approved form mentioned in subsection (2) must provide for a person to give notice withdrawing the person’s consent to employment screening under this chapter.

‘231 Currency of prescribed notice and positive notice blue card

- ‘(1) A negative notice remains current until it is cancelled under division 11.
- ‘(2) A positive notice remains current for 3 years after it is issued, unless it is earlier cancelled under division 11.
- ‘(3) A positive notice blue card relating to a positive notice remains current for the same period as the positive notice.

‘Division 10 Steps after prescribed notice application decided

‘232 Application of div 10

‘This division applies if the commissioner decides a prescribed notice application about a person.

‘233 Additional information to be given if negative notice issued

‘If the commissioner issues a negative notice to the person, the negative notice must be accompanied by a written notice stating the following—

- (a) the reasons for the commissioner’s decision to issue a negative notice to the person;
- (b) the relevant review and appeal information;
- (c) that it is an offence for a person who holds a current negative notice to—
 - (i) sign an application about the person made by someone else under division 7; or
 - (ii) make an application under division 8; or
 - (iii) apply for, or start or continue in, regulated employment; or
 - (iv) carry on a regulated business.

‘234 Notifiable person to be notified of decision

‘(1) After the commissioner issues a prescribed notice to the person, the commissioner must give each notifiable person for the person a written notice stating whether the person was issued a positive notice or negative notice.

‘(2) If the person is issued with a negative notice on the basis the person is or was a relevant disqualified person and a notice about the person is given to the chief executive (child safety)

under subsection (1), the notice must also state the provision of this part under which the negative notice was issued.

Note—

See sections 224 and 225 for circumstances in which a negative notice is issued to a person on the basis the person is or was a relevant disqualified person.

‘235 Department to be given particular advice

- ‘(1) This section applies if—
- (a) the person is a person about whom the chief executive of a department has made an application under division 7; and
 - (b) the commissioner issues a positive notice to the person; and
 - (c) the chief executive of the department asks the commissioner for advice under this section.
- ‘(2) The commissioner may advise the chief executive of the department that the chief executive may need to undertake a further assessment of the person under the *Public Service Act 2008*, chapter 5, part 6, division 3A to decide whether or not the department should engage the person.

Note—

The *Public Service Act 2008*, chapter 5, part 6, division 3A does not apply in relation to the engagement of particular persons by a department. See section 164 of that Act.

- ‘(3) However, the commissioner may give the advice mentioned in subsection (2) only if the commissioner is aware that the person has a criminal history.
- ‘(4) If the commissioner gives advice under subsection (2), the advice must be accompanied by a written notice stating that no adverse inference about the person’s criminal history or suitability for engagement, or continued engagement, by the department may be drawn by the fact the advice was given.

‘Division 11 Cancellation or suspension of prescribed notices

‘236 Cancelling negative notice etc. on holder’s application

- ‘(1) This section applies if—
- (a) the commissioner has issued a negative notice to a person and the notice is current; and
 - (b) the person is not a relevant disqualified person.
- ‘(2) The person may apply to the commissioner to cancel the notice.
- ‘(3) The application may not be made less than 2 years after the issue of the negative notice or any previous application by the person under this section, unless—
- (a) the decision to issue the negative notice was based on wrong or incomplete information; or
 - (b) the negative notice was issued because the person was a relevant disqualified person and the person is no longer a relevant disqualified person.
- ‘(4) The application must be—
- (a) in the approved form; and
 - (b) signed by the person; and
 - (c) accompanied by the prescribed fee.
- ‘(5) The person may state in the application anything the person considers relevant to the commissioner’s decision including, in particular, any change in the person’s circumstances since the negative notice was issued.
- ‘(6) Division 9 applies to the application as if—
- (a) the application were a prescribed notice application about the person; and
 - (b) a reference in the division to issuing a positive notice were a reference to granting the application; and

-
- (c) a reference in the division to issuing a negative notice were a reference to refusing the application.
- ‘(7) If the commissioner grants the application, the commissioner must cancel the negative notice to which the application relates.
- ‘(8) If the commissioner refuses the application, the commissioner must give the person a written notice stating—
- (a) that the application has been refused and the person’s negative notice continues in effect subject to section 231; and
 - (b) the reasons for the commissioner’s decision to refuse the application; and
 - (c) the relevant review and appeal information.

‘237 Cancelling positive notice and substituting it with negative notice

- ‘(1) The commissioner may cancel a person’s positive notice (the *cancelled notice*) and substitute a negative notice if the commissioner is satisfied that—
- (a) the decision on the application for the cancelled notice was based on wrong or incomplete information and, based on the correct or complete information, the commissioner should issue a negative notice to the person; or
 - (b) subject to sections 240 and 242, it is appropriate to cancel the positive notice having regard to—
 - (i) disciplinary information, or information received under part 6, division 2 to 4, about the person, other than information known to the commissioner at the time the positive notice was issued; or
 - (ii) a decision of a court made after the positive notice was issued, including the reasons for the decision, relating to an offence committed by the person.

Note—

Sections 240 and 242 provide for the suspension of a person's positive notice, in particular circumstances, before the commissioner decides whether to issue a further positive notice or a negative notice to the person.

- '(2) In making a decision under subsection (1), the commissioner must make the decision as if it were a decision about a prescribed notice application and, for that purpose, division 9 applies in relation to making the decision.
- '(3) Without limiting subsection (2), if the commissioner must decide whether or not there is an exceptional case for the person and is proposing to substitute a negative notice as mentioned in subsection (1)—
 - (a) the commissioner must comply with section 229(2) to (5); and
 - (b) for that purpose, the reference in section 229(4) to deciding the application is taken to include a reference to deciding whether to substitute a negative notice for a positive notice under this section.

Note—

Section 229 is about inviting a person to make submissions about the existence of an exceptional case for the person.

- '(4) If, under subsection (1), the commissioner cancels a person's positive notice and issues a negative notice to the person, the commissioner must—
 - (a) give the person a written notice stating—
 - (i) the reasons for the commissioner's decision to cancel the person's positive notice and issue a negative notice to the person; and
 - (ii) the relevant review and appeal information; and
 - (b) give each notifiable person a written notice stating that—
 - (i) the person's positive notice has been cancelled; and
 - (ii) the person has been issued a negative notice.

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- ‘(5) Also, the commissioner must consider whether notice must be given under section 342(2)(a), 343 or 344.
 - ‘(6) If the commissioner’s decision under subsection (2) is that the person should be issued a positive notice—
 - (a) the commissioner must not cancel the person’s positive notice under subsection (1); and
 - (b) the person’s positive notice continues in effect subject to section 231.

‘238 Cancelling negative notice and issuing positive notice

- ‘(1) The commissioner may cancel a person’s negative notice (the *cancelled notice*) and, subject to subsection (3), substitute it with a positive notice if—
 - (a) the commissioner is satisfied that the decision on the application for the cancelled notice was based on wrong or incomplete information and, based on the correct or complete information, the commissioner should issue a positive notice to the person; or
 - (b) the negative notice was issued on the basis the person was a relevant disqualified person and the person is no longer a relevant disqualified person; or
 - (c) the commissioner is satisfied that it is appropriate to cancel the negative notice having regard to information not known to the commissioner at the time the negative notice was issued.
- ‘(2) In making a decision under subsection (1), the commissioner must make the decision as if it were a decision about a prescribed notice application and, for that purpose, division 9 applies in relation to making the decision.
- ‘(3) If the commissioner’s decision under subsection (2) is that the person should be issued a positive notice, the commissioner may issue a positive notice to the person only if the commissioner is satisfied the person is proposing, if the positive notice is issued—

- (a) to be employed in regulated employment; or
- (b) to carry on a regulated business.

Note—

See, however, sections 195(1)(c) and 197.

- ‘(4) The commissioner may cancel a person’s negative notice under subsection (1) even if—
 - (a) a positive notice is not issued to the person under subsection (3) until a later time; or
 - (b) a positive notice is never issued to the person under subsection (3).
- ‘(5) If the commissioner’s decision under subsection (2) is that the person should be issued a negative notice—
 - (a) the commissioner must not cancel the person’s negative notice under subsection (1); and
 - (b) the person’s negative notice continues in effect subject to section 231.
- ‘(6) The commissioner may—
 - (a) act under subsection (1) on the commissioner’s own initiative; or
 - (b) if a person has applied for the cancellation of the person’s negative notice under section 236—act under subsection (1)(a) or (b) instead of cancelling the person’s negative notice under section 236.

‘239 Cancelling positive notice if relevant disqualified person

- ‘(1) This section applies if a person who is the holder of a positive notice, including a positive notice that is suspended under section 240 or 242, becomes a relevant disqualified person other than only because the person is subject to either or both of the following—
 - (a) a temporary offender prohibition order;

(b) an interim sexual offender order.

Note—

See section 240 in relation to the holder of a positive notice who becomes a relevant disqualified person because the holder is subject to a temporary offender prohibition order or interim sexual offender order (or both).

- ‘(2) The commissioner must cancel the person’s positive notice and substitute a negative notice.
- ‘(3) At the time the commissioner gives the person the negative notice, the commissioner must give the person a further written notice stating—
 - (a) the reasons for the decision; and
 - (b) the relevant review and appeal information; and
 - (c) that the person may apply under section 236 for the cancellation of the negative notice unless the person is a relevant disqualified person.
- ‘(4) Also, the commissioner must give each notifiable person for the person a written notice stating that the person’s positive notice has been cancelled and the person has been issued a negative notice.
- ‘(5) A notice given to the chief executive (child safety) under subsection (4) about a person must state that the person was given the negative notice under this section.
- ‘(6) Also, the commissioner must consider whether notice must be given under section 342(2)(a), 343 or 344.

‘240 Suspension of a positive notice if charged with disqualifying offence or subject to temporary or interim order

- ‘(1) This section applies if a person who is the holder of a positive notice (the *suspended person*)—
 - (a) is charged with a disqualifying offence; or
 - (b) becomes a relevant disqualified person because the person is subject to either or both of the following—

- (i) a temporary offender prohibition order;
- (ii) an interim sexual offender order.

Note—

If the holder of a positive notice becomes a relevant disqualified person for another reason, the positive notice must be cancelled under section 239.

- ‘(2) The commissioner must, by written notice given to the suspended person, suspend the person’s positive notice.
- ‘(3) The notice about the suspension must state the following—
 - (a) that the positive notice held by the suspended person is suspended;
 - (b) the reason for the suspension;
 - (c) how long the suspension will continue;
 - (d) the effect of the suspension;
 - (e) that the suspended person must return the positive notice, and any positive notice blue card relating to the positive notice, to the commissioner within 7 days after the notice about the suspension is given to the person;
 - (f) the relevant review and appeal information.
- ‘(4) Until the suspension ends, the suspended person must not—
 - (a) apply for or start in regulated employment; or
 - (b) if the suspended person is in regulated employment when the positive notice is suspended—perform work that is regulated employment; or
 - (c) start or continue to carry on a regulated business.Maximum penalty—500 penalty units or 5 years imprisonment.
- ‘(5) Within 7 days after the suspended person is given notice under subsection (2), the person must return each of the following to the commissioner—
 - (a) the positive notice;

- (b) any positive notice blue card relating to the positive notice.

Maximum penalty—100 penalty units.

- ‘(6) The commissioner must give each notifiable person for the suspended person a written notice stating the following—
 - (a) that the positive notice held by the suspended person is suspended;
 - (b) how long the suspension will continue;
 - (c) the effect of the suspension;
 - (d) that the notifiable person must not allow the suspended person to perform work that is regulated employment while the suspended person’s positive notice is suspended;
 - (e) that the suspended person’s employer must not terminate the suspended person’s employment or continued employment solely or mainly because the person’s positive notice is suspended.

- ‘(7) Also, the commissioner must consider whether notice must be given under section 342(2)(b) or 344.

- ‘(8) A person to whom a notice is given under subsection (6) or (7) must not allow the suspended person to perform work that is regulated employment while the suspended person’s positive notice is suspended.

Maximum penalty—200 penalty units.

- ‘(9) A person’s employer who is given a notice under subsection (6) must not terminate the person’s employment solely or mainly because the person’s positive notice is suspended.

Note—

See also section 356(4).

- ‘(10) Without limiting subsection (4) and despite section 231(2), a positive notice remains current during the period of suspension even if it would otherwise end under section 231(2) during that period.

‘241 Ending of suspension under s 240 and issue of further prescribed notice

- ‘(1) This section applies to a positive notice held by a person that is suspended under section 240 (the *suspended notice*).
- ‘(2) The suspension ends if—
- (a) the suspended notice is cancelled under another provision of this division; or
 - (b) on the commissioner’s own initiative or on application by the person—
 - (i) the commissioner cancels the suspended notice and issues a further positive notice or a negative notice to the person; or
 - (ii) the commissioner cancels the suspended notice as mentioned in subsection (5).
- ‘(3) In making a decision under subsection (2)(b) to cancel the suspended notice and, subject to subsection (5), issue a further positive notice or a negative notice to the person, the commissioner must make the decision as if it were a decision about a prescribed notice application and, for that purpose, division 9 applies in relation to making the decision.
- ‘(4) Without limiting subsection (3), if the commissioner must decide whether or not there is an exceptional case for the person and is proposing to issue a negative notice as mentioned in subsection (2)(b)—
- (a) the commissioner must comply with section 229(2) to (5); and
 - (b) for that purpose, the reference in section 229(4) to deciding the application is taken to include a reference to deciding whether to issue a further positive notice or a negative notice under this section.

Note—

Section 229 is about inviting a person to make submissions about the existence of an exceptional case for the person.

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- ‘(5) The commissioner may cancel the suspended positive notice without issuing a further prescribed notice to the person if the commissioner is satisfied that the person is no longer proposing to be employed in regulated employment or to carry on a regulated business.
- ‘(6) If the commissioner cancels the suspended notice and issues a negative notice under subsection (2)(b) to the person, the commissioner must give the person a written notice stating—
- (a) the reasons for the commissioner’s decision to cancel the person’s positive notice and issue a negative notice to the person; and
 - (b) the relevant review and appeal information.
- ‘(7) If the commissioner cancels the suspended notice under this section, the commissioner must—
- (a) give each notifiable person for the person a written notice stating—
 - (i) that the person’s suspended notice has been cancelled under this section; and
 - (ii) whether the person has been issued a further positive notice or negative notice; and
 - (b) if section 235 applied in relation to the original application for a prescribed notice about the person and the commissioner issues a further positive notice to the person—give the advice mentioned in that section to the relevant chief executive.
- ‘(8) Also, the commissioner must consider whether notice must be given under section 342(2)(c), 343 or 344.
- ‘(9) Despite an application made by the person as mentioned in subsection (2)(b), the commissioner is not required to decide the application—
- (a) while a charge against the person for a disqualifying offence is pending; or

- (b) while the person is a relevant disqualified person because the person is subject to a temporary offender prohibition order or interim sexual offender order; or
- (c) if the person has been convicted of a disqualifying offence and—
 - (i) the period allowed for an appeal relating to the conviction or sentence of the person has not ended; or
 - (ii) an appeal relating to the conviction or sentence has started but has not been decided; or
- (d) if the person is subject to a final offender prohibition order, disqualification order or final sexual offender order and—
 - (i) the period allowed for an appeal relating to the order has not ended; or
 - (ii) an appeal relating to the order has started but has not been decided.

‘242 Suspension of a positive notice held by registered teacher if teacher registration suspended

- ‘(1) This section applies if—
 - (a) a registered teacher (the *teacher*) holds a positive notice; and
 - (b) the teacher’s registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 49.
- ‘(2) The commissioner must, by written notice given to the teacher, suspend the teacher’s positive notice.
- ‘(3) The notice about the suspension must state the following—
 - (a) the positive notice held by the teacher is suspended;
 - (b) the reason for the suspension;
 - (c) how long the suspension will continue;

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- (d) the effect of the suspension;
 - (e) that the teacher must return the positive notice, and any positive notice blue card relating to the positive notice, to the commissioner within 7 days after the notice about the suspension is given to the teacher;
 - (f) the relevant review and appeal information.
- ‘(4) Until the suspension ends, the teacher must not—
- (a) apply for or start in regulated employment; or
 - (b) if the teacher is in regulated employment when the positive notice is suspended—perform work that is regulated employment; or
 - (c) start or continue to carry on a regulated business.

Maximum penalty—500 penalty units or 5 years imprisonment.

- ‘(5) Within 7 days after the teacher is given notice under subsection (2), the teacher must return each of the following to the commissioner—
- (a) the positive notice;
 - (b) any positive notice blue card relating to the positive notice.

Maximum penalty—100 penalty units.

- ‘(6) The commissioner must give each notifiable person for the teacher a written notice stating the following—
- (a) the positive notice held by the teacher is suspended;
 - (b) how long the suspension will continue;
 - (c) the effect of the suspension;
 - (d) that the notifiable person must not allow the teacher to perform work that is regulated employment while the teacher’s positive notice is suspended;
 - (e) that the suspended teacher’s employer must not terminate the teacher’s employment or continued

employment solely or mainly because the teacher's positive notice is suspended.

'(7) Also, the commissioner must consider whether notice must be given under section 342(2)(b) or 344(2).

'(8) A person to whom a notice is given under subsection (6) or (7) must not allow the teacher to perform work that is regulated employment while the teacher's positive notice is suspended.

Maximum penalty—200 penalty units.

'(9) A person's employer who is given a notice under subsection (6) may not terminate the person's employment solely or mainly because the person's positive notice is suspended.

Note—

See also section 356(4).

'(10) Without limiting subsection (4) and despite section 231(2), a positive notice remains current during the period of suspension even if it would otherwise end under section 231(2) during that period.

'(11) This section applies despite section 173.

'243 Ending of suspension under s 242 and issue of further prescribed notice or exemption notice

'(1) This section applies to a positive notice held by a person that is suspended under section 242 (the *suspended notice*).

'(2) The suspension ends if—

(a) the suspended notice is cancelled under another provision of this division; or

(b) on the commissioner's own initiative or on application by the person—

(i) the commissioner cancels the suspended notice and issues the following (*replacement notice*) to the person—

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- (A) if the person is not a registered teacher when the suspended notice is cancelled—a further positive notice or a negative notice;
 - (B) if the person is a registered teacher when the suspended notice is cancelled—a positive exemption notice or negative exemption notice; or
- (ii) the commissioner cancels the suspended notice as mentioned in subsection (6).
- ‘(3) If the person is not a registered teacher when the commissioner is acting under subsection (2)(b), in making a decision to cancel the suspended notice and, subject to subsection (6), issue a replacement notice to the person, the commissioner must make the decision as if it were a decision about a prescribed notice application and, for that purpose, division 9 applies in relation to making the decision.
- ‘(4) If the person is a registered teacher when the commissioner is acting under subsection (2)(b), in making a decision to cancel the suspended notice and, subject to subsection (6), issue a replacement notice to the person, the commissioner must make the decision as if it were a decision about an exemption notice application and, for that purpose, part 5, division 8 applies in relation to making the decision.
- ‘(5) Without limiting subsection (3) or (4), if the commissioner must decide whether or not there is an exceptional case for the person and is proposing to issue a replacement notice as mentioned in subsection (2)(b)—
- (a) the commissioner must comply with section 229(2) to (5); and
 - (b) for that purpose, the reference in section 229(4) to deciding the application is taken to include a reference to deciding whether to issue a replacement notice under this section.

Note—

Section 229 is about inviting a person to make submissions about the existence of an exceptional case for the person.

- ‘(6) The commissioner may cancel the suspended positive notice without issuing a further prescribed notice or an exemption notice to the person if the commissioner is satisfied that the person is no longer proposing to be employed in regulated employment or to carry on a regulated business.
- ‘(7) If the commissioner cancels the suspended notice and issues a negative notice or negative exemption notice to the person, the commissioner must give the person a written notice stating—
 - (a) the reasons for the commissioner’s decision to cancel the person’s positive notice and issue a negative notice or negative exemption notice to the person; and
 - (b) the relevant review and appeal information.
- ‘(8) If the commissioner cancels the suspended notice under this section, the commissioner must—
 - (a) give each notifiable person for the person a written notice stating—
 - (i) that the person’s suspended notice has been cancelled under this section; and
 - (ii) whether the person has been issued a further positive notice or a negative notice, positive exemption notice or negative exemption notice; and
 - (b) if section 235 applied in relation to the original application for a prescribed notice about the person and the commissioner issues a further positive notice or a positive exemption notice to the person—give the advice mentioned in that section to the relevant chief executive.
- ‘(9) Also, the commissioner must consider whether notice must be given under section 342(2)(c), 343 or 344.
- ‘(10) Despite an application made by the person as mentioned in subsection (2)(b)(ii), the commissioner is not required to decide the application while the person’s registration under

the *Education (Queensland College of Teachers) Act 2005* is suspended under section 49 of that Act.

‘(11) This section applies despite section 173.

‘244 Cancelling positive notice on holder’s request

- ‘(1) A person, including a person whose positive notice is suspended under section 240 or 242, may, by written notice, ask the commissioner to cancel the person’s positive notice.
- ‘(2) After receiving the written notice, the commissioner must—
- (a) cancel the positive notice; and
 - (b) give the person a written notice stating that—
 - (i) the positive notice has been cancelled; and
 - (ii) the person must not perform work that is regulated employment other than in accordance with subsection (3); and
 - (iii) the person must not carry on a regulated business other than in accordance with section 197 or 259.
- ‘(3) The person must not perform work that is regulated employment unless—
- (a) if paragraph (b) does not apply—the commissioner issues a further positive notice to the person; or
 - (b) if the person is a police officer or registered teacher—
 - (i) the commissioner issues a positive exemption notice to the person; or
 - (ii) an exemption notice application is made about the person.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

See sections 197 and 259 in relation to carrying on a regulated business.

- ‘(4) The commissioner must give written notice about the cancellation of the person’s positive notice to each notifiable person for the person.
- ‘(5) Also, the commissioner must consider whether notice must be given under section 342(2)(d), 343 or 344.
- ‘(6) A notice under subsection (4) or (5) must state that a person to whom the notice is given must not allow the person whose positive notice is cancelled to perform work that is regulated employment other than in circumstances mentioned in subsection (3).

‘Division 12 Return of prescribed notices etc.

‘245 Return of previously held prescribed notice or exemption notice

- ‘(1) This section applies if a person to whom a prescribed notice (*new notice*) is issued previously held a prescribed notice or exemption notice (the *old notice*) other than a positive notice or positive exemption notice that has been cancelled.
- ‘(2) Unless the person has a reasonable excuse, the person must, within 14 days after the new notice is issued, give the commissioner—
 - (a) the old notice; and
 - (b) if the old notice was a positive notice—any positive notice blue card relating to the old notice.

Maximum penalty—10 penalty units.

‘246 Return of cancelled positive notice

- ‘(1) This section applies to a person with a current positive notice if the commissioner cancels the notice.

- ‘(2) The person must immediately return the positive notice, and any positive notice blue card relating to the positive notice, to the commissioner, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘Division 13 Persons who are police officers or registered teachers

‘247 Prescribed notices held by police officers and registered teachers

- ‘(1) This section applies if—
- (a) a person holds a current positive notice or current negative notice; and
 - (b) the person is or becomes a police officer or registered teacher.
- ‘(2) The person’s positive notice or negative notice continues in effect subject to section 231.
- ‘(3) This chapter continues to apply in relation to the person’s positive notice or current negative notice while it remains current.
- ‘(4) If, under a provision of division 11 or part 7, division 1, the commissioner is required or permitted to issue a positive notice to the person and the commissioner is aware the person is a police officer or registered teacher, the commissioner must instead issue a positive exemption notice to the person.
- ‘(5) If, under a provision of division 11 or part 7, division 1, the commissioner is required or permitted to issue a negative notice to the person and the commissioner is aware the person is a police officer or registered teacher, the commissioner must instead issue a negative exemption notice to the person.
- ‘(6) This section applies despite section 173.

documents, relating to proof of the employee's identity,
prescribed under a regulation.

'Division 2 Exemption notice required for employment of volunteers in regulated employment

'250 Application of div 2

'This division applies to employment of a volunteer.

'251 Starting employment

'A person (the *employer*) must not employ another person (the *employee*) in regulated employment unless—

- (a) the employee has a current positive exemption notice and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or
- (b) the employee is a transitioning person, and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or
- (c) the employer has applied for an exemption notice about the employee.

Note—

See section 249 for how the notification under paragraph (a) or (b) must be given.

Maximum penalty—50 penalty units.

‘Division 3 Exemption notice required for employment of other persons in regulated employment

‘252 Application of div 3

‘This division does not apply to employment of a volunteer.

‘253 Continuing employment of certain regular employees

‘(1) This section applies if—

- (a) a person (the *employee*) is employed in regulated employment under an agreement with another person (the *employer*); and
- (b) after considering any agreement relating to the employment and the hours or times that the employee previously carried out work for the employer, the employer reasonably expects that the employee is likely to carry out work as part of the employment for the minimum frequency for regulated employment; and
- (c) the employee is neither of the following—
 - (i) a transitioning person;
 - (ii) the holder of a current positive exemption notice.

‘(2) The employer must not continue to employ the employee in regulated employment unless the employer has applied for an exemption notice, or further exemption notice, about the employee.

Maximum penalty—50 penalty units.

‘254 Starting employment of certain regular employees

‘(1) This section applies if—

- (a) a person (the *employee*) is not employed in regulated employment but has previously been employed in

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- regulated employment under 1 or more agreements with another person (the *employer*); and
- (b) it is less than 1 year since the employee last carried out the regulated employment for the employer; and
 - (c) after considering any agreement relating to the proposed employment between the employer and employee and the employee's employment during the period when the employee was last employed by the employer, the employer reasonably expects that the employee is likely to carry out work as part of the proposed employment for the minimum frequency for regulated employment.
- '(2) The employer must not employ the employee in regulated employment unless—
- (a) the employee has a current positive exemption notice and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or
 - (b) the employee is a transitioning person, and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or
 - (c) the employer has applied for an exemption notice about the employee.

Note—

See section 249 for how the notification under paragraph (a) or (b) must be given.

Maximum penalty—50 penalty units.

'255 Starting employment of new employees

- '(1) This section applies if—
- (a) a person (the *employee*) is not employed in regulated employment; and
 - (b) another person (the *employer*) proposes to employ the employee in regulated employment; and

- (c) after considering any agreement relating to the proposed employment between the employer and employee, the employer reasonably expects that the employee is likely to carry out work as part of the proposed employment for the minimum frequency for regulated employment; and
 - (d) section 254 does not apply to the proposed employment.
- ‘(2) The employer must not employ the employee in regulated employment unless—
- (a) the employee has a current positive exemption notice and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or
 - (b) the employee is a transitioning person, and the employer has notified the commissioner that the employer is proposing to employ the employee in regulated employment; or
 - (c) the employer has applied for an exemption notice about the employee.

Note—

See section 249 for how the notification under paragraph (a) or (b) must be given.

Maximum penalty—50 penalty units.

‘256 Prohibited employment

- ‘(1) This section applies if a person (the *employee*) does not have a current positive exemption notice.
- ‘(2) A person (the *employer*) must not employ, or continue to employ, the employee in regulated employment if—
 - (a) the employer has applied for an exemption notice about the employee and the commissioner gives the employer—
 - (i) a notice of deemed withdrawal relating to the employee other than under section 269; or

- (ii) a notice of deemed withdrawal relating to the employee under section 269; or

Editor's note—

section 269 (Deemed withdrawal of consent to employment screening if charged with disqualifying offence etc.)

- (b) the employer is aware that a negative exemption notice or negative notice has been issued to the employee and the notice is current; or
- (c) the employer has been given a notice in relation to the employee—
- (i) under section 302; or
- (ii) under section 339(3) because of a change in police information mentioned in section 339(3)(g).

Editor's note—

- section 302 (Cancelling positive exemption notice on holder's request)
- section 339 (Commissioner to give notice to particular entities about a change in police information)

Maximum penalty—

- (a) for paragraph (a)(i)—40 penalty units; or
- (b) otherwise—200 penalty units or 2 years imprisonment.

'Division 4 Obligations if holder of negative notice or negative exemption notice, or exemption notice application is withdrawn

'257 Person holding negative notice or negative exemption notice not to apply for, or start or continue in, regulated employment etc.

- (1) A person who holds a current negative exemption notice or current negative notice must not—

- (a) sign an application about the person made by someone else under division 6; or
- (b) make an application under division 7; or
- (c) apply for, or start or continue in, regulated employment.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

See section 259 in relation to carrying on a regulated business.

- ‘(2) However, if the person held a positive exemption notice but a negative exemption notice was substituted for it under section 295, 297 or 299, a court may not find the person contravened subsection (1) unless the court is satisfied that written notice of the substitution was given to the person.
- ‘(3) Also, if the person held a positive notice but a negative notice or negative exemption notice was substituted for the positive notice under section 237, 239, 241 or 243, a court may not find the person contravened subsection (1) unless the court is satisfied that written notice of the substitution was given to the person.

‘258 Person who has withdrawn consent to employment screening not to start or continue in regulated employment

- ‘(1) This section applies if—
 - (a) an application about a person was made under division 6; and
 - (b) before an exemption notice was issued, the application was withdrawn under section 270 because the person’s consent to employment screening under this chapter was withdrawn under section 264 or 269.
- ‘(2) The person must not start or continue in regulated employment unless a positive exemption notice is issued to the person.

Maximum penalty—

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- (a) if the person's consent to employment screening under this chapter was withdrawn under section 264—100 penalty units or 1 year's imprisonment; or
 - (b) otherwise—500 penalty units or 5 years imprisonment.

'Division 5 Exemption notice required for regulated business

'259 Carrying on regulated business

'A person must not carry on a regulated business unless—

- (a) the person has a current positive exemption notice; or
- (b) the person is a transitioning person; or
- (c) the person does not hold a negative exemption notice or negative notice and has applied for an exemption notice.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

Under section 166, particular executive officers of a corporation that carries on a regulated business are taken to carry on the regulated business.

'Division 6 Applying for exemption notice for regulated employment

'260 Who makes application

- '(1) A person who proposes to start employing, or continue employing, another person in regulated employment may apply to the commissioner for an exemption notice about the other person.
- '(2) If, as part of a course undertaken by a trainee student of an education provider, the education provider proposes for the trainee student to perform work that is regulated employment,

the education provider may apply to the commissioner for an exemption notice about the trainee student.

Note—

Under section 162, if the education provider makes an exemption notice application about the trainee student, the person who proposes to start employing the trainee student is not required to make an exemption notice application about the trainee student.

‘261 Form of application

- ‘(1) An application under this division must be—
- (a) in the approved form; and
 - (b) signed by, or on behalf of, the person making the application (the *applicant*); and
 - (c) signed by the person about whom the application is made (the *employee*); and
 - (d) if the applicant did not sight the documents as mentioned in subsection (2)(b)—accompanied by a certification, in the approved form, by the applicant that the applicant did not sight the documents only because—
 - (i) the employee’s usual place of residence is more than 50km from the applicant’s business address; or
 - (ii) the employee is a person with a disability that affects mobility.
- ‘(2) The approved form mentioned in subsection (1)(a) must include provision for—
- (a) identifying information about the employee; and
 - (b) certification by the applicant or a prescribed person that the applicant or prescribed person has sighted the documents, relating to proof of the employee’s identity, prescribed under a regulation; and
 - (c) a declaration by the employee that—

- (i) if the application is made on the basis the employee is a police officer—he or she is a police officer; or
 - (ii) if application is made on the basis the employee is a registered teacher—he or she is a registered teacher; and
- (d) the employee’s consent to employment screening under this chapter.

‘262 Commissioner may obtain further information

‘On receiving an application under this division, the commissioner may, orally or in writing—

- (a) ask the person making the application, or the person about whom the application is made (the *employee*), to provide, within a reasonable stated time—
 - (i) stated information that the commissioner reasonably needs to establish the employee’s identity; or
 - (ii) stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application; or
- (b) ask the person making the application about why the person did not sign the documents as mentioned in section 261(2)(b).

‘263 Withdrawal of application generally

- ‘(1) A person who makes an application under this division may withdraw the application at any time before it is decided.
- ‘(2) A person who makes an application under this division is taken to have withdrawn the application if—
 - (a) the commissioner gives the person a written notice—

- (i) asking the person to provide information about why the person did not sight the documents as mentioned in section 261(2)(b); and
 - (ii) warning the person that, if the person does not comply with the request, the person's application may be taken to have been withdrawn; and
- (b) the person does not comply with the request within the stated time; and
- (c) the commissioner gives the person a notice of deemed withdrawal.

'264 Withdrawal of consent to employment screening generally

- '(1) The person about whom an application is made under this division may, by written notice to the commissioner, withdraw the person's consent to employment screening under this chapter.
- '(2) If a person withdraws his or her consent to employment screening under this chapter under subsection (1), the commissioner must give written notice of the withdrawal to the person who made the application.

'265 Deemed withdrawal of consent to employment screening if person ceases to be police officer or registered teacher

'The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—

- (a) the person gives the commissioner, or the commissioner gives the person, a written notice stating that—
 - (i) the person is no longer a police officer; or
 - (ii) the person is no longer a registered teacher; and
- (b) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.

‘266 Deemed withdrawal of consent to employment screening if identity can not be established

‘The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—

- (a) the commissioner gives the person a written notice—
 - (i) asking the person to provide, within a reasonable stated time, stated information that the commissioner reasonably needs to establish the person’s identity; and
 - (ii) warning the person that, if the person does not comply with the request, the person’s consent to employment screening under this chapter may be taken to have been withdrawn; and
- (b) the person does not comply with the request within the stated time; and
- (c) the commissioner can not establish with certainty the person’s identity; and
- (d) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.

‘267 Deemed withdrawal of consent to employment screening if particular requests not complied with

‘The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—

- (a) the commissioner gives the person—
 - (i) a written notice asking the person to provide, within a reasonable stated time, stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application; or
 - (ii) a written notice under section 330; or

- (iii) a written notice asking the person to give the necessary consent for section 332 or 333; or
- (iv) a written notice asking the person to give the necessary consent for section 337 or 338; and
- (b) the notice includes a warning that, if the person does not comply with the notice, the person's consent to employment screening under this chapter may be taken to have been withdrawn; and
- (c) the person does not comply with the notice; and
- (d) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.

'268 Deemed withdrawal of consent to employment screening if employment changes

- '(1) The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—
- (a) the relevant person for the person has given the commissioner written notice that the person is no longer employed by the employer stated in the application, or the commissioner can not obtain information, in writing, from the relevant person that the person is employed by the employer; and
 - (b) the person has not given written notice to the commissioner about the end of the employment as required under section 288; and

Note—

If the person gives a written notice about the end of the employment under section 288, the written notice should provide for the withdrawal of the person's consent to employment screening under this chapter. See section 288(3).

- (c) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.

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- ‘(2) For subsection (1), a relevant person for a person about whom an application is made under this division may give written notice to the commissioner that the person—
- (a) is employed, or continues to be employed, by the employer stated in the application; or
 - (b) is no longer employed by the employer stated in the application.
- ‘(3) In this section—
- relevant person*, for a person, means—
- (a) the person’s employer; or
 - (b) if the person is a trainee student and the exemption notice application was made by an education provider—the person’s employer or the education provider.

‘269 Deemed withdrawal of consent to employment screening if charged with disqualifying offence etc.

‘The person about whom an application is made under this division is taken to have withdrawn his or her consent to employment screening under this chapter if—

- (a) the person gives the commissioner, or the commissioner gives the person, written notice that the person—
 - (i) is charged with a disqualifying offence; or
 - (ii) is named as the respondent in an application for an offender prohibition order and the proceeding for the offender prohibition order has not ended; or
 - (iii) is subject to a temporary offender prohibition order or interim sexual offender order made after the day the application was made; and
- (b) the commissioner gives the person, and the person who made the application, a notice of deemed withdrawal.

‘270 Effect of withdrawal of consent to employment screening

- ‘(1) This section applies if a person about whom an application is made under this division withdraws his or her consent to employment screening under this chapter before the commissioner issues an exemption notice to the person.
- ‘(2) The application is taken to have been withdrawn and the commissioner must not issue the exemption notice.

‘271 Notice about withdrawal of application or negative exemption notice or negative notice

- ‘(1) This section applies if—
 - (a) an application is made about a person under this division; and
 - (b) the application is withdrawn or the person already has a current negative exemption notice or current negative notice.
- ‘(2) The commissioner must give written notice about the withdrawal or the negative exemption notice or negative notice to each notifiable person for the person.
- ‘(3) If the notice under subsection (2) is about the person having a current negative exemption notice or current negative notice, it must state—
 - (a) the date of issue of the negative exemption notice or negative notice;
 - (b) for a notice given to the chief executive (child safety) about a negative exemption notice or negative notice issued on the basis the person is or was a relevant disqualified person—the provision of this chapter under which the negative exemption notice or negative notice was issued.

‘Division 7 Applying for exemption notice for regulated businesses

‘272 Who makes application

‘A person who proposes to carry on, or continue carrying on, a regulated business may apply to the commissioner for an exemption notice about the person.

‘273 Form of application

- ‘(1) An application under this division must be—
- (a) in the approved form; and
 - (b) signed by the applicant.
- ‘(2) The approved form must include provision for—
- (a) identifying information about the applicant; and
 - (b) certification by a prescribed person that the prescribed person has sighted the documents, relating to proof of the applicant’s identity, prescribed under a regulation; and
 - (c) a declaration by the applicant that—
 - (i) if the application is made on the basis the applicant is a police officer—he or she is a police officer; or
 - (ii) if the application is made on the basis that the applicant is a registered teacher—he or she is a registered teacher.

‘274 Commissioner may obtain further information

‘On receiving an application under this division, the commissioner may ask the applicant, orally or in writing, to provide, within a reasonable stated time—

- (a) stated information that the commissioner reasonably needs to establish the applicant’s identity; or

- (b) stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application.

‘275 Withdrawal of application generally

‘A person may withdraw the person’s application under this division at any time before it is decided.

‘276 Deemed withdrawal of application if no longer police officer or registered teacher

‘A person who makes an application under this division is taken to have withdrawn his or her application if—

- (a) the person gives the commissioner, or the commissioner gives the person, written notice that the person is no longer a police officer or registered teacher; and
- (b) the commissioner gives the person a notice of deemed withdrawal.

‘277 Deemed withdrawal of application if identity can not be established

‘A person who makes an application under this division is taken to have withdrawn his or her application if—

- (a) the commissioner gives the person a written notice—
 - (i) asking the person to provide, within a reasonable stated time, stated information that the commissioner reasonably needs to establish the person’s identity; and
 - (ii) warning the person that, if the person does not comply with the request, the person’s application may be taken to have been withdrawn; and
- (b) the person does not comply with the request within the stated time; and

- (c) the commissioner can not establish with certainty the person's identity; and
- (d) the commissioner gives the person a notice of deemed withdrawal.

'278 Deemed withdrawal of application if particular requests not complied with

'A person who makes an application under this division is taken to have withdrawn the application if—

- (a) the commissioner gives the person—
 - (i) a written notice asking the person to provide, within a reasonable stated time, stated information, including by way of a submission, about a stated matter that the commissioner reasonably believes is relevant to the application; or
 - (ii) a written notice under section 330; or
 - (iii) a written notice asking the person to give the necessary consent for section 332 or 333; or
 - (iv) a written notice asking the person to give the necessary consent for section 337 or 338; and
- (b) the notice includes a warning that, if the person does not comply with the notice, the person's application may be taken to have been withdrawn; and
- (c) the person does not comply with the notice; and
- (d) the commissioner gives the person a notice of deemed withdrawal.

'279 Deemed withdrawal of application if charged with disqualifying offence etc.

'A person who makes an application under this division is taken to have withdrawn the application if—

- (a) the person gives the commissioner, or the commissioner gives the person, written notice stating that the person—

- (i) is charged with a disqualifying offence; or
 - (ii) is named as the respondent in an application for an offender prohibition order and the proceeding for the offender prohibition order has not ended; or
 - (iii) is made subject to a temporary offender prohibition order or interim sexual offender order after the day the application was made; and
- (b) the commissioner gives the person a notice of deemed withdrawal.

‘280 Notice about withdrawal of application or negative notice or negative exemption notice

- ‘(1) This section applies if—
- (a) a person makes an application under this division; and
 - (b) the application is withdrawn or the person already has a current negative exemption notice or current negative notice.
- ‘(2) The commissioner must—
- (a) if the application is withdrawn—give written notice of the withdrawal to each notifiable person for the person; or
 - (b) if the person already has a current negative exemption notice or current negative notice—give written notice of the negative exemption notice or negative notice to the person and each notifiable person for the person.
- ‘(3) If the notice under subsection (2) is about the person having a current negative exemption notice or current negative notice, it must state—
- (a) the date of issue of the negative exemption notice or negative notice; and
 - (b) for a notice given to the chief executive (child safety) about a negative exemption notice or negative notice issued on the basis the person is or was a relevant disqualified person—the provision of this chapter under

which the negative exemption notice or negative notice was issued.

‘Division 8 Deciding exemption notice application

‘281 Application of div 8

‘This division applies if an exemption notice application is made about a person and the application is not withdrawn.

‘282 Positive exemption notice or negative exemption notice to be issued

‘The commissioner must decide the exemption notice application by issuing either of the following to the person—

- (a) a notice declaring the application is approved (a *positive exemption notice*);
- (b) a notice declaring the application is refused (a *negative exemption notice*).

‘283 Issuing positive exemption notice to police officer if further screening not required

‘If the person is a police officer, the commissioner must issue a positive exemption notice to the person if—

- (a) the commissioner is not aware of any police information about the person; and
- (b) the commissioner—
 - (i) has, under section 286, been advised that the person is a police officer; and
 - (ii) has not, under section 286, been advised that the commissioner may need to undertake further employment screening of the person under this chapter.

‘284 Issuing positive exemption notice to registered teacher if further screening not required

‘If the person is a registered teacher, the commissioner must issue a positive exemption notice to the person if—

- (a) the commissioner is not aware of any police information or disciplinary information about the person; and
- (b) the commissioner—
 - (i) has, under section 287, been advised that the person is a registered teacher; and
 - (ii) has not, under section 287, been advised that the commissioner may need to undertake further employment screening of the person under this chapter.

‘285 Issuing exemption notice if ss 283 and 284 do not apply

- ‘(1) This section applies if neither section 283 nor 284 applies to the person.
- ‘(2) The commissioner must decide the exemption notice application in the way the commissioner would be required to decide the application if it were a prescribed notice application.
- ‘(3) For subsection (2), sections 221 to 229 apply in relation to making the decision as if—
 - (a) a reference in the sections to issuing a positive notice were a reference to issuing a positive exemption notice; and
 - (b) a reference in the sections to issuing a negative notice were a reference to issuing a negative exemption notice; and
 - (c) a reference in section 229 to a prescribed notice application were a reference to an exemption notice application.

‘286 Obtaining advice from police commissioner

- ‘(1) This section applies if the exemption notice application is about a person who claims to be a police officer.
- ‘(2) For deciding the application, the commissioner may ask the police commissioner to advise the commissioner—
- (a) whether or not the person is a police officer; and
 - (b) if the person is a police officer—whether the commissioner may need to undertake further employment screening of the person under this chapter.
- ‘(3) For subsection (2), the commissioner’s request may include the following information—
- (a) the person’s name and any other name that the commissioner believes the person may use or may have used;
 - (b) the person’s gender and date and place of birth;
 - (c) the person’s address;
 - (d) any number, date or other information given by the person about the person’s status as a police officer.
- Example for paragraph (d)—*
- a number identifying the person as a police officer
- ‘(4) The police commissioner must comply with the request.
- ‘(5) However—
- (a) the police commissioner may give advice under subsection (2)(b) only if the police commissioner is aware—
 - (i) the person has been charged with an offence; and
 - (ii) the charge has not been finally dealt with; and
 - (b) if paragraph (a) applies, the advice must be that the commissioner may need to undertake further employment screening of the person under this chapter.

‘287 Obtaining advice from college of teachers

- ‘(1) This section applies if the exemption notice application is about a person who claims to be a registered teacher.
- ‘(2) For deciding the application, the commissioner may ask the college of teachers to advise the commissioner—
 - (a) whether or not the person is a registered teacher; and
 - (b) if the person is a registered teacher—whether the commissioner may need to undertake further employment screening of the person under this chapter.
- ‘(3) For subsection (2), the commissioner’s request may include the following information—
 - (a) the person’s name and any other name that the commissioner believes the person may use or may have used;
 - (b) the person’s gender and date and place of birth;
 - (c) the person’s address;
 - (d) any number, date or other information given by the person about the person’s status as a registered teacher.

Example for paragraph (d)—

the person’s identification number for the person’s registration under the *Education (Queensland College of Teachers) Act 2005*
- ‘(4) The college of teachers must comply with the request.
- ‘(5) However—
 - (a) the college may give advice under subsection (2)(b) only if the college is aware of any police information about the person; and
 - (b) if paragraph (a) applies, the advice must be that the commissioner may need to undertake further employment screening of the person under this chapter.
- ‘(6) If the college of teachers gives advice under subsection (2)(b), the advice must be accompanied by a written notice stating that—

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- (a) no adverse inference about the person's police information may be drawn by the fact the advice was given; and
 - (b) no inference that a negative notice or negative exemption notice may be issued to the person under this chapter may be drawn by the fact the advice was given.
- ‘(7) In this section—
police information means police information as defined under the *Education (Queensland College of Teachers) Act 2005*.

‘288 Commissioner to be notified of change of particular information

- ‘(1) This section applies if any of the following (each a *relevant change*) happens before the commissioner has issued an exemption notice to the person in relation to the exemption notice application—
- (a) the person's name or contact details, as stated in the application, change;
 - (b) the person's employment, as stated in the application, ends;
 - (c) the person stops carrying on the business as stated in the application.
- ‘(2) The person must give notice, in the approved form, to the commissioner of the relevant change within 14 days after the relevant change happens.
- Maximum penalty—10 penalty units.
- ‘(3) The approved form mentioned in subsection (2) must provide for a person to give notice withdrawing the person's consent to employment screening under this chapter.

‘289 Currency of exemption notice

- ‘(1) A negative exemption notice remains current until it is cancelled under division 10.

‘292 Notifiable person to be notified of decision

- ‘(1) After the commissioner issues an exemption notice to the person, the commissioner must give each notifiable person for the person a written notice stating whether the person was issued a positive exemption notice or negative exemption notice.
- ‘(2) If the person is issued with a negative exemption notice on the basis the person is or was a relevant disqualified person and a notice about the person is given to the chief executive (child safety) under subsection (1), the notice must also state the provision of this chapter under which the negative exemption notice was issued.

Note—

See sections 224 and 225 (as applied to exemption notice applications under section 285) for circumstances in which a negative exemption notice may be issued to a person on the basis the person is or was a relevant disqualified person.

‘293 Department to be given particular advice

- ‘(1) This section applies if—
- (a) the person is a person about whom the chief executive of a department has made an application under division 6; and
 - (b) the commissioner issues a positive exemption notice to the person; and
 - (c) the chief executive of the department asks the commissioner for advice under this section.
- ‘(2) The commissioner may advise the chief executive of the department that the chief executive may need to undertake a further assessment of the person under the *Public Service Act 2008*, chapter 5, part 6, division 3A to decide whether or not the department should engage the person.

Note—

The *Public Service Act 2008*, chapter 5, part 6, division 3A does not apply in relation to the engagement of particular persons by a department. See section 164 of that Act.

- ‘(3) However, the commissioner may give the advice mentioned in subsection (2) only if the commissioner is aware that the person has a criminal history.
- ‘(4) If the commissioner gives advice under subsection (2), the advice must be accompanied by a written notice stating that no adverse inference about the person’s criminal history or suitability for engagement, or continued engagement, by the department may be drawn by the fact the advice was given.

‘Division 10 Cancellation or suspension of exemption notices etc.

‘294 Cancelling negative exemption notice etc. on holder’s application

- ‘(1) This section applies if—
 - (a) the commissioner has issued a negative exemption notice to a person and the notice is current; and
 - (b) the person is not a relevant disqualified person.
- ‘(2) The person may apply to the commissioner to cancel the notice.
- ‘(3) The application may not be made less than 2 years after the issue of the negative exemption notice or any previous application by the person under this section, unless—
 - (a) the decision to issue the negative exemption notice was based on wrong or incomplete information; or
 - (b) the negative exemption notice was issued on the basis the person was a relevant disqualified person and the person is no longer a relevant disqualified person.
- ‘(4) The application must be—

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- (a) in the approved form; and
 - (b) signed by the person.
- ‘(5) The person may state in the application anything the person considers relevant to the commissioner’s decision including, in particular, any change in the person’s circumstances since the negative exemption notice was issued.
- ‘(6) Division 8 applies to the application as if—
- (a) the application were an exemption notice application; and
 - (b) a reference in the division to issuing a positive exemption notice were a reference to granting the application; and
 - (c) a reference in the division to issuing a negative exemption notice were a reference to refusing the application.
- ‘(7) If the commissioner grants the application, the commissioner must cancel the negative exemption notice to which the application relates.
- ‘(8) If the commissioner refuses the application, the commissioner must give the person a written notice stating—
- (a) that the application has been refused and the person’s negative exemption notice continues in effect subject to section 289; and
 - (b) the reasons for the commissioner’s decision to refuse the application; and
 - (c) the relevant review and appeal information.

‘295 Cancelling positive exemption notice and substituting it with negative exemption notice

- ‘(1) The commissioner may cancel a person’s positive exemption notice (the *cancelled notice*) and substitute a negative exemption notice if the commissioner is satisfied that—

- (a) the decision on the application for the cancelled notice was based on wrong or incomplete information and, based on the correct or complete information, the commissioner should issue a negative exemption notice to the person; or
- (b) subject to section 298, it is appropriate to cancel the positive exemption notice having regard to—
 - (i) disciplinary information, or information received under part 6, division 2 to 4, about the person, other than information known to the commissioner at the time the positive exemption notice was issued; or
 - (ii) a decision of a court made after the positive exemption notice was issued, including the reasons for the decision, relating to an offence committed by the person.

Note—

Section 298 provides for the suspension of a person's positive exemption notice, in particular circumstances, before the commissioner decides whether to issue a further positive exemption notice or a negative exemption notice to the person.

- '(2) In making a decision under subsection (1), the commissioner must make the decision as if it were a decision about an exemption notice application and, for that purpose, division 8 applies in relation to making the decision.
- '(3) Without limiting subsection (2), if the commissioner must decide whether or not there is an exceptional case for the person and is proposing to substitute a negative exemption notice as mentioned in subsection (1)—
 - (a) the commissioner must comply with section 229(2) to (5); and
 - (b) for that purpose, the reference in section 229(4) to deciding the application is taken to include a reference to deciding whether to substitute a negative exemption notice for a positive exemption notice under this section.

Note—

Section 229 is about inviting a person to make submissions about the existence of an exceptional case for the person.

- ‘(4) If, under subsection (1), the commissioner cancels a person’s positive exemption notice and issues a negative exemption notice to the person, the commissioner must—
- (a) give the person a written notice stating—
 - (i) the reasons for the commissioner’s decision to cancel the person’s positive exemption notice and issue a negative exemption notice to the person; and
 - (ii) the relevant review and appeal information; and
 - (b) give each notifiable person a written notice stating that—
 - (i) the person’s positive exemption notice has been cancelled; and
 - (ii) the person has been issued a negative exemption notice.
- ‘(5) Also, the commissioner must consider whether notice must be given under section 342(2)(a).
- ‘(6) If the commissioner’s decision under subsection (2) is that the person should be issued a positive exemption notice—
- (a) the commissioner must not cancel the person’s positive exemption notice under subsection (1); and
 - (b) the person’s positive exemption notice continues in effect subject to section 289.

‘296 Cancelling negative exemption notice and issuing positive exemption notice

- ‘(1) The commissioner may cancel a person’s negative exemption notice (the *cancelled notice*) and, subject to subsection (3), substitute it with a positive exemption notice if—

- (a) the commissioner is satisfied that the decision on the application for the cancelled notice was based on wrong or incomplete information and, based on the correct or complete information, the commissioner should issue a positive exemption notice to the person; or
 - (b) the negative exemption notice was issued on the basis the person was a relevant disqualified person and the person is no longer a relevant disqualified person; or
 - (c) the commissioner is satisfied that it is appropriate to cancel the negative exemption notice having regard to information not known to the commissioner at the time the negative exemption notice was issued.
- ‘(2) In making a decision under subsection (1), the commissioner must make the decision as if it were a decision about an exemption notice application and, for that purpose, division 8 applies in relation to making the decision.
- ‘(3) If the commissioner’s decision under subsection (2) is that the person should be issued a positive exemption notice, the commissioner may issue a positive exemption notice to the person only if the commissioner is satisfied the person is proposing, if the positive exemption notice is issued—
- (a) to be employed in regulated employment; or
 - (b) to carry on a regulated business.
- Note—*
- See, however, sections 257(1)(c) and 259.
- ‘(4) The commissioner may cancel a person’s negative exemption notice under subsection (1) even if—
- (a) a positive exemption notice is not issued to the person under subsection (3) until a later time; or
 - (b) a positive exemption notice is never issued to the person under subsection (3).
- ‘(5) If the commissioner’s decision under subsection (2) is that the person should be issued a negative exemption notice—

- (a) the commissioner must not cancel the person's negative exemption notice under subsection (1); and
 - (b) the person's negative exemption notice continues in effect subject to section 289.
- '(6) The commissioner may—
- (a) act under subsection (1) on the commissioner's own initiative; or
 - (b) if a person has applied for the cancellation of the person's negative exemption notice under section 294—act under subsection (1)(a) or (b) instead of cancelling the person's negative exemption notice under section 294.

'297 Cancelling positive exemption notice if relevant disqualified person

- '(1) This section applies if a person who is the holder of a positive exemption notice, including a positive exemption notice that is suspended under section 298, becomes a relevant disqualified person other than only because the person is subject to either or both of the following—
- (a) a temporary offender prohibition order;
 - (b) an interim sexual offender order.

Note—

See section 298 in relation to the holder of a positive exemption notice who becomes a relevant disqualified person because the holder is subject to a temporary offender prohibition order or interim sexual offender order (or both).

- '(2) The commissioner must cancel the person's positive exemption notice and substitute a negative exemption notice.
- '(3) At the time the commissioner gives the person the negative exemption notice, the commissioner must give the person a further written notice stating—
- (a) the reasons for the decision; and
 - (b) the relevant review and appeal information; and

- (c) that the person may apply under section 294 for the cancellation of the negative exemption notice unless the person is a relevant disqualified person.
- ‘(4) Also, the commissioner must give each notifiable person for the person a written notice stating that the person’s positive exemption notice has been cancelled and the person has been issued a negative exemption notice.
- ‘(5) A notice given to the chief executive (child safety) under subsection (4) about a person must state that the person was issued the negative exemption notice under this section.
- ‘(6) Also, the commissioner must consider whether notice must be given under section 342(2)(a).

‘298 Suspension of a positive exemption notice if charged with disqualifying offence or subject to temporary or interim order

- ‘(1) This section applies if a person who is the holder of a positive exemption notice (the *suspended person*)—
 - (a) is charged with a disqualifying offence; or
 - (b) becomes a relevant disqualified person because the person is subject to either or both of the following—
 - (i) a temporary offender prohibition order;
 - (ii) an interim sexual offender order.

Note—

If the holder of a positive exemption notice becomes a relevant disqualified person for another reason, the positive exemption notice must be cancelled under section 297.

- ‘(2) The commissioner must, by written notice given to the suspended person, suspend the person’s positive exemption notice.
- ‘(3) The notice about the suspension must state the following—
 - (a) that the positive exemption notice held by the suspended person is suspended;

- (b) the reason for the suspension;
 - (c) how long the suspension will continue;
 - (d) the effect of the suspension;
 - (e) that the suspended person must return the positive exemption notice to the commissioner within 7 days after the notice about the suspension is given to the person;
 - (f) the relevant review and appeal information.
- ‘(4) Until the suspension ends, the suspended person must not—
- (a) apply for or start in regulated employment; or
 - (b) if the suspended person is in regulated employment when the positive notice is suspended—perform work that is regulated employment; or
 - (c) start or continue to carry on a regulated business.
- Maximum penalty—500 penalty units or 5 years imprisonment.
- ‘(5) Within 7 days after the suspended person is given notice under subsection (2), the person must return the person’s positive exemption notice to the commissioner.
- Maximum penalty—100 penalty units.
- ‘(6) The commissioner must give each notifiable person for the suspended person a written notice stating the following—
- (a) that the positive exemption notice held by the suspended person is suspended;
 - (b) how long the suspension will continue;
 - (c) the effect of the suspension;
 - (d) that the notifiable person must not allow the suspended person to perform work that is regulated employment while the suspended person’s positive exemption notice is suspended;
 - (e) that the suspended person’s employer must not terminate the suspended person’s employment or

continued employment solely or mainly because the person's positive exemption notice is suspended.

- '(7) Also, the commissioner must consider whether notice must be given under section 342(2)(f).
- '(8) A person to whom a notice is given under subsection (6) or (7) must not allow the suspended person to perform work that is regulated employment while the suspended person's positive exemption notice is suspended.

Maximum penalty—200 penalty units.

- '(9) A person's employer who is given a notice under subsection (6) must not terminate the person's employment solely or mainly because the person's positive exemption notice is suspended.

Note—

See also section 356(4).

'299 Ending of suspension and issue of further exemption notice

- '(1) This section applies to a positive exemption notice held by a person that is suspended under section 298 (the *suspended notice*).
- '(2) The suspension ends if—
 - (a) the suspended notice is cancelled under another provision of this division; or
 - (b) on the commissioner's own initiative or on application by the person—
 - (i) the commissioner cancels the suspended notice and issues a further positive exemption notice or a negative exemption notice to the person; or
 - (ii) the commissioner cancels the suspended notice as mentioned in subsection (5); or
 - (c) the positive exemption notice ceases to have effect under section 289, including because the person's registration

under the *Education (Queensland College of Teachers) Act 2005* is suspended under section 48 or 49 of that Act.

- ‘(3) In making a decision under subsection (2)(b) to cancel the suspended notice and, subject to subsection (5), issue a further positive exemption notice or a negative exemption notice, the commissioner must make the decision as if it were a decision about an exemption notice application and, for that purpose, division 8 applies in relation to making the decision.
- ‘(4) Without limiting subsection (3), if the commissioner must decide whether or not there is an exceptional case for the person and is proposing to issue a negative exemption notice as mentioned in subsection (2)(b)—
 - (a) the commissioner must comply with section 229(2) to (5); and
 - (b) for that purpose, the reference in section 229(4) to deciding the application is taken to include a reference to deciding whether to issue a further positive exemption notice or a negative exemption notice under this section.

Note—

Section 229 is about inviting a person to make submissions about the existence of an exceptional case for the person.

- ‘(5) The commissioner may cancel the suspended notice without issuing a further exemption notice to the person if the commissioner is satisfied that the person is no longer proposing to be employed in regulated employment or to carry on a regulated business.
- ‘(6) If the commissioner cancels the suspended notice and issues a negative exemption notice to the person under subsection (2)(b), the commissioner must give the person a written notice stating—
 - (a) the reasons for the commissioner’s decision to cancel the person’s positive exemption notice and issue a negative exemption notice to the person; and
 - (b) the relevant review and appeal information.

- ‘(7) If the commissioner cancels the suspended notice under this section, the commissioner must—
- (a) give each notifiable person for the person a written notice stating—
 - (i) that the person’s suspended notice has been cancelled under this section; and
 - (ii) whether the person has been issued a further positive exemption notice or a negative exemption notice; and
 - (b) if section 293 applied in relation to the original application for an exemption notice about the person and the commissioner issues a further positive exemption notice to the person—give the advice mentioned in that section to the relevant chief executive.
- ‘(8) Also, the commissioner must consider whether notice must be given under section 342(2)(g).
- ‘(9) Despite an application made by the person as mentioned in subsection (2)(b)(ii), the commissioner is not required to decide the application—
- (a) while a charge against the person for a disqualifying offence is pending; or
 - (b) while the person is a relevant disqualified person because the person is subject to a temporary offender prohibition order or interim sexual offender order; or
 - (c) if the person has been convicted of a disqualifying offence and—
 - (i) the period allowed for an appeal relating to the conviction or sentence of the person has not ended; or
 - (ii) an appeal relating to the conviction or sentence has started but has not been decided; or
 - (d) if the person is subject to a final offender prohibition order, disqualification order or final sexual offender order and—

- (i) the period allowed for an appeal relating to the order has not ended; or
- (ii) an appeal relating to the order has started but has not been decided.

‘300 Notifying holder of expiry of positive exemption notice if no longer police officer or registered teacher

‘(1) This section applies if—

- (a) a person was issued a positive exemption notice on the basis the person was a police officer and the person is no longer a police officer; or

Note—

See section 326 for the requirement that the police commissioner notify the commissioner about a person who is no longer a police officer.

- (b) a person was issued a positive exemption notice on the basis the person was a registered teacher and the person is no longer a registered teacher, including because the person’s registration under the *Education (Queensland College of Teachers) Act 2005* is suspended under section 48 or 49 of that Act.

Note—

See the *Education (Queensland College of Teachers) Act 2005*, section 285A for the requirement that the college of teachers notify the commissioner about the cancellation, suspension, surrender or ending of a person’s registration under that Act.

‘(2) The commissioner must give the person a written notice stating that the person’s positive exemption notice has ceased to have effect under section 289.

‘(3) The written notice must also advise the person that—

- (a) the person must immediately return the positive exemption notice to the commissioner; and
- (b) a prescribed notice application may be made about the person if the person—

- (i) is not a police officer or registered teacher; and
 - (ii) is not a disqualified person; and
 - (c) an exemption notice application may be made about the person if the person is a police officer or registered teacher.
- ‘(4) Also, the commissioner must give each notifiable person for the person a written notice stating that the positive exemption notice held by the person has ceased to have effect under this Act.
- ‘(5) Also, the commissioner must consider whether notice must be given under section 342(2)(e).

‘301 Effect of negative exemption notice if person no longer police officer or registered teacher

- ‘(1) This section applies if—
- (a) a person was issued a negative exemption notice on the basis the person was a police officer and the person is no longer a police officer; or

Note—

See section 326 for the requirement that the police commissioner notify the commissioner about a person who is no longer a police officer.

- (b) a person was issued a negative exemption notice on the basis the person was a registered teacher and the person is no longer a registered teacher, including because the person’s registration under the *Education (Queensland College of Teachers) Act 2005* is suspended under section 48 or 49 of that Act.

Note—

See the *Education (Queensland College of Teachers) Act 2005*, section 285A for the requirement that the college under that Act notify the commissioner about the cancellation, suspension, surrender or ending of a person’s registration under that Act.

- ‘(2) The negative exemption notice continues in effect despite section 248.

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- ‘(3) Subsection (4) applies if—
- (a) the negative exemption notice is cancelled under section 294 or 296; and
 - (b) the commissioner is required or permitted to issue a positive exemption notice to the person; and
 - (c) the commissioner is aware the person is not a police officer or registered teacher.
- ‘(4) The commissioner must instead issue a positive notice to the person.

‘302 Cancelling positive exemption notice on holder’s request

- ‘(1) A person, including a person whose positive exemption notice is suspended under section 298, may, by written notice, ask the commissioner to cancel the person’s positive exemption notice.
- ‘(2) After receiving the written notice, the commissioner must—
- (a) cancel the positive exemption notice; and
 - (b) give the person a written notice stating that—
 - (i) the positive exemption notice has been cancelled; and
 - (ii) the person must not perform work that is regulated employment other than in accordance with subsection (3); and
 - (iii) the person must not carry on a regulated business other than in accordance with section 197 or 259.
- ‘(3) The person must not perform work that is regulated employment unless—
- (a) if the person is a police officer or registered teacher—
 - (i) the commissioner issues a further positive exemption notice to the person; or

- (ii) an exemption notice application is made about the person; or
- (b) otherwise—the commissioner issues a positive notice to the person.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

See sections 197 and 259 in relation to carrying on a regulated business.

- ‘(4) The commissioner must give written notice about the cancellation of the person’s positive exemption notice to each notifiable person for the person.
- ‘(5) Also, the commissioner must consider whether notice must be given under section 342(2)(h).
- ‘(6) A notice under subsection (4) or (5) must state that a person to whom the notice is given must not allow the person whose positive exemption notice is cancelled to perform work that is regulated employment other than in circumstances mentioned in subsection (3).

‘Division 11 Return of exemption notices etc.

‘303 Return of previously held exemption notice or prescribed notice

- ‘(1) This section applies if a person to whom an exemption notice (*new notice*) is issued previously held an exemption notice or prescribed notice (the *old notice*) other than a positive exemption notice or positive notice that has been cancelled.
- ‘(2) Unless the person has a reasonable excuse, the person must, within 14 days after the new notice is issued, give the commissioner—
 - (a) the old notice; and

- (b) if the old notice was a positive notice—any positive notice blue card relating to the old notice.

Maximum penalty—10 penalty units.

‘304 Return of cancelled or expired positive exemption notice

- ‘(1) This section applies to a person with a positive exemption notice if—
 - (a) the commissioner cancels the notice; or
 - (b) the person is given notice under section 300 that the positive exemption notice has ceased to have effect under section 289.
- ‘(2) The person must immediately return the positive exemption notice to the commissioner, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘Part 6 Provisions about obtaining or dealing with information relating to prescribed notices and exemption notices

‘Division 1 Investigative information

‘305 Police commissioner may decide that information about a person is investigative information

- ‘(1) The police commissioner may decide under this section that information about a person (the *investigated person*) is *investigative information* if—

- (a) there is or was evidence of acts or omissions that, at the time of the acts or omissions, constituted a schedule 6 offence (the *alleged offence*) by the investigated person against a person (the *complainant*); and
 - (b) the police investigated the alleged offence and the investigated person was formally notified about the investigation, including—
 - (i) by participating in an interview, or by being asked to participate in an interview, about the alleged offence; or
 - (ii) by otherwise being given an opportunity to answer allegations about the alleged offence; and
 - (c) there was sufficient evidence available that was capable of establishing each element of the alleged offence but a decision was made not to charge the investigated person because—
 - (i) the complainant died before the charge was brought; or
 - (ii) either or both of the following applied—
 - (A) the complainant was unwilling to proceed;
 - (B) an adult who, at the relevant time, was the complainant's parent or guardian decided that, in the interests of the complainant, the matter should not proceed.
- ‘(2) Evidence of acts or omissions includes information from a third party if the complainant did not make a formal complaint at or about the time of the investigation.
- ‘(3) For this section, a *schedule 6 offence* is—
- (a) an offence against a provision of an Act mentioned in schedule 6, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
 - (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or

- (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
- (d) an offence that has, as an element, intention to commit an offence of a kind mentioned in paragraph (a); or
- (e) an offence that, at the time it was committed was an offence of a kind mentioned in paragraph (a); or
- (f) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a), (b), (c), (d) or (e).

Note—

Column 2 in schedule 6 is included for information purposes only and states a section heading for the provision mentioned opposite in column 1.

- ‘(4) For subsection (3), it is immaterial if a provision mentioned in schedule 6, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.

‘306 Police commissioner not to delegate power under s 305

‘Despite the *Police Service Administration Act 1990*, section 4.10, the police commissioner may not delegate the police commissioner’s powers under section 305 other than to a police officer of at least the rank of superintendent.

‘307 Appeal against police commissioner’s decision that information is investigative information

- ‘(1) This section applies if—
 - (a) the police commissioner decides that information about a person is investigative information; and
 - (b) the investigative information is given, under division 2, to the commissioner; and

- (c) after the investigative information is given to the commissioner, any of the following happens (*relevant event*)—
 - (i) a negative notice or negative exemption notice is issued to a person;
 - (ii) the person's positive notice is cancelled and a negative notice or negative exemption notice is substituted for it;
 - (iii) the person's positive exemption notice is cancelled and a negative exemption notice is substituted for it;
 - (iv) the person's eligibility application is refused.
- '(2) The person may appeal to a Magistrates Court about the police commissioner's decision mentioned in subsection (1).
 - '(3) However, an appeal under subsection (2) may only be made within 28 days after the person is given written notice of the relevant event.
 - '(4) The commissioner and police commissioner must be given a copy of the notice of appeal.
 - '(5) QCAT does not have jurisdiction to review a decision of the police commissioner that information about a person is investigative information or that information that is investigative information may be given to the commissioner.

'308 Court to decide matters afresh

- '(1) A Magistrates Court hearing an appeal under section 307 is to decide afresh whether information given to the commissioner as investigative information about a person is investigative information.
- '(2) A person who is the relevant complainant under section 305 must not be asked or called on by the investigated person under that section to give evidence in person before the court.
- '(3) Subsection (2) does not prevent documentary evidence being tendered and received in evidence by the court.

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- ‘(4) After hearing an appeal under section 307, the court may confirm or set aside the decision and the court must give the appellant notice of the decision.
 - ‘(5) For subsection (4), the court must have regard to the matters the police commissioner was required to have regard to under this Act when the police commissioner made the decision.

‘309 Consequence of decision on appeal

- ‘(1) This section applies if a Magistrates Court hears and decides an appeal against the police commissioner’s decision under section 305 that information given to the commissioner about a person is investigative information.
- ‘(2) If the court sets aside the decision appealed against, the person may—
 - (a) if the person was issued a negative notice on the basis of the information—apply under section 236 to cancel the negative notice issued to the person on the grounds that the decision to issue the notice was based on wrong information; or
 - (b) if the person was issued a negative exemption notice on the basis of the information—apply under section 294 to cancel the negative exemption notice issued to the person on the grounds that the decision to issue the notice was based on wrong information; or
 - (c) if the person’s eligibility application was refused on the basis of the information—apply under section 186 for the commissioner to revoke the refusal on the grounds the refusal was based on wrong information.
- ‘(3) If the court confirms the decision appealed against—
 - (a) the person who appealed the decision may apply, within 28 days after receiving the notice under section 308(4) and as otherwise provided under the QCAT Act, to QCAT for a review of a decision of the commissioner if—
 - (i) the person is not a disqualified person; and

- (ii) the decision is a chapter 8 reviewable decision; and
 - (b) the notice under section 308(4) must state how, and the period within which, the person may apply for the review.
- ‘(4) If a person applies under subsection (3)(a) to have a decision reviewed, QCAT may not—
 - (a) stay the operation of the decision; or
 - (b) grant an injunction in the proceeding for the review.
- ‘(5) In this section—
issue—
 - (a) in relation to a negative notice—includes substitute a negative notice after cancelling a positive notice; and
 - (b) in relation to a negative exemption notice—includes substitute a negative exemption notice after cancelling a positive exemption notice or positive notice.

‘Division 2 Obtaining information from police commissioner

‘310 Application of div 2

- ‘This division applies to a person if—
- (a) the person has a current positive notice or current positive exemption notice; or
 - (b) the commissioner has received a prescribed notice application or exemption notice application about the person and the application has not been withdrawn; or
 - (c) the person has applied to the commissioner to cancel a negative notice or negative exemption about the person; or
 - (d) the person has applied, under section 241, to the commissioner to cancel the person’s positive notice that

is suspended and issue a further positive notice to the person; or

- (e) the person has applied, under section 243, to the commissioner to cancel the person's positive notice that is suspended and issue a further positive notice or positive exemption notice to the person; or
- (f) the person has applied, under section 299, to the commissioner to cancel the person's positive exemption notice that is suspended and issue a further positive exemption notice to the person; or
- (g) the commissioner has received an eligibility application about the person and the application has not been withdrawn; or
- (h) the commissioner has issued an eligibility declaration to the person and the eligibility declaration has not expired; or
- (i) the commissioner has issued a negative notice or negative exemption notice to the person and—
 - (i) the person has made an application under section 309(3) or 354 that has not been decided; or
 - (ii) an appeal to an entity has been made in relation to an application under section 309(3) or 354 and the appeal has not been decided.

'311 Commissioner may ask police commissioner for information

- '(1) The commissioner may ask the police commissioner for information, or for access to the police commissioner's records, to enable the commissioner to learn what, if any, police information exists in relation to the person.
- '(2) For subsection (1), the commissioner's request may include the following information—

- (a) the person's name and any other name that the commissioner believes the person may use or may have used;
 - (b) the person's gender and date and place of birth;
 - (c) the person's address;
 - (d) if the person is currently the holder of a prescribed notice—any number or date relevant to the prescribed notice or any positive notice blue card relating to the notice;
 - (e) if the person is currently the holder of an exemption notice—any number or date relevant to the exemption notice;
 - (f) if the request relates to a person employed in regulated employment—whether or not the person carries out the work as a volunteer;
 - (g) the basis on which the commissioner may request information about the person, including, for example, by referencing the relevant provision of section 310.
- ‘(3) If there is police information about the person, the commissioner may ask the police commissioner for—
- (a) a brief description of the circumstances of a conviction, charge or investigative information mentioned in the police information; or
 - (b) a section 93A transcript relating to an offence mentioned in the police information.
- ‘(4) If the commissioner decides that information requested under subsection (1) or (3) about the person is no longer required, the commissioner must tell the police commissioner not to provide the information.

‘312 Police commissioner to comply with request

- ‘(1) The police commissioner must comply with a request under section 311(1) or (3) unless the police commissioner is, under section 311(4), told not to provide the information.

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- ‘(2) However, the duty imposed on the police commissioner to comply with the request applies only to information in the police commissioner’s possession or to which the police commissioner has access.
- ‘(3) The police commissioner need not disclose investigative information about a person to the commissioner under this division if the police commissioner is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (c) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (d) endanger a person’s life or physical safety.
- ‘(4) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the police commissioner may disclose information to which that part applies to the commissioner for complying with a request under section 311(1) or (3).

‘313 Information to be given about relevant disqualified person

‘If the police commissioner gives the commissioner information under section 312 about a person who is or has been a relevant disqualified person, the information must include the following information about the person—

- (a) that the person is or has been a relevant disqualified person;
- (b) if the person is or has been subject to a disqualification order—the duration and details of the disqualification order;

- (c) if the person is or has been subject to an offender prohibition order—
 - (i) a brief description of the conduct that gave rise to the order; and
 - (ii) the duration and details of the order, including whether it is or was a temporary offender prohibition order or a final offender prohibition order.

‘314 Information to be given about person subject of application for disqualification order or offender prohibition order

‘If the police commissioner gives the commissioner information under section 312 about a person who is or has been the subject of an application for a disqualification order, or named as the respondent for an application for an offender prohibition order, and the order was not made, the information must include the following information about the person—

- (a) that the person is or has been the subject of an application for a disqualification order or named as the respondent for an application for an offender prohibition order and the order was not made;
- (b) the reasons why the application was made;
- (c) the reasons why the order was not made;
- (d) if the application was for an offender prohibition order and the magistrate or court hearing the application decided not to make a CPOPOA disqualification order for the person—the reasons why the CPOPOA disqualification order was not made.

‘315 Police commissioner to notify person about investigative information given about the person

‘If the police commissioner gives investigative information about a person to the commissioner under this division, the

police commissioner must give notice, in the approved form, to the person that—

- (a) the police commissioner has decided that information about the person is investigative information; and
- (b) investigative information has been given to the commissioner.

‘316 Use of information given to police commissioner

- ‘(1) Information given to the police commissioner under this division must not be accessed or disclosed for any purpose except for a purpose under this chapter or any other purpose relevant to law enforcement.
- ‘(2) Information given to the police commissioner under this division must not be used for any purpose except if—
 - (a) for information other than information about a withdrawal—the use is for a purpose under this chapter or for any other purpose relating to child protection; or
 - (b) for information about a withdrawal—the use is for a purpose under this chapter.
- ‘(3) However, subsections (1) and (2) do not apply to information the police commissioner obtained before the commissioner gave the information to the police commissioner under this section.
- ‘(4) In this section—

withdrawal means withdrawal of any of the following—

 - (a) a prescribed notice application;
 - (b) an exemption notice application;
 - (c) a person’s consent to employment screening under this chapter;
 - (d) an eligibility application.

‘317 Notice of change in police information about a person

- ‘(1) This section applies if, for a person in relation to whom any of the following happens (the *relevant event*), the police commissioner reasonably suspects the person is a person mentioned in section 310(a) to (i)—
- (a) the person’s criminal history changes;
 - (b) the police commissioner decides, under section 305, that information about the person is investigative information (regardless of when the act or omission relevant to the investigative information happened or is alleged to have happened);
 - (c) the person becomes, or is no longer, a relevant disqualified person;
 - (d) the person is named as the respondent for an application for an offender prohibition order.
- ‘(2) For a relevant event mentioned in subsection (1)(a) or (b), the police commissioner may notify the commissioner of the following—
- (a) that the relevant event has happened;
 - (b) if subsection (1)(a) applies because the person has been charged with or convicted of an offence—
 - (i) the offence the person has been charged with or convicted of; and
 - (ii) the particulars of the offence; and
 - (iii) the date of the charge or conviction.
- ‘(3) For a relevant event mentioned in subsection (1)(c) or (d), the police commissioner must notify the commissioner of the following—
- (a) that the relevant event has happened;
 - (b) if subsection (1)(c) applies because the person has become a relevant disqualified person—the information mentioned in section 313;

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- (c) if subsection (1)(d) applies—the information mentioned in section 314 in relation to the offender prohibition order.
- ‘(4) A notice given under subsection (2) or (3) must state the following—
- (a) the person’s name and any other name that the police commissioner believes the person may use or may have used;
 - (b) the person’s gender and date and place of birth.
- ‘(5) The commissioner may confirm the police commissioner’s suspicions under subsection (1).
- ‘(6) However, the duty imposed on the police commissioner to provide information to the commissioner under this section applies only to information in the police commissioner’s possession or to which the police commissioner has access.
- ‘(7) If the person is a person mentioned in section 323(1), 324(1) or 325(1), the commissioner, on receiving notice under subsection (2) or (3), may write to the person to inform the person of the person’s obligations under sections 323(2), 324(2) or 325(2).

Note—

Sections 323 to 325 impose obligations on particular persons to notify particular entities of changes in police information.

- ‘(8) For a person who does not have a criminal history, there is taken to be a change in the person’s criminal history if the person acquires a criminal history.
- ‘(9) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the police commissioner may disclose information to which that part applies to the commissioner under this section.

‘Division 3 Obtaining police information from other State entities

‘318 Obtaining information from director of public prosecutions

- ‘(1) This section applies to a person mentioned in section 310.
- ‘(2) If the commissioner becomes aware that the person has been charged with or convicted of an offence, the commissioner may, by written notice, ask the director of public prosecutions for the following—
 - (a) a written statement briefly describing the circumstances of a charge or conviction for the offence;
 - (b) a copy or written summary of evidentiary material about the offence;
 - (c) if a charge for the offence was not proceeded with—a written summary of the reasons why the charge was not proceeded with.
- ‘(3) The commissioner’s request may include the following information—
 - (a) the person’s name and any other name the commissioner believes the person may use or have used;
 - (b) the person’s gender and date and place of birth.
- ‘(4) The director of public prosecutions may comply with a request under subsection (2) if the director reasonably believes the statement, copy or summary may help the commissioner in making an employment-screening decision about the person.
- ‘(5) However, the director of public prosecutions must not give the commissioner a copy or written summary of evidentiary material about the offence that relates only to a person other than the person about whom the request is made.

Example of evidentiary material for subsection (5)—

a report by an expert about a person other than the person about whom the request is made.

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- ‘(6) The director of public prosecutions must not give information, or a document containing information, to the commissioner under this section if the director is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (c) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (d) prejudice a prosecution or another matter before a court;
 - (e) endanger a person’s life or physical safety.
- ‘(7) The giving of information, or a document containing information, under this section by the director of public prosecutions is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See sections 384 and 385 for restrictions on disclosing or giving access to information or documents obtained under this Act.

- ‘(8) Without limiting subsection (7), this section applies despite the *Director of Public Prosecutions Act 1984*, section 24A.
- ‘(9) In this section—

evidentiary material, about an offence, means material compiled in the course of the investigation or prosecution of the offence, including, for example, the following—

- (a) a summary of the circumstances of the alleged offence prepared by a police officer;

Examples—

bench charge sheet, QP9

- (b) a witness statement;

- (c) an indictment;
- (d) a record of an interview or a transcript of a record of an interview, including a section 93A transcript;
- (e) a report by an expert about the person alleged to have committed the offence.

‘319 Obtaining information from chief executive (corrective services)

- ‘(1) The chief executive (corrective services) must give the commissioner written notice of each person who is or becomes subject to a sexual offender order.
- ‘(2) The written notice must state the following—
 - (a) the person’s name;
 - (b) that the person is subject to a sexual offender order;
 - (c) any other information the chief executive (corrective services) reasonably considers is necessary for the commissioner to perform a function or exercise a power under this chapter.
- ‘(3) The chief executive (corrective services) and the commissioner may enter into a written arrangement by which written notices are given under subsection (1).
- ‘(4) Without limiting subsection (3), the arrangement may provide for the written notices to be given electronically.
- ‘(5) However, if written notices under subsection (1) are to be given electronically and, under an Act, there is a limitation on who may access the information mentioned in the notices or the purposes for which that information may be used, the arrangement must provide for the limitation.
- ‘(6) The disclosure of information by the chief executive (corrective services) under this section is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See sections 384 and 385 for restrictions on disclosing or giving access to information or documents obtained under this Act.

‘(7) In this section—

chief executive (corrective services) means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

‘Division 4 Obtaining information from interstate police commissioner

‘320 Requesting further information about interstate convictions and charges

- ‘(1) This section applies if police information about a person obtained under division 2 includes—
- (a) a conviction of the person for an offence in another State, including an interstate spent conviction of the person; or
 - (b) an interstate charge against the person.
- ‘(2) The commissioner may ask an interstate police commissioner for a brief description of the circumstances of the conviction or charge.
- ‘(3) The commissioner’s request may include the following information—
- (a) the person’s name and any other name the commissioner believes the person may use or have used;
 - (b) the person’s gender and date and place of birth.
- ‘(4) To remove any doubt, it is declared that this section applies in relation to—
- (a) a conviction of a person whether the conviction happened before or after the commencement of this section; and

- (b) an interstate charge against a person whether the offence to which the charge relates was committed or alleged to have been committed before or after the commencement of this section.

‘(5) In this section—

interstate charge, made against a person, means a charge against the person for an offence alleged to have been committed by the person against a law of another State or the Commonwealth.

interstate police commissioner means the commissioner of a police force or service of another State or the Commonwealth.

interstate rehabilitation law means a law applying, or that applied, in another State or the Commonwealth, that provides, or provided, for the same matter as the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

interstate spent conviction, of a person, means a conviction for an offence committed by the person against a law of another State or the Commonwealth that the person is not required to disclose under an interstate rehabilitation law because—

- (a) a rehabilitation period prescribed under that law for the conviction has expired; and
- (b) the conviction has not been revived under that law.

‘Division 5 Changes in information or status

‘321 Acquiring police information

‘For a person in relation to whom police information does not exist, there is taken to be a change in the person’s police information if the person acquires police information.

‘322 Effect of conviction for serious offence

- ‘(1) This section applies to a person with a current positive notice or current positive exemption notice if the person is convicted of a serious offence.

Notes—

- 1 See sections 237(1)(b)(ii) and 239 for the commissioner’s power to cancel a positive notice if the holder of the notice is convicted of an offence.
- 2 See sections 295(1)(b)(ii) and 297 for the commissioner’s power to cancel a positive exemption notice if the holder of the notice is convicted of an offence.

- ‘(2) The person must immediately return the positive notice or positive exemption notice to the commissioner, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- ‘(3) Until and unless a prescribed event happens for the person, the following applies—

- (a) if the person is employed in regulated employment, the person must not perform work that is regulated employment;
- (b) if the person is not employed in regulated employment, the person must not start regulated employment;
- (c) the person must not start or continue carrying out a regulated business.

Maximum penalty—500 penalty units or 5 years imprisonment.

- ‘(4) For subsection (3), a *prescribed event* happens for a person if—

- (a) the person gives the person’s positive notice or positive exemption notice to the commissioner under subsection (2), and the commissioner returns the positive notice or positive exemption notice to the person; or
- (b) the person is issued a new positive notice or positive exemption notice.

- ‘(5) In this section, a reference to a person’s positive notice is taken to include a reference to any positive notice blue card relating to the notice.

‘323 Effect of change in police information about employee

- ‘(1) This section applies to a person employed in regulated employment if the person becomes aware that there is a change in the person’s police information.
- ‘(2) The person must immediately disclose to the person’s employer that there has been a change in the person’s police information.

Maximum penalty—100 penalty units.

- ‘(3) On receiving the disclosure, the person’s employer must not continue to employ the person in regulated employment without notifying the commissioner, in the approved form, of the change in the person’s police information.

Maximum penalty—100 penalty units.

- ‘(4) To remove any doubt, it is declared that—
- (a) it is not a requirement of subsection (2) that the person give the person’s employer any information about the change other than that a change has happened; and
 - (b) unless otherwise required under this chapter, it is not a requirement that the employer stop employing the person on receiving the disclosure.

‘324 Person carrying on a regulated business to notify commissioner of change in police information

- ‘(1) This section applies to a person carrying on a regulated business if the person becomes aware that there is a change in the person’s police information.

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- ‘(2) The person must immediately notify the commissioner, in the approved form, of the change in the person’s police information.

Maximum penalty—100 penalty units.

‘325 Effect of change in police information about other persons

- ‘(1) This section applies if—
- (a) a person has a current positive notice or current positive exemption notice; and
 - (b) there has been a change in the person’s police information since the notice was issued; and
 - (c) the person is not employed in regulated employment or carrying on a regulated business; and
 - (d) the commissioner has not been notified about the change under section 323 or 324.
- ‘(2) Before starting regulated employment, the person must notify the person’s proposed employer that there has been a change in the person’s police information since the person’s current positive notice or positive exemption notice was issued.

Maximum penalty—100 penalty units.

- ‘(3) On receiving the disclosure, the employer must not employ the person in regulated employment without notifying the commissioner, in the approved form, of the change in police information.

Maximum penalty—100 penalty units.

- ‘(4) Before starting to carry on a regulated business, the person must notify the commissioner, in the approved form, of the change in police information.

Maximum penalty—100 penalty units.

‘326 Police commissioner to advise commissioner if person ceases to be police officer

- ‘(1) This section applies if—
- (a) the police commissioner is aware that—
 - (i) an exemption notice application has been made about a person; or
 - (ii) a person holds an exemption notice; and
 - (b) the person has ceased to be a police officer.
- ‘(2) The police commissioner must notify the commissioner that the person is no longer a police officer.

‘327 Effect of person ceasing to be police officer

- ‘(1) This section applies to a person who is a police officer employed in regulated employment if the person ceases to be a police officer.
- ‘(2) The person must immediately notify the person’s employer in relation to the regulated employment of the person ceasing to be a police officer.

Maximum penalty—10 penalty units.

Note—

See part 4, divisions 3 to 5 for offences about the employment of a person who is not a police officer or registered teacher in regulated employment.

- ‘(3) To remove any doubt, it is declared that—
- (a) it is not a requirement of subsection (2) that the person give the person’s employer any information about the circumstances of the person ceasing to be a police officer other than that it has happened; and
 - (b) unless otherwise required under this chapter, it is not a requirement that the employer stop employing the person on receiving the notification.

‘328 Effect of person ceasing to be registered teacher

- ‘(1) This section applies to a person who is a registered teacher employed in regulated employment if the person surrenders the person’s registration under the *Education (Queensland College of Teachers) Act 2005*, section 59.
- ‘(2) The person must immediately notify the person’s employer in relation to the regulated employment of the surrender.

Maximum penalty—10 penalty units.

Note—

See part 4, divisions 3 to 5 for offences about the employment of a person who is not a police officer or registered teacher in regulated employment.

- ‘(3) To remove any doubt, it is declared that—
- (a) it is not a requirement of subsection (2) that the person give the person’s employer any information about the surrender other than that it has happened; and
 - (b) unless otherwise required under this chapter, it is not a requirement that the employer stop employing the person on receiving the notification.

‘Division 6 Obtaining report about person’s mental health

‘329 Application of div 6

- ‘(1) This division applies if—
- (a) the commissioner is deciding whether or not there is an exceptional case for a person who has been—
 - (i) charged with or convicted of a serious offence; or
 - (ii) charged with or convicted of an offence, other than a serious offence, relating to or involving a child; and
 - (b) the commissioner reasonably believes it is necessary to consider a report about the person’s mental health

prepared under this division for deciding whether or not there is an exceptional case for the person.

- ‘(2) For subsection (1)(b), the commissioner may form the reasonable belief only if—
- (a) in relation to the charge or conviction mentioned in subsection (1)(a)—
 - (i) the matter of the person’s mental condition relating to the offence has been or was referred to the Mental Health Court or an entity of another State with similar functions to that court; or
 - (ii) a court has ordered the person to undertake treatment of a psychiatric nature; or
 - (iii) a court has been given a report about the person’s mental health prepared by a registered health practitioner; or
 - (b) the commissioner has, under this chapter, been given a report about the person’s mental health prepared by a registered health practitioner.

‘330 Commissioner may request person to undergo examination by registered health practitioner etc.

- ‘(1) The commissioner may, by written notice, ask the person—
- (a) to undergo an examination by a registered health practitioner nominated by the commissioner, and any further examination required by the health practitioner, so that a report about the person’s mental health can be given to the commissioner under this division; and
 - (b) to give the commissioner consent to obtain a report about the person’s mental health from the registered health practitioner who conducts the examination.
- ‘(2) The notice given under subsection (1) must state the following—
- (a) the reasons for the commissioner’s request;

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- (b) the name and qualifications of the registered health practitioner nominated by the commissioner to conduct the examination;
 - (c) when and where the examination is to be conducted;
 - (d) that the health practitioner may require the person to undergo further examinations so that a report about the person's mental health can be prepared;
 - (e) that, under section 226, the commissioner must have regard to the report about the person's mental health prepared under this division in deciding whether or not there is an exceptional case for the person;
 - (f) that the person may withdraw the person's consent to employment screening under this chapter or, if the person is an applicant, the person's application under this chapter;
 - (g) that, if the person fails to undergo the examination, and any further examination required by the registered health practitioner, or to give the consent mentioned in subsection (1)(b), either—
 - (i) the person's consent to employment screening under this chapter or, if the person is an applicant, the person's application under this chapter may be withdrawn by the commissioner giving the person written notice of the withdrawal; or
 - (ii) the commissioner may decide whether or not there is an exceptional case for the person in the absence of a report about the person's mental health.
- (3) If the person does not comply with the commissioner's request under subsection (1), the commissioner may decide whether or not there is an exceptional case for the person in the absence of a report about the person's mental health.

Note—

See also section 184 (in relation to the withdrawal of an eligibility application), section 206 or 216 (in relation to the withdrawal of a prescribed notice application) or section 267 or 278 (in relation to the withdrawal of an exemption notice application).

‘331 Nominating registered health practitioner to conduct examination

‘The commissioner may nominate a registered health practitioner to conduct an examination under this division only if the commissioner is reasonably satisfied the health practitioner has the necessary qualifications, expertise or experience to conduct the examination.

‘332 Registered health practitioner obtaining information from Mental Health Court

- ‘(1) This section applies if—
- (a) the person (*charged person*) has been charged with, but not convicted of—
 - (i) a serious offence; or
 - (ii) an offence, other than a serious offence, relating to or involving a child; and
 - (b) the matter of the charged person’s mental condition relating to the offence has been referred to the Mental Health Court; and
 - (c) the commissioner is reasonably satisfied that it may be necessary or desirable for a registered health practitioner conducting an examination of the charged person under this division to have regard to information mentioned in subsection (2) for preparing a report about the person’s mental health.
- ‘(2) The commissioner may, by written notice, ask the charged person to give the Mental Health Court consent to give the registered health practitioner the following information—
- (a) the court’s decision in relation to the reference;
 - (b) the court’s reasons for its decision;
 - (c) a copy or written summary of any expert’s report about the person received in evidence by the court, including, for example, a medical report, psychiatrist’s report or expert report that accompanied the reference;

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- (d) transcripts of a hearing conducted for the reference that the court has directed may be given to a party to the hearing or another person.
- ‘(3) The written notice must state the following—
- (a) the reasons for the commissioner’s request;
- (b) that, if the charged person fails to give the consent, the person’s consent to employment screening under this chapter or, if the person is an applicant, the person’s application under this chapter may be withdrawn by the commissioner giving the person written notice of the withdrawal.
- ‘(4) If the charged person gives the consent, the Mental Health Court may give the information mentioned in subsection (2) to the commissioner for giving it to the registered health practitioner.
- ‘(5) However, information or documents given under this section must not include—
- (a) any record of material given to the court under the *Mental Health Act 2000*, section 284, or of how the material was taken into account; or
- (b) the Mental Health Court’s reasons for taking material mentioned in paragraph (a) into account or not taking the material into account; or
- (c) the content of an expert report about a person other than the charged person; or
- (d) information about a person other than the charged person the Mental Health Court reasonably considers is not relevant to the registered health practitioner preparing a report about the charged person’s mental health.
- ‘(6) Also, the Mental Health Court must not give information, or a document containing information, under this section if the court is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice an investigation or a matter before the court;

- (b) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before another court;
 - (f) endanger a person's life or physical safety;
 - (g) adversely affect a person's mental health.
- ‘(7) If the commissioner is given information under this section to give to the registered health practitioner, the commissioner—
- (a) must give the information to the registered health practitioner as soon as possible; and
 - (b) must not use the information for any purpose other than giving it to the registered health practitioner.
- ‘(8) The giving of information under this section by the Mental Health Court is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See sections 334, 384 and 385 for restrictions on disclosing or giving access to information or documents obtained under this section.

- ‘(9) Without limiting subsection (8)—
- (a) information may be given under this section even if the information can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2000*, section 426; and
 - (b) this section applies in relation to an expert's report despite the *Mental Health Act 2000*, section 318.

- ‘(10) A decision of the Mental Health Court not to give an expert report about the charged person under this section does not prevent the commissioner applying under the *Mental Health Act 2000*, section 318(2) for leave of the court to give the report to the registered health practitioner.

‘333 Registered health practitioner obtaining information from Mental Health Review Tribunal

- ‘(1) This section applies if—
- (a) the person (*charged person*) has been charged with, but not convicted of—
 - (i) a serious offence; or
 - (ii) an offence, other than a serious offence, relating to or involving a child; and
 - (b) the Mental Health Review Tribunal has reviewed the person’s mental condition under the *Mental Health Act 2000*, chapter 6, part 3 or 4; and
 - (c) the commissioner is reasonably satisfied that it may be necessary or desirable for the registered health practitioner conducting an examination of the charged person under this division to have regard to information mentioned in subsection (2) for preparing a report about the person’s mental health.
- ‘(2) The commissioner may, by written notice, ask the charged person to give the Mental Health Review Tribunal consent to give the registered health practitioner the following information—
- (a) the tribunal’s decision on the review;
 - (b) the tribunal’s reasons for the decision;
 - (c) a copy or written summary of any expert’s report about the charged person received by the tribunal in the proceeding for the review, including, for example, a report about an examination of the person by a

psychiatrist under the *Mental Health Act 2000*, section 203A;

- (d) transcripts of a hearing conducted for the review that the tribunal has directed may be given to a party to the hearing or another person.
- ‘(3) The written notice must state the following—
- (a) the reasons for the commissioner’s request;
 - (b) that, if the charged person fails to give the consent, the person’s consent to employment screening under this chapter or, if the person is an applicant, the person’s application under this chapter may be withdrawn by the commissioner giving the person written notice of the withdrawal.
- ‘(4) If the person gives the consent, the Mental Health Review Tribunal may give the information mentioned in subsection (2) to the commissioner for giving it to the registered health practitioner.
- ‘(5) However, information or documents given under this section must not include—
- (a) any record of material given to the tribunal under the *Mental Health Act 2000*, section 464, or of how the material was taken into account; or
 - (b) the Mental Health Review Tribunal’s reasons for taking material mentioned in paragraph (a) into account or not taking the material into account; or
 - (c) the content of an expert report about a person other than the charged person; or
 - (d) information about a person other than the charged person the Mental Health Review Tribunal reasonably considers is not relevant to the registered health practitioner preparing a report about the charged person’s mental health.
- ‘(6) Also, the Mental Health Review Tribunal must not give information, or a document containing information, under this

section if the tribunal is reasonably satisfied that giving the information may do any of the following—

- (a) prejudice a matter before the tribunal;
 - (b) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before a court;
 - (f) endanger a person's life or physical safety;
 - (g) adversely affect a person's mental health.
- ‘(7) If the commissioner is given information under this section to give to a registered health practitioner, the commissioner—
- (a) must give the information to the registered health practitioner as soon as possible; and
 - (b) must not use the information for any purpose other than giving it to the registered health practitioner.
- ‘(8) The giving of information under this section by the Mental Health Review Tribunal is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See sections 334, 384 and 385 for restrictions on disclosing or giving access to information or documents obtained under this section.

- ‘(9) Without limiting subsection (8), information may be given under this section even if the information can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2000*, section 458.

‘334 Use of information obtained from Mental Health Court or Mental Health Review Tribunal

- ‘(1) This section applies if the commissioner gives a registered health practitioner information or a document about a person given to the commissioner—
- (a) by the Mental Health Court under section 332; or
 - (b) by the Mental Health Review Tribunal under section 333.
- ‘(2) The registered health practitioner must not—
- (a) make a record of the information or information in the document; or
 - (b) disclose the information or information in the document to anyone; or
 - (c) give anyone access to the document; or
 - (d) include any details of the information, or information in the document, in the report about the person’s mental health prepared under this division.

Maximum penalty—100 penalty units.

‘335 Commissioner may obtain report about person’s mental health from registered health practitioner

- ‘(1) This section applies if a person gives the commissioner consent as mentioned in section 330(1)(b) in relation to an examination of the person conducted under this division.
- ‘(2) The commissioner may ask the registered health practitioner who conducts the examination to give a report about the person’s mental health to the commissioner, and the registered health practitioner may give the report to the commissioner.
- ‘(3) The giving of a report under this section by a registered health practitioner is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the examination.

Note—

See sections 384 and 385 for restrictions on disclosing or giving access to information or documents obtained under this Act.

‘336 Commissioner to bear medical costs

- ‘(1) The commissioner must bear the medical costs for obtaining a report from a registered health practitioner under this division.
- ‘(2) In this section—
- medical costs*, for obtaining a report from a registered health practitioner under this division, means amounts charged by the health practitioner to—
- (a) conduct an examination for preparing the report; or
 - (b) prepare the report.

‘Division 7 Obtaining other information about person’s mental health

‘337 Commissioner may obtain particular information from Mental Health Court

- ‘(1) This section applies if—
- (a) the commissioner is deciding whether or not there is an exceptional case for a person (*charged person*) who has been charged with, but not convicted of—
 - (i) a serious offence; or
 - (ii) an offence, other than a serious offence, relating to or involving a child; and
 - (b) the matter of the charged person’s mental condition relating to the offence has been referred to the Mental Health Court; and
 - (c) the commissioner has the charged person’s consent to obtain information about the person from the Mental Health Court under this section.

- ‘(2) The commissioner may ask the Mental Health Court for the following (*requested information*)—
- (a) the court’s decision in relation to the reference;
 - (b) the court’s reasons for its decision;
 - (c) a copy or written summary of any expert’s report about the charged person received in evidence by the court, including, for example, a medical report, psychiatrist’s report or expert report that accompanied the reference;
 - (d) transcripts of a hearing conducted for the reference that the court has directed may be given to a party to the hearing or another person.
- ‘(3) The Mental Health Court may comply with the request if the court reasonably considers the requested information may help the commissioner in deciding whether or not there is an exceptional case for the charged person.
- ‘(4) However, the information or documents given to the commissioner for complying with the request must not include—
- (a) any record of material given to the court under the *Mental Health Act 2000*, section 284, or of how the material was taken into account; or
 - (b) the Mental Health Court’s reasons for taking material mentioned in paragraph (a) into account or not taking the material into account; or
 - (c) information that can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2000*, section 426; or
 - (d) the content of an expert report about a person other than the charged person; or
 - (e) information about a person other than the charged person that the Mental Health Court reasonably considers is not relevant to the commissioner deciding whether or not there is an exceptional case for the charged person.

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- ‘(5) Also, the Mental Health Court must not give information, or a document containing information, to the commissioner under this section if the court is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice an investigation or a matter before the court;
 - (b) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before another court;
 - (f) endanger a person’s life or physical safety;
 - (g) adversely affect a person’s mental health.
- ‘(6) The giving of information under this section by the Mental Health Court is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.
- Note—*
- See sections 384 and 385 for restrictions on disclosing or giving access to information or documents obtained under this chapter.
- ‘(7) Without limiting subsection (6), this section applies in relation to an expert’s report despite the *Mental Health Act 2000*, section 318.
- ‘(8) A decision of the Mental Health Court not to give the commissioner an expert report about the charged person under this section does not prevent the commissioner applying under the *Mental Health Act 2000*, section 318(2) for leave of the court to give the report to the commissioner.

‘338 Commissioner may obtain particular information from Mental Health Review Tribunal

- ‘(1) This section applies if—
- (a) the commissioner is deciding whether or not there is an exceptional case for a person (*charged person*) who has been charged with, but not convicted of—
 - (i) a serious offence; or
 - (ii) an offence, other than a serious offence, relating to or involving a child; and
 - (b) the Mental Health Review Tribunal has reviewed the person’s mental condition under the *Mental Health Act 2000*, chapter 6, part 3 or 4; and
 - (c) the commissioner has the charged person’s consent to obtain information about the person from the Mental Health Review Tribunal under this section.
- ‘(2) The commissioner may ask the Mental Health Review Tribunal for the following (the *requested information*)—
- (a) the tribunal’s decision on the review;
 - (b) the tribunal’s reasons for the decision;
 - (c) a copy or written summary of any expert’s report about the charged person received by the tribunal in the proceeding for the review, including, for example, a report about an examination of the person by a psychiatrist under the *Mental Health Act 2000*, section 203A;
 - (d) transcripts of a hearing conducted for the review that the tribunal has directed may be given to a party to the hearing or another person.
- ‘(3) The Mental Health Review Tribunal may comply with the request if the tribunal reasonably considers the requested information may help the commissioner in deciding whether or not there is an exceptional case for the charged person.

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- ‘(4) However, the information or documents given to the commissioner for complying with the request must not include—
- (a) any record of material given to the tribunal under the *Mental Health Act 2000*, section 464, or of how the material was taken into account; or
 - (b) the tribunal’s reasons for taking material mentioned in paragraph (a) into account or not taking the material into account; or
 - (c) information that can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2000*, section 458; or
 - (d) the content of an expert report about a person other than the charged person; or
 - (e) information about a person other than the charged person that the Mental Health Review Tribunal reasonably considers is not relevant to the commissioner deciding whether or not there is an exceptional case for the charged person.
- ‘(5) Also, the Mental Health Review Tribunal must not give information, or a document containing information, to the commissioner under this section if the tribunal is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice a matter before the tribunal;
 - (b) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before a court;

- (f) endanger a person's life or physical safety;
 - (g) adversely affect a person's mental health.
- '(6) The giving of information under this section by the Mental Health Review Tribunal is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See sections 384 and 385 for restrictions on disclosing or giving access to information or documents obtained under this chapter.

'Division 8 Dealing with information

'339 Commissioner to give notice to particular entities about a change in police information

- '(1) This section applies if the commissioner becomes aware that police information about a relevant person has changed.
- '(2) However, this section does not apply if—
- (a) the change is that the relevant person has been charged with or convicted of a disqualifying offence; or
 - (b) the change is that the relevant person has become a relevant disqualified person; or
 - (c) the following applies—
 - (i) the change is that the relevant person has been named as the respondent in an application for an offender prohibition order and the proceeding for the offender prohibition order has not ended;
 - (ii) a prescribed notice application or exemption notice application about the relevant person has been made and has not been decided.
- '(3) If the commissioner considers the change in police information may be relevant to child-related employment, the commissioner must give each notifiable person for the person a written notice stating the following—

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- (a) the relevant person's name and identifying details;
 - (b) that the commissioner has received police information about the relevant person that the commissioner considers relevant to child-related employment;
 - (c) that the commissioner is making a decision under part 4, division 9 or 11 or part 5, division 8 or 10 about the relevant person;
 - (d) a reminder of the risk management requirements under sections 171 and 172;
 - (e) an employer may not dismiss the relevant person solely or mainly because the employer is given a notice under this section;
 - (f) if the change in police information is a change in criminal history, whether it is a charge or conviction and whether or not the charge or conviction is for a serious offence;
 - (g) if the change in police information is a conviction for a serious offence—
 - (i) that, under section 194 or 256, it is an offence for an employer to employ, or continue to employ, the relevant person in regulated employment; and
 - (ii) the effect of section 322.
- '(4) If the relevant person is the director of a school's governing body, the commissioner must give written notice as mentioned in subsection (3) to the accreditation board.
- '(5) An employer may not dismiss the relevant person solely or mainly because the employer is given a notice under subsection (3) or (4).
- '(6) In this section—
- relevant person*** means—
- (a) the holder of a positive notice, other than a positive notice that is suspended under section 240 or 242; or

- (b) the holder of a positive exemption notice, other than a positive exemption notice that is suspended under section 298; or
- (c) a person about whom a prescribed notice application or exemption notice application has been made, if the application has not been decided or withdrawn.

‘340 Commissioner must give police commissioner a person’s current address

- ‘(1) The commissioner must, on written application of the police commissioner, give the police commissioner information about an address for a person if—
- (a) the commissioner has an address for the person that is different to the address stated by the police commissioner in the application; and
 - (b) either of the following applies—
 - (i) the police commissioner is, under this chapter, required to give a notice to the person;
 - (ii) the commissioner reasonably believes the giving of the information will help the police commissioner to verify the person’s identity for giving police information to the commissioner under this chapter.
- ‘(2) Despite section 316, information given to the police commissioner under this section must not be used, disclosed or accessed for any purpose other than a purpose mentioned in subsection (1)(b).

‘341 Giving other information to police commissioner

- ‘(1) The commissioner may give the police commissioner confidential information about a person if the commissioner reasonably believes the giving of the information is necessary for the effective administration of any of the following—
- (a) this chapter;

- (b) the Offender Prohibition Order Act;
 - (c) the Offender Reporting Act;
 - (d) the *Police Powers and Responsibilities Act 2000*, section 789A.
- ‘(2) Section 316 applies to information given under this section.
- ‘(3) This section does not limit section 340 or 385.

‘342 Commissioner may give information about director of school’s governing body to accreditation board

- ‘(1) The commissioner may, on written application of the accreditation board signed by the chairperson, give the accreditation board the following information about a director of a school’s governing body—
- (a) whether the director is the holder of a positive notice, negative notice, positive exemption notice or negative exemption notice;
 - (b) whether the director is an applicant under part 4, division 8 or part 5, division 7.

Note—

The *Education (Accreditation of Non-State Schools) Act 2001*, section 15 provides that, for this chapter, a person is taken to be a person carrying on a regulated business by being a director of the governing body of a provisionally accredited, or accredited, school.

- ‘(2) The commissioner must notify the accreditation board of the following—
- (a) the issue of a negative notice or negative exemption notice to a director of a school’s governing body;
 - (b) the suspension of the positive notice of a director of a school’s governing body under section 240 or 242;
 - (c) the cancellation of a suspended positive notice of a director of a school’s governing body, and the issue of a further prescribed notice or an exemption notice in relation to the cancellation, under section 241 or 243;

- (d) the cancellation of the positive notice of a director of a school's governing body under section 244;
 - (e) the positive exemption notice of a director of a school's governing body ceasing to have effect under section 289;
 - (f) the suspension of the positive exemption notice of a director of a school's governing body under section 298;
 - (g) the cancellation of a suspended positive exemption notice of a director of a school's governing body, and the issue of a further exemption notice in relation to the cancellation, under section 299;
 - (h) the cancellation of the positive exemption notice of a director of a school's governing body under section 302;
 - (i) the withdrawal of an application under part 4, division 8 or part 5, division 7 of a director of a school's governing body.
- ‘(3) Also, if a prescribed notice application is made about a director of a school's governing body whom the commissioner is satisfied is a disqualified person, the commissioner must notify the accreditation board about the commissioner's decision and that the application is invalid.
- ‘(4) In this section—
- chairperson* see the *Education (Accreditation of Non-State Schools) Act 2001*, schedule 3.
- issue*—
- (a) in relation to a negative notice—includes substitute a negative notice after cancelling a positive notice; and
 - (b) in relation to a negative exemption notice—includes substitute a negative exemption notice after cancelling a positive exemption notice or positive notice.

‘343 Commissioner must give information about particular approved teachers to college of teachers

- ‘(1) This section applies if—
- (a) the college of teachers requested information about a person under the *Education (Queensland College of Teachers) Act 2005*, section 15D; and
 - (b) the person is an approved teacher.
- ‘(2) If the person’s positive notice is cancelled under part 4, division 11 or expires under section 231, the commissioner must give the college written notice of the cancellation or expiry.
- ‘(3) If, on the cancellation of the person’s positive notice under part 4, division 11, the person is issued a further positive notice or a positive exemption notice, the notice under subsection (2) must state that the person has been issued a further positive notice or positive exemption notice.
- ‘(4) If the commissioner becomes aware that police information about the person has changed, other than in a way mentioned in section 339(2), the commissioner must give the college a written notice complying with section 339(3) about the change.

‘344 Commissioner must give information about particular holders to chief executive (disability services)

- ‘(1) This section applies if—
- (a) the chief executive (disability services) requested information about a person under the *Disability Services Act 2006*, section 89D; and
 - (b) the person is the holder of, or applicant for, an exemption notice under the *Disability Services Act 2006*.
- ‘(2) If the person’s positive notice is cancelled or suspended under part 4, division 11 or expires under section 231, the commissioner must give the chief executive (disability

services) written notice of the cancellation, suspension or expiry.

- ‘(3) If, on the cancellation of the person’s positive notice under part 4, division 11, the person is issued a further positive notice or a positive exemption notice, the notice under subsection (2) must state that the person has been issued a further positive notice or a positive exemption notice.
- ‘(4) If the commissioner becomes aware that police information about the person has changed, other than in a way mentioned in section 339(2), the commissioner must give the chief executive (disability services) a written notice complying with section 339(3) about the change.

‘345 Use of information obtained under this chapter about a person

‘The commissioner must not use information obtained under this chapter about a person, other than for the purposes of this chapter or a report under section 395.

‘346 Guidelines for dealing with information

- ‘(1) The commissioner must make guidelines, consistent with this Act, for dealing with information obtained by the commissioner under this chapter.
- ‘(2) The purpose of the guidelines is to ensure—
 - (a) natural justice is afforded to the persons about whom the information is obtained; and
 - (b) only relevant information is used in making employment-screening decisions; and
 - (c) employment-screening decisions, based on the information, are made consistently.
- ‘(3) The commissioner must give a copy of the guidelines to a person on request.

‘Part 7 **Miscellaneous provisions
about prescribed notices and
exemption notices**

‘Division 1 **Replacement notice**

‘347 Replacement of lost or stolen notice or card

- ‘(1) If a person’s current positive notice, positive notice blue card or positive exemption notice, is lost or stolen, the person must, within 14 days after the loss or theft—
- (a) give the commissioner written notice of the loss or theft; and
 - (b) if the person has a current positive notice and a positive notice blue card and only the notice is lost or stolen, or only the card is lost or stolen, return the card or the notice that is not lost or stolen to the commissioner; and
 - (c) either—
 - (i) apply for a replacement notice or card; or
 - (ii) ask the commissioner to cancel the person’s positive notice under section 244, or cancel the person’s positive exemption notice under section 302.

Maximum penalty—10 penalty units.

- ‘(2) An application under subsection (1)(c)(i) must be in the approved form and accompanied by the prescribed fee.
- ‘(3) The commissioner must—
- (a) cancel—
 - (i) for a lost or stolen positive notice—the lost or stolen notice and any positive notice blue card issued for it; or

- (ii) for a lost or stolen positive notice blue card—the lost or stolen card and the positive notice for which it was issued; or
 - (iii) for a lost or stolen positive exemption notice—the lost or stolen notice; and
 - (b) if the person makes an application under subsection (1)(c)(i)—issue to the person—
 - (i) for a lost positive notice or positive notice blue card—a replacement positive notice and, if the person had a positive notice blue card for the person’s previous positive notice, a replacement positive notice blue card; or
 - (ii) for a lost or stolen positive exemption notice—a replacement positive exemption notice.
- ‘(4) If the person’s lost or stolen notice or card is returned to, or otherwise recovered by, the person after the application for a replacement notice or card is made, within 14 days after receiving a replacement notice or card the person must give the replaced notice or card to the commissioner.
Maximum penalty—10 penalty units.
- ‘(5) The commissioner must give written notice to the police commissioner about the fact that a current positive notice, positive notice blue card or positive exemption notice has been lost or stolen.

‘348 Replacement notice if change of name or contact details

- ‘(1) This section applies if the holder of a positive notice or positive exemption notice, or the holder of a negative notice or negative exemption notice who has applied for its cancellation, does any of the following (each of which is a *relevant change*)—
 - (a) changes a name the holder has previously given to the commissioner;

- (b) starts to use a different name to the name or names the holder has previously given to the commissioner;
 - (c) changes contact details previously given to the commissioner.
- ‘(2) The holder must give notice, in the approved form, to the commissioner about the relevant change within 14 days after the relevant change.

Maximum penalty—10 penalty units.

- ‘(3) If the commissioner considers it is appropriate to do so, the commissioner may issue to the holder—
- (a) for the holder of a positive notice—a replacement positive notice and, if the holder also has a positive notice blue card, a replacement positive notice blue card; or
 - (b) for the holder of a positive exemption notice—a replacement positive exemption notice.

- ‘(4) If the commissioner issues to the holder a replacement positive notice, positive notice blue card or positive exemption notice, the holder must return the replaced notice or card to the commissioner within 14 days after receiving the replacement notice or card.

Maximum penalty—10 penalty units.

- ‘(5) The commissioner must cancel the previously held positive notice, positive notice blue card or positive exemption notice if the commissioner has issued a replacement notice or card.

‘349 Replacement notice if change in employment etc. details generally

- ‘(1) This section applies if any of the following (each of which is a *relevant change*) happens in relation to the holder of a positive notice or positive exemption notice that is not suspended —
- (a) the holder ends or changes the holder’s employment;
 - (b) the holder stops carrying on a regulated business;

(c) the holder starts carrying on a regulated business other than a regulated business in relation to which the positive notice was issued.

‘(2) However, this section does not apply if the holder of a positive notice is or was, during the term of the positive notice, employed in regulated employment as a volunteer and the holder either—

(a) becomes employed in regulated employment other than as a volunteer; or

(b) starts carrying on a regulated business.

Note—

See section 350 in relation to the holder of a positive notice who is employed in regulated employment as a volunteer and who—

(a) becomes employed in regulated employment other than as a volunteer; or

(b) starts carrying on a regulated business.

‘(3) The holder must, within 14 days after the relevant change give notice, in the approved form, to the commissioner about the relevant change.

Maximum penalty—10 penalty units.

‘(4) The commissioner may issue to the holder—

(a) for the holder of a positive notice—a new positive notice and, if the holder also has a positive notice blue card, a new positive notice blue card; or

(b) for the holder of a positive exemption notice—a new positive exemption notice.

‘(5) If the commissioner issues to the holder a new positive notice, positive notice blue card or positive exemption notice, the holder must return the person’s previously held notice or card to the commissioner within 14 days after receiving the new notice or card.

Maximum penalty—10 penalty units.

-
- ‘(6) The commissioner must cancel the previously held positive notice, positive notice blue card or positive exemption notice if the commissioner has issued a new notice or card.

‘350 Replacement notice if change from employment as a volunteer to employment other than as a volunteer etc.

- ‘(1) This section applies if the holder of a positive notice that is not suspended is or was, during the term of the positive notice, employed in regulated employment as a volunteer and either of the following happens (the *relevant change*)—

- (a) the holder becomes employed in regulated employment other than as a volunteer;
- (b) the holder starts carrying on a regulated business.

- ‘(2) The holder must, within 14 days after the relevant change give notice, in the approved form, to the commissioner about the relevant change.

Maximum penalty—10 penalty units.

- ‘(3) The commissioner may issue to the holder a new positive notice and, if the holder also has a positive notice blue card, a new positive notice blue card.

- ‘(4) If the commissioner issues to the holder a new positive notice or positive notice blue card, the holder must return the person’s previously held notice or card to the commissioner within 14 days after receiving the new notice or card.

Maximum penalty—10 penalty units.

- ‘(5) The commissioner must cancel the previously held positive notice or positive notice blue card if the commissioner has issued a new notice or card.

- ‘(6) If the prescribed application fee for the positive notice has not been paid, the notice under subsection (2) must be accompanied by the prescribed application fee.

- ‘(7) In this section—

prescribed application fee, for a positive notice, means the fee that was the prescribed fee for the prescribed notice application in relation to which the positive notice was issued when the application was made.

‘Division 2 Offences relating to false or misleading information

‘351 False or misleading disclosure

‘A person must not—

- (a) give another person who is proposing to employ the person in regulated employment information for this chapter that is false or misleading in a material particular; or
- (b) state anything to the commissioner for this chapter that the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units or 2 years imprisonment.

‘352 False or misleading documents

- ‘(1) A person must not give the commissioner a document for this chapter containing information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units or 2 years imprisonment.

- ‘(2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the commissioner, to the best of the person’s ability, how it is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

‘Division 3 Review and appeal

‘353 Definitions for div 3

‘In this division—

chapter 8 reviewable decision, about a person, means—

- (a) a decision of the commissioner as to whether or not there is an exceptional case for the person if, because of the decision, the commissioner—
 - (i) issued a negative notice or negative exemption notice to the person; or
 - (ii) refused to cancel a negative notice or negative exemption notice issued to the person; or
- (b) a decision of the commissioner that the person has been charged with a disqualifying offence if—
 - (i) because of the decision—
 - (A) the positive notice held by the person was suspended under section 240; or
 - (B) the positive exemption notice held by the person was suspended under section 298; and
 - (ii) the person claims he or she has not been charged with the disqualifying offence; and
 - (iii) the person has applied for a cancellation of the suspension under section 241 or 299 and that application has been refused; or
- (c) a decision of the commissioner that the person’s registration under the *Education (Queensland College of Teachers) Act 2005* has been suspended under section 49 of that Act if—
 - (i) because of the decision, the positive notice held by the person was suspended under section 242; and

- (ii) the person claims he or she is not the person whose registration under the *Education (Queensland College of Teachers) Act 2005* has been suspended under section 49 of that Act; and
 - (iii) the person has applied for a cancellation of the suspension under section 243 and that application has been refused; or
- (d) a relevant disqualified person decision about the person if—
- (i) because of the decision, the commissioner issued a negative notice or negative exemption notice to the person; and
 - (ii) the person claims he or she is not the person the subject of the conviction, reporting obligations or order in relation to which the decision was made; and
 - (iii) the person has applied for a cancellation of the person's negative notice under section 236, or a cancellation of the person's negative exemption notice under section 294, and that application has been refused.

issue—

- (a) in relation to a negative notice—includes substitute a negative notice after cancelling a positive notice; and
- (b) in relation to a negative exemption notice—includes substitute a negative exemption notice after cancelling a positive exemption notice or positive notice.

prescribed period, for a review of a chapter 8 reviewable decision about a person, means 28 days after the person is given notice of the following—

- (a) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (a)—the decision;
- (b) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (b)

- relating to a suspended positive notice—the decision on the application under section 241 about the suspension;
- (c) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (b) relating to a suspended positive exemption notice—the decision on the application under section 299 about the suspension;
 - (d) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (c)—the decision on the application under section 243 about the suspension;
 - (e) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (d) relating to a negative notice—the decision on the application under section 236 about the negative notice;
 - (f) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (d) relating to a negative exemption notice—the decision on the application under section 294 about the negative exemption notice.

relevant disqualified person decision, for a person, means—

- (a) a decision of the commissioner that the person has been or is convicted of a disqualifying offence for which an imprisonment order was or is imposed; or
- (b) a decision of the commissioner that the person is subject to—
 - (i) offender reporting obligations; or
 - (ii) a final offender prohibition order; or
 - (iii) a disqualification order; or
 - (iv) a final sexual offender order.

‘354 Person may apply for review of chapter 8 reviewable decision

- ‘(1) A person who is not a disqualified person may apply, within the prescribed period and as otherwise provided under the QCAT Act, to QCAT for a review of a chapter 8 reviewable decision.
- ‘(2) If a person applies under subsection (1) to have a chapter 8 reviewable decision reviewed, QCAT may not—
 - (a) stay the operation of the decision; or
 - (b) grant an injunction in the proceeding for the review.
- ‘(3) To remove any doubt, it is declared that there is no review or appeal under this Act in relation to a decision of the commissioner to issue, or refuse to cancel, a negative notice or negative exemption notice about a person other than because of a chapter 8 reviewable decision.

Note—

There is also no review or appeal in relation to a decision of the commissioner to refuse an eligibility application (see section 180(7)).

- ‘(4) This section does not limit section 307.

‘355 Effect of applicant for a review becoming a disqualified person

- ‘(1) This section applies if a disqualified person made an application under section 354 before the person became a disqualified person.
- ‘(2) The application and any proceeding in relation to the application must be dismissed—
 - (a) if a proceeding in relation to the application is before a court—by the court; or
 - (b) otherwise—by QCAT, even if the dismissal would be contrary to a direction of the District Court.
- ‘(3) Any appeal by the person from a decision of QCAT on the application must be dismissed.

‘Division 4 Other miscellaneous provisions

‘356 Compliance with requirement to end, or not start, a person’s regulated employment

- ‘(1) This section applies if it would be a contravention of a provision of this chapter for a person (the *employer*) to employ, or continue to employ, another person (the *employee*) in regulated employment.
- ‘(2) The employer must comply with the provision despite another Act or law or any industrial award or agreement.
- ‘(3) The employer does not incur any liability because, in compliance with the provision, the employer does not employ, or continue to employ, the employee in regulated employment.
- ‘(4) A person whose positive notice is suspended under section 240 or 242, or whose positive exemption notice is suspended under section 298, may be employed in employment that is not regulated employment.

‘357 Disqualification order

- ‘(1) This section applies if a person is convicted of—
 - (a) a disqualifying offence and the court that convicts the person does not impose an imprisonment order for the offence; or
 - (b) another serious offence committed in relation to, or otherwise involving, a child.
- ‘(2) The court may, on application by the prosecutor or on its own initiative, make an order (a *disqualification order*) in relation to the person stating that—
 - (a) the person may not hold a positive notice or positive exemption notice, or apply for a prescribed notice or exemption notice, for a stated period; or

- (b) the person may never hold a positive notice or positive exemption notice or apply for a prescribed notice or exemption notice.
- ‘(3) However, the court may make a disqualification order under subsection (2)(a) or (b) only if the court considers it would not be in the interests of children for the commissioner to issue a positive notice or positive exemption notice to the person.
- ‘(4) The person against whom the disqualification order is made may appeal against the court’s decision under subsection (2) in the same way the person may appeal against the conviction.
- ‘(5) In this section—
 - Crown prosecutor*** includes—
 - (a) the Attorney-General; and
 - (b) the director of public prosecutions; and
 - (c) another person, other than a police officer, appearing for the State.
 - prosecutor*** means—
 - (a) in the context of a proceeding before, or an application to, a Magistrates Court or a Childrens Court—
 - (i) a police officer; or
 - (ii) a service legal officer within the meaning of the *Police Service Administration Act 1990*, section 10.24; or
 - (iii) a Crown prosecutor; or
 - (b) otherwise—a Crown prosecutor.’.

59 Omission of pt 7 (Criminal history checks of commission’s staff)

Part 7—

omit.

60 Amendment of s 146 (Indictable and summary offences)

(1) Section 146(1)—

omit, insert—

‘(1) An offence against any of the following provisions is an indictable offence—

- section 174
- section 195, 196, 197, 240(4), 242(4) or 244(3)
- section 257, 258, 259, 298(4) or 302(3)
- section 322(3).’

(2) Section 146(2), ‘section 156’—

omit, insert—

‘section 388’.

61 Amendment of s 152 (Confidentiality of information about criminal history)

(1) Section 152, heading, after ‘history’—

insert—

‘or related information’.

(2) Section 152(1)(a), ‘or a staff member’—

omit, insert—

‘, a staff member or a selection panel member’.

(3) Section 152(1)(b)—

omit, insert—

‘(b) in that capacity, under chapter 8 (including as applied by section 36), acquired, or gained access to a document containing, any of the following—

- (i) information about someone else’s police information;
- (ii) disciplinary information about someone else;

- (iii) information about someone else’s mental health, including, for example, information about a proceeding in the Mental Health Court or the Mental Health Review Tribunal about the person.’.
- (4) Section 152(2)(b), after ‘under’—
insert—
‘previous’.
- (5) Section 152(2A)(a) and (4)(f), ‘section 163’—
omit, insert—
‘section 395’.
- (6) Section 152(2A)(b), ‘subsection (4)(c) or (d)’—
omit, insert—
‘subsection (5)(c) or (d)’.
- (7) Section 152(4), ‘subsection (3)’—
omit, insert—
‘subsection (4)’.
- (8) Section 152(4)(a)—
omit, insert—
‘(a) if subsection (1) applies—
 - (i) to the commissioner, the assistant commissioner or a staff member for the purpose of an employment-screening decision; or
 - (ii) for a document about a staff member—to the commissioner, the assistant commissioner, a staff member or selection panel member for the purpose of assessing the person’s suitability to be, or continue to be, a staff member; or’.
- (9) Section 152(4)(c), ‘subsection (2A)(a)’—
omit, insert—
‘subsection (3)(a)’.

(10) Section 152(4)(d), ‘subsection (2A)(b)’—
omit, insert—
‘subsection (3)(b)’.

(11) Section 152(5)—
insert—

‘*previous part 7* means part 7 of this Act as in force from time to time before the commencement of this definition.

Note—

Previous part 7 provided for criminal history checks of the commission’s staff. From the commencement of this definition, screening of the commission’s staff is undertaken under **section 36** and the *Public Service Act 2008*, chapter 5, part 6.’.

(12) Section 152(2A) to (5)—
renumber as section 152(3) to (6).

62 Amendment of s 167 (Regulation-making power)

Section 167—
insert—

‘(3) Without limiting subsection (2), a regulation may prescribe a fee for the commissioner giving information under the *Education (Queensland College of Teachers) Act 2005*, section 15D.’.

63 Amendment of pt 9 (Transitional and other provisions)

Part 9, after heading—
insert—

‘*Note—*

This Act, including this chapter, was renumbered by the *Criminal History Screening Legislation Amendment Act 2010*. Cross-references to provisions of this Act appearing in this chapter have not been updated except to change references to ‘division’ or ‘div’ in a part of this chapter to ‘part’ or ‘pt’. The remaining cross-references remain as they were immediately before the renumbering.’.

64 Insertion of new pt 13

After section 231—

insert—

‘Part 13 Transitional provisions for Criminal History Screening Legislation Amendment Act 2010

‘Division 1 Preliminary

‘465 Definitions for pt 13

‘In this part—

amending Act means the *Criminal History Screening Legislation Amendment Act 2010*.

commencement means the commencement of this section.

disability services regulated business means a business that is a regulated business because the usual activities of the business include, or are likely to include, the provision of a service at a child-related service outlet of a funded non-government service provider.

disability services regulated employment means employment that is regulated employment because—

- (a) the employer is a funded non-government service provider; and
- (b) 1 or more of the usual functions of the employment are carried out, or are likely to be carried out, at a child-related service outlet of the funded non-government service provider.

health student regulated business means a business that is a regulated business because the usual activities of the business include, or are likely to include, a health student providing a

service to a child in the health student's capacity as a health student.

health student regulated employment means employment that is regulated employment because the usual functions of the employment include, or are likely to include, a health student providing a service to a child in the health student's capacity as a health student.

new disqualified person means a person who is a disqualified person only because—

- (a) the person has been or is convicted of a new disqualifying offence; or
- (b) the person is subject to a sexual offender order; or
- (c) both of paragraphs (a) and (b) apply to the person.

new disqualifying offence means an offence that is a disqualifying offence under this Act but was not a disqualifying offence under this Act immediately before the commencement.

new local government regulated business means a business that is a regulated business under section 156 but was not a regulated business under previous section 97, and is carried on by a local government.

new local government regulated employment means employment that is regulated employment under section 156 but was not regulated employment under previous section 97, if the employer is a local government.

new relevant disqualified person means a person who is a relevant disqualified person only because—

- (a) the person has been or is convicted of a new disqualifying offence for which an imprisonment order was or is imposed; or
- (b) the person is subject to a sexual offender order; or
- (c) both of paragraphs (a) and (b) apply to the person.

other new regulated business means a business that is a regulated business under section 156 but was not a regulated

business under previous section 97, and is not any of the following—

- (a) a disability services regulated business;
- (b) a health student regulated business;
- (c) a new local government regulated business.

other new regulated employment means employment that is regulated employment under section 156 but was not regulated employment under previous section 97, and is not any of the following—

- (a) disability services regulated employment;
- (b) health student regulated employment;
- (c) new local government regulated employment.

prescribed police information means a report or other information mentioned in section 136(2) of the unamended Act.

previous section 97 means section 97 of this Act as in force immediately before the commencement.

staff member has the meaning under section 129 of the unamended Act.

unamended Act means this Act as in force from time to time before the commencement.

‘Division 2 Transitional provisions relating to chapter 8

‘466 Existing applications for prescribed notice about employment that is no longer regulated employment

- ‘(1) This section applies to an application for a prescribed notice made under section 100 of the unamended Act that—
 - (a) has not been decided or withdrawn at the commencement; and

(b) relates to the employment of a person in former regulated employment.

‘(2) The application is taken to have been withdrawn.

‘(3) The commissioner must—

(a) give written notice of the withdrawal to—

(i) the person; and

(ii) each notifiable person for the person; and

(b) refund any fee paid for the application.

‘(4) In this section—

former regulated employment means employment that is not regulated employment under section 156 but was regulated employment under previous section 97.

‘467 Existing applications for prescribed notice about a business that is no longer a regulated business

‘(1) This section applies to an application for a prescribed notice made under section 101 of the unamended Act that—

(a) has not been decided or withdrawn at the commencement; and

(b) relates to carrying on a former regulated business.

‘(2) The application is taken to have been withdrawn.

‘(3) The commissioner must—

(a) give written notice of the withdrawal to—

(i) the person; and

(ii) each notifiable person for the person; and

(b) refund any fee paid for the application.

‘(4) In this section—

former regulated business means a business that is not a regulated business under section 156 but was a regulated business under previous section 97.

‘468 Existing applications for prescribed notice about person convicted of new disqualifying offence

- ‘(1) This section applies to an application for a prescribed notice made under section 100 or 101 of the unamended Act that—
- (a) has not been decided or withdrawn at the commencement; and
 - (b) relates to a person who has been or is convicted of a new disqualifying offence but who is not a new relevant disqualified person.
- ‘(2) If, at the time of the application, the person did not hold a positive notice or held a positive notice that was suspended under section 119C of the unamended Act—
- (a) the application is taken to have been withdrawn; and
 - (b) the commissioner must give written notice of the withdrawal to—
 - (i) the person; and
 - (ii) each notifiable person for the person.
- ‘(3) If, at the time of the application, the person held a positive notice that was not suspended under section 119C of the unamended Act—
- (a) the person is taken to have been issued with an eligibility declaration other than for section 223(1)(b); and
 - (b) the commissioner must decide the application under this Act.

‘469 Existing applications for prescribed notice about new relevant disqualified person

- ‘(1) This section applies to an application for a prescribed notice made under section 100 or 101 of the unamended Act that—
- (a) has not been decided or withdrawn at the commencement; and

- (b) relates to a person who is a new relevant disqualified person.
- ‘(2) The application is taken to have been withdrawn.
- ‘(3) The commissioner must give written notice of the withdrawal to—
 - (a) the person; and
 - (b) each notifiable person for the person.

‘470 Other existing applications for prescribed notice

- ‘(1) This section applies to an application for a prescribed notice (*existing application*) that—
 - (a) was made under section 100 or 101 of the unamended Act; and
 - (b) has not been decided or withdrawn at the commencement; and
 - (c) is not an application to which section 466, 467, 468 or 469 applies.
- ‘(2) The application is taken to be a prescribed notice application under the relevant provision (*chapter 8 application*) and, subject to subsection (5), chapter 8, part 4 applies to the application.
- ‘(3) Subject to subsection (4), anything done or existing in relation to the existing application is taken to have been done or existing in relation to the chapter 8 application.

Examples for subsection (3)—

- 1 The commissioner has given the person about whom the existing application is made a notice asking for stated information, including by way of a submission. The notice is taken to have been given in relation to the chapter 8 application.
- 2 The commissioner has requested police information about the person about whom the existing application is made from the police commissioner. The request is taken to have been made in relation to the chapter 8 application.

- ‘(4) Subsection (3) applies only to the extent the thing can be done or in existence in relation to the chapter 8 application.
- ‘(5) Despite section 231(2), a prescribed notice issued under this section remains current for 2 years after it is issued, unless it is earlier cancelled under chapter 8, part 4, division 11.
- ‘(6) In this section—
relevant provision means—
 - (a) for an application under section 100 of the unamended Act—section 199; or
 - (b) for an application under section 101 of the unamended Act—section 211.

‘471 Existing positive notices held by new relevant disqualified person because of interim order

- ‘(1) This section applies in relation to a positive notice issued under section 102(2)(a) of the unamended Act (including a positive notice that, immediately before the commencement, is suspended under section 119C of the unamended Act) to a person who is a new relevant disqualified person only because the person is subject to an interim sexual offender order.
- ‘(2) If the positive notice is not suspended under section 119C of the unamended Act immediately before the commencement, the commissioner must, by written notice given to the person, suspend the person’s positive notice.
- ‘(3) The written notice must state the matters mentioned in section 240(3).
- ‘(4) If the positive notice is suspended under section 119C of the unamended Act immediately before the commencement and the suspension has not ended at the commencement, the suspension continues subject to subsection (5).
- ‘(5) Sections 240 and 241 apply to the suspended positive notice as if the notice were suspended under section 240(2).

‘472 Existing positive notices held by other new relevant disqualified persons

- ‘(1) This section applies in relation to a positive notice issued under section 102(2)(a) of the unamended Act (including a positive notice that, immediately before the commencement, is suspended under section 119C of the unamended Act) to a person who is a new relevant disqualified person other than a person mentioned in section 471(1).
- ‘(2) The positive notice is cancelled.
- ‘(3) If, immediately before the commencement, the positive notice is suspended under section 119C of the unamended Act, any application for the cancellation of the suspension under section 119D of the unamended Act that has not been decided or withdrawn at the commencement is taken to have been withdrawn.
- ‘(4) The commissioner must give notice of the cancellation of the positive notice to—
 - (a) the person; and
 - (b) each notifiable person for the person.
- ‘(5) A notice mentioned in subsection (4)—
 - (a) must state that the positive notice is cancelled and the date the positive notice is cancelled; and
 - (b) is taken, for sections 194, 195, 256 and 257, to be a notice that a negative notice has been issued to the person on the date the positive notice is cancelled.

‘473 Other existing positive notices and positive notice blue cards

- ‘(1) This section applies in relation to a positive notice issued under section 102(2)(a) of the unamended Act that is current under this Act immediately before the commencement, other than a positive notice to which section 471 or 472 applies.
- ‘(2) The positive notice—

- (a) is taken to be a positive notice issued under section 220(a); and
 - (b) remains current for 2 years after it was issued under section 102(2)(a) of the unamended Act, unless it is earlier cancelled under chapter 8, part 4, division 11.
- ‘(3) Any positive notice blue card issued under the unamended Act for the positive notice—
- (a) continues to be a positive notice blue card relating to the positive notice; and
 - (b) remains current for the same period as the positive notice.
- ‘(4) If the holder of the positive notice is a new disqualified person (but not a new relevant disqualified person), the person is taken to have been issued with an eligibility declaration, subject to subsection (5).
- ‘(5) If, after the commencement, the commissioner is to make, under chapter 8, part 4, division 9 (including as applied under other provisions of chapter 8), a decision about the holder of a positive notice who is a new disqualified person, and it is the first time the commissioner is to make a decision under that division about the person after the commencement, section 223(1)(b) does not apply to the commissioner making the decision.

‘474 Existing negative notices

- ‘(1) A negative notice issued under section 102(2)(b) of the unamended Act that is current under the unamended Act immediately before the commencement is taken to be a negative notice issued under section 220(b).
- ‘(2) For subsection (1), the 2 year period mentioned in section 236(3) runs from the date the negative notice was issued under section 102(2)(b) of the unamended Act.

‘475 Application of ch 8 to police officers and registered teachers

- ‘(1) Section 173 and chapter 8, part 5 do not take effect until 3 months after the commencement (the *exemption notice regime commencement date*).
- ‘(2) Chapter 8, part 4 applies in relation to a police officer or registered teacher until the exemption notice regime commencement date—
 - (a) with any necessary changes; and
 - (b) subject to this part.
- ‘(3) A prescribed notice application about a police officer or registered teacher that has not been decided or withdrawn at the exemption notice regime commencement date must be decided under chapter 8, part 4 despite section 173.
- ‘(4) An eligibility application made by a police officer or registered teacher that has not been decided or withdrawn at the exemption notice regime commencement date is taken to have been withdrawn, and the commissioner must give written notice of the withdrawal to the police officer or registered teacher.
- ‘(5) A current positive notice or current negative notice held by a police officer or registered teacher at the exemption notice regime commencement date, or issued under this part, continues in effect despite section 173, and section 247 applies in relation to the notice.
- ‘(6) Without limiting subsection (2)(a), until the exemption notice regime commencement date, sections 36 and 243 apply as if they provided for the issue of a prescribed notice, instead of an exemption notice, to a person who is a police officer or registered teacher.

‘476 Application of ch 8 to disability services regulated employment

- ‘(1) Chapter 8 does not apply to the employment of a person in disability services regulated employment until 3 months after the commencement (*disability services commencement date*).
- ‘(2) Subsection (3) applies to a person who, at the disability services commencement date—
- (a) is employed in disability services regulated employment; and
 - (b) does not have a current positive notice; and
 - (c) either—
 - (i) has a current positive notice under the *Disability Services Act 2006* (*DSA positive notice*); or
 - (ii) has an application for a prescribed notice under the *Disability Services Act 2006* that has not been decided or withdrawn (*DSA application*).
- ‘(3) The relevant regulatory provisions do not apply in relation to the employment of the person until—
- (a) for a person who has a DSA positive notice—the earlier of the following—
 - (i) the expiry or cancellation of the person’s DSA positive notice under the *Disability Services Act 2006*;
 - (ii) 12 months after the disability services commencement date; or
 - (b) for a person who has a DSA application—
 - (i) if the person is issued with a DSA positive notice—12 months after the disability services commencement date; or
 - (ii) if the person is issued with a negative notice under the *Disability Services Act 2006*—the day the negative notice is issued; or

- (iii) if the person's DSA application is withdrawn before it is decided—the day the DSA application is withdrawn.

Note—

See, however, sections 194 to 196 and 256 to 258.

- '(4) Section 323 does not apply to a person mentioned in subsection (2) until the first prescribed notice application or exemption notice application about the person is made after the disability services commencement date.

- '(5) In this section—

relevant regulatory provisions means—

- (a) for a person who is not a police officer or registered teacher and is employed in disability services regulated employment as a volunteer—section 188; or
- (b) for a person who is not a police officer or registered teacher and is employed in disability services regulated employment other than as a volunteer—sections 191 to 193; or
- (c) for a police officer or registered teacher—sections 251 and 253 to 255.

'477 Application of ch 8 to disability services regulated businesses

- '(1) Chapter 8 does not apply to the carrying on of a disability services regulated business until 3 months after the commencement (***disability services commencement date***).
- '(2) Subsection (3) applies to a person who, at the disability services commencement date—
 - (a) is carrying on a disability services regulated business; and
 - (b) does not have a current positive notice or current negative notice; and
 - (c) either—

- (i) has a current positive notice under the *Disability Services Act 2006* (**DSA positive notice**); or
 - (ii) has an application for a prescribed notice under the *Disability Services Act 2006* that has not been decided or withdrawn (**DSA application**).
- ‘(3) Sections 197 and 259 do not apply to the person carrying on the disability services regulated business until—
 - (a) if the person holds a DSA positive notice—the earlier of the following—
 - (i) the expiry or cancellation of the person’s DSA positive notice under the *Disability Services Act 2006*;
 - (ii) 12 months after the disability services commencement date; or
 - (b) for a person who has a DSA application—
 - (i) if the person is issued with a DSA positive notice—12 months after the disability services commencement date; or
 - (ii) if the person is issued with a negative notice under the *Disability Services Act 2006*—the day the negative notice is issued; or
 - (iii) if the person’s DSA application is withdrawn before it is decided—the day the DSA application is withdrawn.
- ‘(4) Section 323 does not apply to a person mentioned in subsection (2) until the first prescribed notice application or exemption notice application about the person is made after the disability services commencement date.

‘478 Application of ch 8 to new local government regulated employment

- ‘(1) Chapter 8 does not apply to the employment of a person in new local government regulated employment until 3 months

after the commencement (*local government commencement date*).

- ‘(2) Subsections (3) to (5) apply to a person who, at the local government commencement date—
- (a) is employed in new local government regulated employment; and
 - (b) does not have a current positive notice.
- ‘(3) If the person is not a police officer or registered teacher and is employed in the new local government regulated employment as a volunteer, section 188 does not apply in relation to the employment of the person until—
- (a) if a prescribed notice application about the person is made before or during the transitional period and is not withdrawn—the day a prescribed notice is issued to the employee; or
 - (b) if a prescribed notice application about the person is made before or during the transitional period and is withdrawn—the day the application is withdrawn; or
 - (c) if a prescribed notice application about the person is not made before or during the transitional period—the transitional period ends.

Note—

See, however, sections 195 and 196.

- ‘(4) If the person is not a police officer or registered teacher and is employed in the new local government regulated employment other than as a volunteer and the person does not have a current positive notice, sections 191 to 193 do not apply in relation to the employment of the person until the transitional period ends.

Note—

See, however, sections 194 to 196.

- ‘(5) If the person is a police officer or registered teacher, sections 251 and 253 to 255 do not apply in relation to the employment of the person until the transitional period ends.

Note—

See, however, sections 256 to 258.

- ‘(6) Section 323 does not apply to a person mentioned in subsection (2) until the first prescribed notice application or exemption notice application about the person is made after the commencement.
- ‘(7) In this section—
 - transitional period*** means the period—
 - (a) starting on the local government commencement date; and
 - (b) ending 12 months after the local government commencement date.

‘479 **Application of ch 8 to new local government regulated business**

- ‘(1) Chapter 8 does not apply to the carrying on of a new local government regulated business until 3 months after the commencement (***local government commencement date***).
- ‘(2) Subsections (3) and (4) apply to a person who, at the local government commencement date—
 - (a) is carrying on a new local government regulated business; and
 - (b) does not have a current positive notice or current negative notice.
- ‘(3) If the person is not a police officer or registered teacher, section 197 does not apply to the person carrying on the local government regulated business until—
 - (a) if the person applies for a prescribed notice before or during the transitional period and does not withdraw the application—the day a prescribed notice is issued to the person; or

- (b) if the person applies for a prescribed notice before or during the transitional period and withdraws the application—the day of the withdrawal; or
 - (c) if the person does not apply for a prescribed notice before or during the transitional period—the transitional period ends.
- ‘(4) If the person is a police officer or registered teacher, section 259 does not apply to the person carrying on the local government regulated business until the transitional period ends.
- ‘(5) Section 323 does not apply to a person mentioned in subsection (2) until the first prescribed notice application or exemption notice application about the person is made after the commencement.
- ‘(6) In this section—
- transitional period* means the period—
- (a) starting on the local government commencement date; and
 - (b) ending 12 months after the local government commencement date.

‘480 Employing persons in other new regulated employment

- ‘(1) Subsections (2) and (3) apply if, immediately before the commencement—
- (a) a person (the *employee*) was employed or was continuing to be employed by another person (the *employer*) in other new regulated employment as a volunteer; and
 - (b) at the commencement, the person does not have a current positive notice.
- ‘(2) If the employee is not a police officer or registered teacher, section 188 does not apply in relation to the employment of the employee until—

- (a) if a prescribed notice application about the person is made before or during the transitional period and is not withdrawn—the day a prescribed notice is issued to the employee; or
- (b) if a prescribed notice application about the person is made before or during the transitional period and is withdrawn—the day the application is withdrawn; or
- (c) if a prescribed notice application about the person is not made before or during the transitional period—the transitional period ends.

Note—

See, however, sections 195 and 196.

- ‘(3) If the employee is a police officer or registered teacher, section 251 does not apply in relation to the employment of the employee until the transitional period ends.

Note—

See, however, sections 257 and 258.

- ‘(4) Subsections (5) and (6) apply if, immediately before the commencement—
 - (a) a person (the *employee*) was employed or was continuing to be employed by another person (the *employer*) in other new regulated employment other than as a volunteer; and
 - (b) at the commencement, the person does not have a current positive notice.

- ‘(5) If the employee is not a police officer or registered teacher, sections 191 to 193 do not apply in relation to the employment of the employee until the transitional period ends.

Note—

See, however, sections 194 to 196.

- ‘(6) If the employee is a police officer or registered teacher, sections 253 to 255 do not apply in relation to the employment of the employee until the transitional period ends.

Note—

See, however, sections 256 to 258.

- ‘(7) Section 323 does not apply to an employee mentioned in subsection (1) or (4) until the first prescribed notice application or exemption notice application about the person is made after the commencement.
- ‘(8) In this section—
- transitional period*** means—
- (a) if the employer for the other new regulated employment is a government entity—the period starting at the commencement and ending 12 months after the commencement; or
 - (b) otherwise—the period starting at the commencement and ending 6 months after the commencement.

‘481 Carrying on other new regulated business

- ‘(1) This section applies if, immediately before the commencement—
- (a) a person was carrying on an other new regulated business; and
 - (b) at the commencement, the person does not have a current positive notice or current negative notice.
- ‘(2) If the person is not a police officer or registered teacher, section 197 does not apply to the person carrying on the other new regulated business until—
- (a) if the person applies for a prescribed notice before or during the transitional period and does not withdraw the application—the day a prescribed notice is issued to the person; or
 - (b) if the person applies for a prescribed notice before or during the transitional period and withdraws the application—the day of the withdrawal; or

- (c) if the person does not apply for a prescribed notice before or during the transitional period—the transitional period ends.
- ‘(3) If the person is a police officer or registered teacher, section 259 does not apply to the person carrying on the other new regulated business until the transitional period ends.
- ‘(4) Section 323 does not apply to a person mentioned in subsection (1) until the first prescribed notice application or exemption notice application about the person is made after the commencement.
- ‘(5) In this section—
transitional period means—
 - (a) if the person carrying on the other new regulated business is a government entity—the period starting at the commencement and ending 12 months after the commencement; or
 - (b) otherwise—the period starting at the commencement and ending 6 months after the commencement.

‘482 Effect of conviction for serious offence

- ‘(1) This section applies in relation to a person with a positive notice who is convicted of a serious offence before the commencement if, at the commencement, the person has not been issued a further prescribed notice as mentioned in section 111 of the unamended Act.
- ‘(2) Section 322 applies to the person as if the conviction happened immediately after the commencement.
- ‘(3) For subsection (2), if the person has given the person’s positive notice to the commissioner under section 117(2) of the unamended Act, the person is taken to have given the positive notice to the commissioner under section 322(2).
- ‘(4) In this section—
serious offence means serious offence as defined under the unamended Act.

‘483 Existing applications to cancel negative notice

- ‘(1) This section applies if—
- (a) a person has applied for a cancellation of the person’s negative notice under section 118 of the unamended Act; and
 - (b) the application has not been decided or withdrawn at the commencement.
- ‘(2) If the application was made by a new relevant disqualified person—
- (a) the application is taken to have been withdrawn; and
 - (b) the commissioner must give written notice of the withdrawal to the person.
- ‘(3) If the application is made by a person other than a new relevant disqualified person, the application is taken to have been made under section 236, and must be decided under that section.

‘484 Existing suspensions of positive notice

- ‘(1) This section applies if—
- (a) the commissioner has given a notice under section 119C of the unamended Act (*suspension notice*) suspending a person’s positive notice; and
 - (b) the suspension has not ended at the commencement.
- ‘(2) The person’s positive notice is taken to have been suspended under section 240(2) and sections 240 and 241 apply to the suspended positive notice.
- ‘(3) If the person has applied for the positive notice to be cancelled and a further positive notice or negative notice to be issued to the person under section 119D of the unamended Act, the application is taken to have been made under section 241 and the commissioner must decide the application under that section.
- ‘(4) This section is subject to sections 471 and 472.

‘485 Continuation if commissioner acting on own initiative

- ‘(1) This section applies if—
- (a) before the commencement, the commissioner had started on the commissioner’s own initiative to exercise a power in relation to a person or a prescribed notice; and
 - (b) the commissioner may, immediately after the commencement, exercise the power under chapter 8.
- ‘(2) The commissioner may continue to exercise the power under chapter 8 in relation to the person or prescribed notice.
- ‘(3) Subsection (2) applies even if the matters to which the commissioner may or must have regard in exercising the power, or any other powers that the commissioner may exercise in relation to exercising the power, are different under chapter 8.

‘486 Effect of conviction or charge for new disqualifying offence

- ‘(1) For applying section 169(1)(a) or 170(a) in relation to a person convicted of a new disqualifying offence, it is immaterial as to when the offence was committed or when the person was convicted of the offence.

Example—

A new disqualifying offence may have been committed, and the person convicted of the offence, before the commencement.

- ‘(2) Section 240 applies in relation to a person who holds a current positive notice who is charged with a new disqualifying offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.

‘487 Replacement of positive notice or positive notice blue card

- ‘(1) This section applies if—

- (a) a person's current positive notice or current positive notice blue card is lost or stolen 14 days or less before the commencement; and
 - (b) at the commencement, the person has not applied for a replacement notice or card as required under section 120 of the unamended Act.
- '(2) Section 120 of the unamended Act does not apply to the person.
- '(3) Section 347 applies to the person as if the reference to 14 days after the loss or theft were a reference to the later of the following—
- (a) 14 days after the loss or theft;
 - (b) 7 days after the commencement.

'488 Existing eligibility application by new relevant disqualified person

- '(1) This section applies to an application for an eligibility declaration that—
- (a) was made under section 120F of the unamended Act by a new relevant disqualified person; and
 - (b) has not been decided or withdrawn at the commencement.
- '(2) The application is taken to have been withdrawn.
- '(3) The commissioner must give written notice of the withdrawal to the person.

'489 Other existing eligibility applications

- '(1) This section applies to an application for an eligibility declaration (*existing application*) that—
- (a) was made under section 120F of the unamended Act by a person other than a new relevant disqualified person; and

(b) has not been decided or withdrawn at the commencement.

‘(2) The existing application is taken to be an eligibility application under section 178 (*section 178 application*) and chapter 8, part 4, division 2 applies to the application.

‘(3) Anything done or existing in relation to the existing application is taken to have been done or existing in relation to the section 178 application.

Examples for subsection (3)—

1 The commissioner has given the applicant a notice asking for stated information, including by way of a submission. The notice is taken to have been given in relation to the section 178 application.

2 The commissioner has requested police information about the applicant from the police commissioner. The request is taken to have been made in relation to the section 178 application.

‘(4) Subsection (3) applies only to the extent the thing can be done or in existence in relation to the section 178 application under chapter 8, part 4, division 2.

‘490 Existing decisions on eligibility applications

‘(1) An eligibility declaration issued under section 120H of the unamended Act to a new relevant disqualified person is cancelled.

‘(2) An eligibility declaration issued under section 120H of the unamended Act to a person other than a new relevant disqualified person is taken to be an eligibility declaration issued under section 180.

‘(3) The reference to a refusal of an eligibility application in section 178(2) is taken to include a reference to a refusal of an eligibility application under section 120H of the unamended Act.

‘(4) Section 186 applies to a refusal under section 120H of the unamended Act of an eligibility application made by a person other than a new relevant disqualified person.

‘491 Existing reviews and appeals by new disqualified person

- ‘(1) This section applies if—
- (a) before the commencement, a person—
 - (i) applied for a review of a decision of the commissioner under section 121 of the unamended Act; or
 - (ii) appealed under the QCAT Act against a decision of QCAT relating to a review of a decision under section 121 of the unamended Act; and
 - (b) the review or appeal has not been decided at the commencement; and
 - (c) the person is a new disqualified person.
- ‘(2) The entity hearing the review or appeal, or any proceeding relating to the review or appeal, must dismiss the review or appeal or the proceeding.

‘492 Other existing reviews and appeals

- ‘(1) This section applies if—
- (a) before the commencement, a person—
 - (i) applied for a review of a decision of the commissioner under section 121 of the unamended Act; or
 - (ii) appealed under the QCAT Act against a decision of QCAT relating to a review of a decision under section 121 of the unamended Act; and
 - (b) the review or appeal has not been decided at the commencement; and
 - (c) section 491 does not apply to the review or appeal.
- ‘(2) The entity hearing the review or appeal must apply this Act in relation to the matter the subject of the review or appeal.

- ‘(3) Without limiting subsection (2), the entity may exercise a power of the commissioner under chapter 8, part 6, divisions 6 and 7 for deciding a review of or appeal against a decision of the commissioner as to whether or not there is an exceptional case for a person.
- ‘(4) Subsection (5) applies if a disqualified person applied for the review or the review to which the appeal relates before the person became a disqualified person.
- ‘(5) The entity hearing the review or appeal, or any proceeding in relation to the review or appeal, must dismiss the review or appeal, or the proceeding, on its own initiative or on application by the commissioner.

‘493 Person may apply for a review of a decision

- ‘(1) This section applies to a decision of the commissioner made before the commencement if—
 - (a) immediately before the commencement, a person could have, but has not, applied for a review of the decision under section 121 of the unamended Act; and
 - (b) the period within which the person could have applied for the review (the *review period*) has not passed; and
 - (c) the person is not a disqualified person.
- ‘(2) The person may apply for a review of the decision under section 354 within the review period.
- ‘(3) To remove any doubt, it is declared that section 355 applies in relation to the application for the review.

‘494 Police commissioner’s decision that information is investigative information

- ‘(1) This section applies in relation to an offence (*new investigative information offence*) that—
 - (a) is a schedule 6 offence; but

(b) was not an offence mentioned in section 121A(1)(a) of the unamended Act.

‘(2) Section 305 applies in relation to a positive notice holder’s acts or omissions constituting a new investigative information offence even if the acts were committed or omissions were made before the commencement.

‘495 Appeals against police commissioner’s decision that information is investigative information

‘(1) Sections 121C to 121E of the unamended Act continue to apply in relation to a decision of the police commissioner that information about a person is investigative information made before the commencement as if the amending Act had not been enacted.

‘(2) An appeal against a decision mentioned in subsection (1) must be decided under the unamended Act.

‘496 Notice about withdrawal of application or negative notice

‘(1) This section applies if—

(a) under section 123A of the unamended Act, the commissioner was required to give someone written notice about the withdrawal of an application or that a particular person has a current negative notice; and

(b) at the commencement, the notice has not been given.

‘(2) The commissioner must give the notice under section 123A of the unamended Act as if the amending Act had not been enacted.

‘497 Dealing with information

‘(1) Information obtained by the commissioner under part 6 of the unamended Act is taken to have been obtained under chapter 8.

- ‘(2) Without limiting subsection (1), section 345 applies to the information as if the reference to using the information under chapter 8 in the section included a reference to using the information under part 6 of the unamended Act.

‘498 Disqualification orders for acts done or omissions made before commencement

‘A court may make a disqualification order under section 357 in relation to a person convicted of an offence after the commencement arising out of an act done or omission made before the commencement.

‘Division 3 Transitional provisions relating to previous part 7

‘499 Notice about change in criminal history not given at the commencement

- ‘(1) This section applies if—
- (a) before the commencement, there is a change in a staff member’s criminal history; and
 - (b) at the commencement, the staff member has not disclosed the details of the change to the commissioner as required by section 133 of the unamended Act.
- ‘(2) Despite section 133 of the unamended Act, the person is no longer required to give the details.

‘500 Request for prescribed police information not complied with at the commencement

- ‘(1) This section applies if—
- (a) the commissioner has, under section 136 of the unamended Act, asked the police commissioner for prescribed police information about a person; and

- (b) at the commencement, the police commissioner has not given the prescribed police information to the commissioner.
- ‘(2) Despite section 136(3) of the unamended Act, the police commissioner is no longer required to comply with the commissioner’s request.

‘501 Particular prescribed police information obtained but not used before commencement

- ‘(1) This section applies if—
- (a) before the commencement, the police commissioner gave the commissioner a person’s prescribed police information under section 136 of the unamended Act; and
 - (b) at the commencement, the commissioner has not, in relation to the prescribed police information, made an assessment about the person’s suitability to be, or continue to be, a staff member under section 138 of the unamended Act.
- ‘(2) The commissioner must immediately—
- (a) destroy the prescribed police information; and
 - (b) stop making the assessment.

Note—

Now see the following for assessing the person’s suitability to be, or continue to be, a staff member—

- (a) if the person is employed in regulated employment—**section 36** and chapter 8;
- (b) otherwise—the *Public Service Act 2008*, chapter 5, part 6.

‘502 Notice not given by prosecuting authority at the commencement

- ‘(1) This section applies if—

- (a) before the commencement, a staff member is charged with an indictable offence; and
 - (b) at the commencement, the police commissioner or director of public prosecutions (a ***prosecuting authority***) has not given information about the charge to the commissioner as required by section 137 of the unamended Act.
- ‘(2) Despite section 137 of the unamended Act, the prosecuting authority is no longer required to give the information.

‘503 Use of particular information obtained before commencement

‘Section 138(2) of the unamended Act continues to apply in relation to information about a person received by the commissioner under part 7 of the unamended Act as if the amending Act had not been enacted.

‘Division 4 Other transitional provision

‘504 References to Youth Justice Act 1992

- ‘(1) This section applies to a reference to the *Youth Justice Act 1992* in a provision of this Act if the provision commences before the JJA short title amendment commences.
- ‘(2) Until the JJA short title amendment commences, the reference is taken to be a reference to the *Juvenile Justice Act 1992*.
- ‘(3) In this section—

JJA short title amendment means the *Juvenile Justice and Other Acts Amendment Act 2009*, section 9.’

65 Amendment of sch 1 (Regulated employment and businesses for employment screening)

- (1) Schedule 1, authorising provision, ‘section 97’—
omit, insert—

‘section 156’.

- (2) Schedule 1, section 1(2), from ‘if’—

omit, insert—

‘if the employment is part of a licensed care service.’.

- (3) Schedule 1, sections 2(b) and 3(2)(a), ‘a registered’—

omit, insert—

‘an approved’.

- (4) Schedule 1, section 4(1)(c)—

omit.

- (5) Schedule 1, section 5(1), ‘, other than a registered health practitioner,’—

omit.

- (6) Schedule 1, section 5(1)(a)—

omit, insert—

‘(a) a health service to a child at a health facility—

- (i) if services provided at the facility are provided only or mainly to children; or

Examples of health facilities for subparagraph (i)—

a children’s hospital, a child health clinic

- (ii) if the employee’s employment involves providing services only or mainly to children;

Examples for subparagraph (ii)—

- a person whose employment involves only or mainly providing a health service in the paediatric section of a hospital
- a person whose employment involves only or mainly operating child health screening at a community health facility

(aa) a health service to a child other than at a health facility—

- (i) that, by its nature, requires physical contact with the child; or

Example for subparagraph (i)—

a person providing massage services to children

- (ii) if the employee is physically present with the child while no-one else is present;’.

- (7) Schedule 1, section 5(1)(aa) to (c)—

renumber as schedule 1, section 5(1)(b) to (d).

- (8) Schedule 1, section 5—

insert—

- ‘(1A) Also, employment is regulated employment if—

- (a) the employer is a funded non-government service provider; and

- (b) any of the usual functions of the employment are carried out, or are likely to be carried out, at a child-related service outlet of the funded non-government service provider.’.

- (9) Schedule 1, section 5(2)(b), ‘a registered’—

omit, insert—

‘an approved’.

- (10) Schedule 1, section 5(2)(d) and (e)—

omit, insert—

- ‘(d) the employee is—

- (i) a consumer at a child-related service outlet of a funded non-government service provider, even if the consumer carries out work at the outlet; or

- (ii) a volunteer who—

- (A) is a relative of a person with a disability who is receiving disability services at a child-related service outlet of a funded non-government service provider; and

(B) is at the service outlet only to help with the care of the person.’.

(11) Schedule 1, section 5(3)—

insert—

‘**consumer**, in relation to a child-related service outlet of a funded non-government service provider, means a person with a disability who is provided with disability services at the outlet.’.

(12) Schedule 1, section 5(3), definition *health service*, paragraph (a)—

omit, insert—

‘(a) a service for maintaining, improving, restoring or caring for a person’s health or wellbeing, including, for example, the following—

(i) a service providing personal care to a person who is ill, injured or otherwise infirm;

Examples of providing personal care—

- help with personal hygiene
- help with dressing
- services provided by an assistant in a ward of a hospital, including lifting and turning bedridden patients and moving patients from a place to another place

(ii) a service providing respite care;

(iii) a service provided by a practitioner of hypnosis, naturopathy, acupuncture or another form of natural or alternative health care;

(iv) a massage service, including a massage service for relaxation;

(v) a service provided by a health student in the student’s capacity as a health student;’.

(13) Schedule 1, section 5(3), definition *hospital*—

relocate to schedule 4.

- (14) Schedule 1, section 5(1A) to (3)—
renumber as schedule 1, section 5(2) to (4).
- (15) Schedule 1, section 6(2), from ‘if—’—
omit, insert—
‘if the employer is an education provider.’.
- (16) Schedule 1, section 6A(2), from ‘if’—
omit, insert—
‘if the employer is a provider under the *Education (General Provisions) Act 2006*, section 232.’.
- (17) Schedule 1, section 6B(3), from ‘if’—
omit, insert—
‘if the home stay provider is a relative of the child who receives the child accommodation service to which the employment relates.’.
- (18) Schedule 1, section 6D(2)(b)—
omit.
- (19) Schedule 1, section 6D(2)(d), ‘section 4(1)(b)’—
omit, insert—
‘section 5(1)(b)’.
- (20) Schedule 1, section 6D(2)(c) and (d)—
renumber as schedule 1, section 6D(2)(b) and (c).
- (21) Schedule 1, section 8(1), ‘, other than a registered health practitioner,’—
omit.
- (22) Schedule 1, section 8(1)—
insert—
‘(d) a service at a child-related service outlet of a funded non-government service provider.’.
- (23) Schedule 1, section 8(2), from ‘business is’—

omit, insert—

‘business is a licensed care service.’.

- (24) Schedule 1, section 8(3), definition *health service*, paragraph (a)—

omit, insert—

‘(a) a service for maintaining, improving, restoring or caring for a person’s health or wellbeing, including, for example, the following—

- (i) a service providing personal care to a person who is ill, injured or otherwise infirm;

Examples of providing personal care—

- help with personal hygiene
- help with dressing
- services provided by an assistant in a ward of a hospital, including lifting and turning bedridden patients and moving patients from a place to another place

- (ii) a service providing respite care;

- (iii) a service provided by a practitioner of hypnosis, naturopathy, acupuncture or another form of natural or alternative health care;

- (iv) a massage service, including a massage service for relaxation;

- (v) a service provided by a health student in the student’s capacity as a health student;’.

- (25) Schedule 1, section 8(3), definition *hospital*—

omit.

- (26) Schedule 1, section 14(2)(b), ‘section 4(1)(b)’—

omit, insert—

‘section 5(1)(b)’.

- (27) Schedule 1, section 15(2)—

omit.

(28) Schedule 1, sections 3A to 16—
renumber as schedule 1, sections 4 to 24.

(29) Schedule 1—
insert—

‘25 Non-State schools—directors of governing bodies and authorised persons

‘The *Education (Accreditation of Non-State Schools) Act 2001*, sections 15 and 140 provide for particular persons who are taken to be carrying on a regulated business.

‘Part 3 Employment to which chapter 8 of this Act does not apply

‘26 Person engaged in employment for the police service

‘Chapter 8 of this Act does not apply to the employment of a person who, within the meaning of the *Police Service Administration Act 1990*, section 5AA.3, is a person engaged by the service, to the extent the person is performing a function mentioned in the *Police Service Administration Act 1990*, section 2.3.

‘27 Employment of relevant person under the *Corrective Services Act 2006*

‘Chapter 8 of this Act does not apply to the employment of a person who is a person mentioned in the *Corrective Services Act 2006*, section 327, definition *relevant person*, to the extent the employment relates to the person’s functions under that Act.

‘28 Registered health practitioners

‘Chapter 8 of this Act does not apply to the employment of a person who is a registered health practitioner to the extent the

employment relates to the person's functions as a registered health practitioner.

'29 Person providing only help or guidance to child employee

- '(1) Chapter 8 of this Act does not apply to the employment of a person only because the person gives help or guidance to a child as part of the child's employment.
- '(2) However, chapter 8 of this Act does apply to the employment of the person if the employment is otherwise regulated employment under part 1 of this schedule.'

66 Amendment of sch 2 (Current serious offences)

- (1) Schedule 2, authorising provision, 'section 99C'—
omit, insert—
'section 167'.
- (2) Schedule 2, all entries, third column, heading, 'Limitation'—
omit, insert—
'**Qualification**'.
- (3) Schedule 2, entry for *Classification of Publications Act 1991*, entry for section 17 of that Act—
omit, insert—

'17(1)	Producing prohibited publication	only if an offender was or could have been liable as mentioned in section 17(1), penalty, paragraph (c)
17(2)	Producing prohibited publication	only if an offender was or could have been liable as mentioned in section 17(2), penalty, paragraph (c)
17(3) and (4)	Producing prohibited publication'	

- (4) Schedule 2, entry for Criminal Code, entry for sections 229G, 229H and 229I, after ‘mentioned in’—

insert—

‘section’.

- (5) Schedule 2—

insert—

‘8 *Customs Act 1901* (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
233BAB	Special offence relating to tier 2 goods	if the offence involved child pornography or child abuse material’.

67 Amendment and renumbering of sch 2A (Repealed or expired serious offences)

- (1) Schedule 2A, authorising provision, ‘section 99C’—

omit, insert—

‘section 167’.

- (2) Schedule 2A—

renumber as schedule 3.

68 Amendment and renumbering of sch 2B (Current disqualifying offences)

- (1) Schedule 2B, authorising provision, ‘section 120B(1)’—

omit, insert—

‘section 168’.

- (2) Schedule 2B, entry for *Classification of Publications Act 1991*, entry for section 15 of that Act—

omit, insert—

‘15 Exhibition or only if an offender was or could have
display of been liable as mentioned in section 15,
prohibited penalty, paragraph (c)’.
publication or child
abuse photograph

(3) Schedule 2B, entry for *Classification of Publications Act 1991*, entry for section 17 of that Act—

omit, insert—

‘17(1) Producing only if an offender was or could have
prohibited been liable as mentioned in section
publication 17(1), penalty, paragraph (c)

17(2) Producing only if an offender was or could have
prohibited been liable as mentioned in section
publication 17(2), penalty, paragraph (c)

17(3) and Producing
(4) prohibited
publication’.

(4) Schedule 2B, entry for Criminal Code, entry for section 208 of the Code—

omit, insert—

‘208 Unlawful sodomy for an offence committed before 1 July
1997, only if committed against a child
or a person with an impairment of the
mind’.

(5) Schedule 2B, entry for Criminal Code, entries for section 216 and 217 of the Code—

omit, insert—

‘216 Abuse of persons
with an impairment
of the mind

217 Procuring young
person etc. for
carnal knowledge’.

(6) Schedule 2B, entry for *Customs Act 1901* (Cwlth), second
column, ‘offences’—

omit, insert—

‘offence’.

(7) Schedule 2B—

renumber as schedule 4.

**69 Amendment and renumbering of sch 2C (Repealed or
expired disqualifying offences)**

(1) Schedule 2C, authorising provision, ‘section 120B(1)’—

omit, insert—

‘section 168’.

(2) Schedule 2C—

renumber as schedule 5.

70 Insertion of new sch 6

After schedule 5, as renumbered under this Act—

insert—

‘Schedule 6 Offences that may form basis of investigative information

section 305(3) and (4)

1 Classification of Computer Games and Images Act 1995

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
23	Demonstration of an objectionable computer game before a minor	
28	Obtaining minor for objectionable computer game	

2 Classification of Films Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
43	Procurement of minor for objectionable film	

3 Classification of Publications Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
18	Procurement of minor for RC publication or child abuse photograph	

4 Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind
210	Indecent treatment of children under 16	
213	Owner etc. permitting abuse of children on premises	
215	Carnal knowledge with or of children under 16	
216	Abuse of persons with an impairment of the mind	
217	Procuring young person etc. for carnal knowledge	
218	Procuring sexual acts by coercion etc.	if the offence was committed against a child or a person with a disability
219	Taking child for immoral purposes	
221	Conspiracy to defile	if the offence was committed against a child or a person with a disability
222	Incest	if the offence was committed against a child or a person with a disability

228A	Involving child in making child exploitation material	
229B	Maintaining a sexual relationship with a child	
229G	Procuring prostitution	only if an offender was or could have been liable as mentioned in section 229G(2)
229H	Knowingly participating in provision of prostitution	only if an offender was or could have been liable as mentioned in section 229H(2)
229L	Permitting young person etc. to be at place used for prostitution	
300	Unlawful homicide	only if the unlawful killing is murder under section 302 and was committed against a child or a person with a disability
349	Rape	if the offence was committed against a child or person with a disability
350	Attempt to commit rape	if the offence was committed against a child or a person with a disability
351	Assault with intent to commit rape	if the offence was committed against a child or a person with a disability
352	Sexual assaults	if the offence was committed against a child or a person with a disability

5 Crimes Act 1914 (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	
50BB	Inducing child under 16 to engage in sexual intercourse	
50BC	Sexual conduct involving child under 16	
50BD	Inducing child under 16 to be involved in sexual conduct	

6 Criminal Code (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
270.6	Sexual servitude offences	only if an offender was or could have been liable as mentioned in section 270.8 or if the offence is committed against a person with a disability
270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8 or if the offence is committed against a person with a disability’.

71 Amendment and renumbering of sch 4 (Dictionary)

- (1) Schedule 4, definitions *CPOPOA disqualification order, current, disciplinary information, disqualification order, disqualified person, disqualifying offence, eligibility application, eligibility declaration, employment,*

employment-screening decision, investigative information, negative notice, positive notice, prescribed notice, registered health practitioner, registered teacher, regulated business, regulated employment, relative, relevant disqualified person, serious offence, staff member and volunteer—

omit.

(2) Schedule 4—

insert—

'accreditation board' means the Non-State Schools Accreditation Board established under the *Education (Accreditation of Non-State Schools) Act 2001*, section 105.

amending Act, for chapter 11, part 13, see section 465.

approved teacher means—

- (a) a person who holds full registration or provisional registration under the *Education (Queensland College of Teachers) Act 2005*; or
- (b) a person who holds a permission to teach under the *Education (Queensland College of Teachers) Act 2005*.

chapter 8 reviewable decision see section 353.

chief executive (child care) means the chief executive of the department in which the *Child Care Act 2002* is administered.

chief executive (disability services) means the chief executive of the department in which the *Disability Services Act 2006* is administered.

child-related service outlet means a place at which disability services are provided to children.

college of teachers means the Queensland College of Teachers established under the *Education (Queensland College of Teachers) Act 2005*, section 229.

CPOPOA disqualification order means a disqualification order made under the Offender Prohibition Order Act, section 25.

current—

- (a) for a prescribed notice—means current under section 231; or
- (b) for an exemption notice—means current under section 289.

director, of a school's governing body, see the *Education (Accreditation of Non-State Schools) Act 2001*, schedule 3.

disability services see the *Disability Services Act 2006*, section 12.

disability services regulated business, for chapter 11, part 13, see section 465.

disability services regulated employment, for chapter 11, part 13, see section 465.

disciplinary information means information received by the commissioner—

- (a) under the *Child Care Act 2002*, section 50A or 107A; or
- (b) under the *Child Protection Act 1999*, section 140A; or
- (c) under the *Education (Queensland College of Teachers) Act 2005*, section 285, or the repealed *Education (Teacher Registration) Act 1988*, section 71B; or
- (d) under the *Education (Queensland College of Teachers) Act 2005*, section 285A in relation to a matter mentioned in subsection (1)(a)(ii) to (v) of that section; or
- (e) under the *Health Practitioners (Professional Standards) Act 1999*, section 384A; or
- (f) under the *Nursing Act 1992*, section 139A.

disqualification order means—

- (a) an order under section 357; or
- (b) a CPOPOA disqualification order.

disqualified person see section 169.

disqualifying offence see section 168.

eligibility application see section 178.

eligibility declaration see section 177.

employment—

- (a) in relation to the engagement of a person under the *Child Care Act 2002*—see section 163; or
- (b) in relation to a trainee student—see sections 161 and 162; or
- (c) in relation to regulated employment mentioned in schedule 1, section 14(1) or (2)—includes employment by the State in the circumstances mentioned in section 164; or
- (d) otherwise for chapter 8, chapter 11, part 7 or schedule 1—see section 161.

employment-screening decision, in relation to a person, means a decision about—

- (a) whether a positive notice or a negative notice should be issued to the person, including a decision about—
 - (i) whether a person’s positive notice should be cancelled and substituted with a negative notice or negative exemption notice; and
 - (ii) whether a person’s negative notice should be cancelled and, if so, whether a positive notice should be issued to the person; and
 - (iii) whether a person’s negative notice should be cancelled and substituted with a positive notice or positive exemption notice; and
 - (iv) whether a person’s suspended positive notice should be cancelled and a further prescribed notice or an exemption notice issued to the person; or
- (b) whether a positive exemption notice or negative exemption notice should be issued to the person, including a decision about—
 - (i) whether a person’s positive exemption notice should be cancelled and substituted with a negative exemption notice; and

- (ii) whether a person's negative exemption notice should be cancelled and, if so, whether a positive exemption notice or positive notice should be issued to the person; and
 - (iii) whether a person's negative exemption notice should be cancelled and substituted with a positive exemption notice or positive notice; or
 - (iv) whether a person's suspended positive exemption notice should be cancelled and a further exemption notice or a prescribed notice issued to the person; or
- (c) whether an eligibility declaration should be issued to the person.

exceptional case means exceptional case as mentioned in section 221(2), 222(2), 223(4) or 225(2).

exemption notice means a notice issued under section 282.

exemption notice application means an application for an exemption notice under chapter 8, part 5, division 6 or 7.

final sexual offender order means a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

funded non-government service provider see the *Disability Services Act 2006*, section 17.

guardian, of a person with a disability, means a guardian appointed for the person under the *Guardianship and Administration Act 2000*.

health facility—

- (a) means a hospital, nursing home, community health facility or another similar place; and
- (b) includes a place that is used as a hospital, nursing home or community health facility on a temporary basis.

health professional means—

- (a) a registered health practitioner; or
- (b) a health care worker; or

- (c) an assistant to a health practitioner.

Examples for paragraph (c)—

dental assistant, nurses aide

health student means a person to whom education or training is being provided at a health facility if the education or training enables the person to whom it is provided—

- (a) to obtain the necessary education or qualification to become a health professional; or
- (b) to obtain the necessary registration, enrolment or other authorisation (however called) to practise as a health professional; or
- (c) to complete a course of study for paragraph (b).

health student regulated business, for chapter 11, part 13, see section 465.

health student regulated employment, for chapter 11, part 13, see section 465.

interim sexual offender order means an interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

investigative information see section 305.

issue, for chapter 8, part 7, division 3, see section 353.

minimum frequency for regulated employment means—

- (a) at least 8 consecutive days; or
- (b) at least once a week for each week during a period of 4 weeks; or
- (c) at least once a fortnight for each fortnight during a period of 8 weeks; or
- (d) at least once a month for each month during a period of 6 months.

negative exemption notice see section 282(b).

negative notice see section 220(b).

new disqualified person, for chapter 11, part 13, see section 465.

new disqualifying offence, for chapter 11, part 13, see section 465.

new local government regulated business, for chapter 11, part 13, see section 465.

new local government regulated employment, for chapter 11, part 13, see section 465.

new relevant disqualified person, for chapter 11, part 13, see section 465.

notice of deemed withdrawal means a written notice stating—

- (a) for a prescribed notice application or exemption notice application about a person made by someone else—that the person is taken to have withdrawn his or her consent to employment screening under chapter 8; or
- (b) for a prescribed notice application or exemption notice application about a person made by the person—that the person is taken to have withdrawn the application.

notifiable person, for a person—

- (a) means—
 - (i) if the person has applied for, started or is continuing in, regulated employment—the person’s employer; or
 - (ii) if the person is a trainee student of an education provider—the education provider; or
 - (iii) if the commissioner is aware that the person is a licensee or the nominee of a licensee under the *Child Care Act 2002*—the chief executive (child care); or
 - (iv) if the commissioner is aware that the person is an adult occupant of a home in which child care is provided in the course of a licensed home based service under the *Child Care Act 2002*—the

-
- licensee of the home based service under that Act;
or
- (v) if the commissioner is aware that the person is an adult occupant of a home in which stand alone child care is provided under the *Child Care Act 2002*—the chief executive (child care); or
 - (vi) if the commissioner is aware that the person is carrying on a regulated business as a religious representative—an entity within the relevant organised or recognised religious group that the commissioner reasonably considers has responsibility for supervising or disciplining the person; or
 - (vii) if the commissioner is aware that the person is the nominee for, or an executive officer of an applicant for or holder of, a licence under the *Child Protection Act 1999*—the chief executive (child safety); and
- (b) for chapter 8, part 5 other than sections 298 to 300—includes—
- (i) if the person is a police officer—the police commissioner; or
 - (ii) if the person is a registered teacher—the college of teachers.

offender reporting obligations means reporting obligations under the Offender Reporting Act.

other new regulated business, for chapter 11, part 13, see section 465.

other new regulated employment, for chapter 11, part 13, see section 465.

person with a disability means a person with a disability within the meaning of the *Disability Services Act 2006*, section 11.

positive exemption notice see section 282(a).

positive notice see section 220(a).

prescribed fee means fee prescribed under a regulation.

prescribed notice means a notice issued under section 220.

prescribed notice application means an application for a prescribed notice under chapter 8, part 4, division 7 or 8.

prescribed period, for chapter 8, part 7, division 3, see section 353.

prescribed police information, for chapter 11, part 13, see section 465.

previous section 97, for chapter 11, part 13, see section 465.

registered health practitioner means—

- (a) a person registered under any of the following Acts—
- *Chiropractors Registration Act 2001*
 - *Dental Practitioners Registration Act 2001*
 - *Dental Technicians and Dental Prosthetists Registration Act 2001*
 - *Medical Practitioners Registration Act 2001*
 - *Medical Radiation Technologists Registration Act 2001*
 - *Occupational Therapists Registration Act 2001*
 - *Optometrists Registration Act 2001*
 - *Osteopaths Registration Act 2001*
 - *Pharmacists Registration Act 2001*
 - *Physiotherapists Registration Act 2001*
 - *Podiatrists Registration Act 2001*
 - *Psychologists Registration Act 2001*
 - *Speech Pathologists Registration Act 2001*; or
- (b) a person enrolled, registered or authorised to practice under the *Nursing Act 1992*.

registered teacher means a person who holds full registration or provisional registration under the *Education (Queensland College of Teachers) Act 2005* and whose full or provisional registration is not suspended under section 48 or 49 of that Act.

regulated business see section 156.

regulated employment see section 156.

relative, of a person—

- (a) means the person's parent, grandparent, great grandparent, brother, sister, uncle, aunt, niece, nephew or first cousin; and
- (b) for an Aboriginal person—includes a person who, under Aboriginal tradition, is regarded as a relative mentioned in paragraph (a); and
- (c) for a Torres Strait Islander—includes a person who, under Island custom, is regarded as a relative mentioned in paragraph (a); and
- (d) for a person with a parent who is not a natural parent—includes anyone who would be a relative mentioned in paragraph (a) if the parent were a natural parent.

Example for paragraph (d)—

The daughter of a person's step-parent is a relative of the person.

relevant disqualified person see section 170.

relevant disqualified person decision, for chapter 8, part 7, division 3, see section 353.

relevant review and appeal information, for a decision about a person, means the following information—

- (a) if the reasons for the decision do not include investigative information—the circumstances in which the person may apply to QCAT for a review of the decision under chapter 8, part 7, division 3; and
- (b) if the reasons for the decision include investigative information—

- (i) the right of the person to appeal, under section 307, to a Magistrates Court about the police commissioner's decision that the information is investigative information; and
- (ii) the circumstances in which the person may apply to QCAT for a review of the decision under section 309(3);
- (c) the period within which the person must apply to QCAT for the review or appeal to a Magistrates Court;
- (d) how the person may apply for the review to QCAT or appeal to a Magistrates Court;
- (e) there is no review or appeal under this Act in relation to the decision other than as mentioned in paragraph (a) or (b).

section 93A transcript has the meaning it has under the *Evidence Act 1977*, section 93AA.

serious offence see section 167.

sexual offender order means a division 3 order, interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

staff member—

- (a) of a visitable site, means—
 - (i) a person in charge of the site; or
 - (ii) another person who is concerned with, or takes part in, the management of the site; or
 - (iii) another person who is a member of the staff at the site; or
- (b) in relation to a child care service—see the *Child Care Act 2002*, section 57; or
- (c) for chapter 11, part 13—see section 465.

transitioning person, for chapter 8, part 5, means a person who is a police officer or registered teacher who holds a current positive notice that was issued to the person—

[s 75]

‘engaged by the department’ means engaged by the department within the meaning of section 100 of this Act as in force from time to time before the commencement of this definition.

previous part 10 means part 10 of this Act as in force from time to time before the commencement of this definition.

serious offence means an offence that was a serious offence under section 103 of this Act as in force from time to time before the commencement of this definition.’.

75 Amendment of s 136 (Definitions for div 1)

(1) Section 136, heading, ‘Definitions’—

omit, insert—

‘Definition’.

(2) Section 136, definition *commencement*, ‘this part’—

omit, insert—

‘this division’.

76 Amendment of s 137 (Certain service providers taken to be approved under part 3 and to be funded service providers)

Section 137, heading, ‘part’—

omit, insert—

‘pt’.

77 Insertion of new pt 13, div 3

Part 13—

insert—

**‘Division 3 Provisions for Criminal History
Screening Legislation Amendment
Act 2010**

‘141 Definitions for div 3

‘In this division—

commencement means the commencement of this section.

engaged by the department means engaged by the department as defined under section 100 of the unamended Act.

police commissioner means the commissioner of the police service.

police information means a report or other information mentioned in section 108(2) of the unamended Act.

unamended Act means this Act as in force from time to time before the commencement.

**‘142 Notice about change in criminal history not given at
the commencement**

‘(1) This section applies if—

(a) before the commencement, there is a change in the criminal history of a person engaged by the department; and

(b) at the commencement, the person has not disclosed the details of the change to the chief executive as required by section 105 of the unamended Act.

‘(2) Despite section 105 of the unamended Act, the person is no longer required to give the details to the chief executive under this Act.

Note—

See, however, the *Public Service Act 2008*, sections 155B and 257.

[s 77]

‘143 Request for police information not complied with at the commencement

- ‘(1) This section applies if—
- (a) the chief executive has, under section 108 of the unamended Act, asked the police commissioner for police information about a person; and
 - (b) at the commencement, the police commissioner has not given the police information to the chief executive.
- ‘(2) Despite section 108(3) of the unamended Act, the police commissioner is no longer required to comply with the commissioner’s request.

‘144 Particular police information obtained but not used before commencement

- ‘(1) This section applies if—
- (a) before the commencement, the police commissioner gave the chief executive a person’s police information under section 108 of the unamended Act; and
 - (b) at the commencement, the chief executive has not, in relation to the police information, made an assessment about the person’s suitability to be, or continue to be, engaged by the department under section 110 of the unamended Act.
- ‘(2) The chief executive must immediately—
- (a) destroy the police information; and
 - (b) stop making the assessment.

Note—

Now see the following for assessing the person’s suitability to be, or continue to be, engaged by the department—

- (a) if the person is engaged in regulated employment—the *Commission for Children and Young People and Child Guardian Act 2000*, chapter 8 and the *Public Service Act 2008*, chapter 5, part 6, division 3A;
- (b) otherwise—the *Public Service Act 2008*, chapter 5, part 6.

‘145 Notice not given by prosecuting authority at the commencement

- ‘(1) This section applies if—
- (a) before the commencement, a person engaged by the department is charged with an indictable offence; and
 - (b) at the commencement, the police commissioner or director of public prosecutions (a *prosecuting authority*) has not given information about the charge to the chief executive as required by section 109 of the unamended Act.
- ‘(2) Despite section 109 of the unamended Act, the prosecuting authority is no longer required to give the information to the chief executive.

‘146 Use of particular information obtained before commencement

‘Section 110(2) of the unamended Act continues to apply in relation to information about a person received by the commissioner under part 10 of the unamended Act as if the *Criminal History Screening Legislation Amendment Act 2010* had not been enacted.’.

78 Omission of sch 2 (Current serious offences)

Schedule 2—

omit.

79 Omission of sch 3 (Repealed or expired serious offences)

Schedule 3—

omit.

[s 80]

80 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *commencement*, *commissioner of the police service, engaged by the department*, *indictable offence* and *serious offence*—
omit.
- (2) Schedule 4—
insert—
‘commencement—
 - (a) for part 13, division 1—see section 136; or
 - (b) for part 13, division 3—see section 141.*engaged by the department*, for part 13, division 3, see section 141.
police commissioner, for part 13, division 3, see section 141.
police information, for part 13, division 3, see section 141.
unamended Act, for part 13, division 3, see section 141.’.
- (3) Schedule 4, definition *criminal history*—
relocate to section 127(4).

Part 7 Amendment of Disability Services Act 2006

81 Act amended

This part amends the *Disability Services Act 2006*.

82 Amendment of s 59 (Prescribed requirements)

Section 59(2)(a)(iv), ‘system.’—

omit, insert—

‘system; and’.

83 Omission of pt 9 (Screening of persons engaged by the department)

Part 9—

omit.

84 Amendment of pt 10, hdg (Screening of persons engaged by funded non-government service providers)

Part 10, heading, ‘persons engaged by’—

omit, insert—

‘**particular persons engaged by department or**’.

85 Amendment of s 75 (Main purpose of pt 10)

Section 75, from ‘by’—

omit, insert—

‘at a service outlet by the department or a funded non-government service provider.’

86 Insertion of new ss 76A and 76B

After section 76—

insert—

‘76A This part does not apply to persons engaged to provide disability services to children

‘This part does not apply in relation to persons engaged or to be engaged by the department or a funded non-government service provider to provide disability services only to children.

[s 87]

Note—

For employment screening of persons engaged or to be engaged by the department or a funded non-government service provider to provide disability services to children, see the CCYPCG Act, chapter 8.

‘76B This part does not apply to registered health practitioners

‘This part does not apply to the engagement of a registered health practitioner to the extent the engagement relates to the health practitioner’s functions as a registered health practitioner.’.

87 Insertion of new s 77A

Part 10, division 2—

insert—

‘77A Persons engaged by the department at a service outlet

‘Each of the following persons at a service outlet of the department is engaged by the department at the service outlet—

- (a) a public service employee in the department;
- (b) a person contracted by the chief executive to provide disability services for the department;
- (c) members of committees established under section 216;
- (d) a person working in the department as a volunteer or as a student on work experience.’.

88 Amendment of s 78 (What is engagement)

Section 78, heading—

omit, insert—

‘78 Persons engaged by a funded non-government service provider at a service outlet’.

89 Amendment of s 79 (What is a *serious offence*)

Section 79(1)(a) to (e)—

omit, insert—

- ‘(a) an offence against a provision of an Act mentioned in schedule 3 or 4, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
- (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or
- (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
- (d) an offence that has, as an element, an intention to commit an offence of a kind mentioned in paragraph (a); or
- (e) an offence that, at the time it was committed, was an offence of a kind mentioned in paragraph (a); or
- (f) another offence that is a class 1 offence or a class 2 offence under the *Child Protection (Offender Reporting) Act 2004* that is not otherwise a serious offence under this Act; or
- (g) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a) to (f).’.

90 Omission of s 80 (What is a *serious sexual or violent offence*)

Section 80—

omit.

[s 91]

91 Replacement of s 81 (What is an *excluding offence*)

Section 81—

omit, insert—

‘81 What is a *disqualifying offence*

‘(1) A *disqualifying offence* is—

- (a) an offence against a provision of an Act mentioned in schedule 5 or 6, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
- (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or
- (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
- (d) an offence that has, as an element, an intention to commit an offence of a kind mentioned in paragraph (a); or
- (e) an offence that, at the time it was committed was an offence of a kind mentioned in paragraph (a); or
- (f) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a) to (e).

Note—

Column 2 in schedules 5 and 6 is included for information purposes only and states a section heading for the provision mentioned opposite in column 1.

‘(2) For this section, it is immaterial if a provision mentioned in schedule 5 or 6, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.’.

92 Insertion of new pt 10, div 3A

Part 10—

insert—

**‘Division 3A Screening of persons engaged by
the department at a service outlet**

**‘82A Undertaking screening of persons engaged by
department at a service outlet**

‘(1) This section applies in relation to a person engaged or to be engaged by the department at a service outlet of the department.

Note—

See—

- the *Public Service Act 2008* for the engagement of the department’s employees generally; and
- the CCYPCG Act for the engagement of the department’s employees in regulated employment within the meaning of that Act.

‘(2) The chief executive may ask the person for written consent for the chief executive to undertake screening of the person under this part.

‘(3) Subsection (2) applies even if the person is a public service employee at the time the person is engaged or is to be engaged by the department at a service outlet of the department.

‘(4) If the person does not give the consent, or withdraws his or her consent, the chief executive must ensure the person is not engaged by the department at a service outlet of the department.

‘(5) If the person gives the consent, the chief executive may—

- (a) if the person does not hold a CCYPCG positive notice—undertake screening of the person under this part, and issue a prescribed notice to the person, as if the chief executive were deciding a prescribed notice application about the person; or
- (b) if the person holds a CCYPCG positive notice—undertake screening of the person under this part, and issue an exemption notice to the person, as if

[s 93]

the chief executive were deciding an exemption notice application about the person.

‘(6) The person’s consent to screening may be withdrawn under section 117(2), (3), (3A) or (5) as if—

- (a) for a person who does not hold a CCYPCG positive notice—a prescribed notice application has been made about the person; or
- (b) for a person who holds a CCYPCG positive notice—an exemption notice application has been made about the person.

‘(7) However—

- (a) subsections (5) and (6) do not apply until the exemption notice regime commencement date; and
- (b) until the exemption notice regime commencement date, if the person gives the consent—
 - (i) the chief executive may undertake screening of the person under this part, and issue a prescribed notice to the person, as if the chief executive were deciding a prescribed notice application about the person; and
 - (ii) the person’s consent to screening may be withdrawn under section 117(2), (3), (3A) or (5) as if a prescribed notice application has been made about the person.

‘(8) This subsection and subsections (7) and (9) expire immediately after the exemption notice regime commencement date.

‘(9) In this section—

exemption notice regime commencement date means the day division 4A is inserted into this Act by the *Criminal History Screening Legislation Amendment Act 2010*.’.

93 Insertion of new s 82B

Part 10, division 4—

insert—

‘82B Division does not apply to holders of CCYPCG positive notice

‘This division does not apply in relation to the engagement of a person who holds a CCYPCG positive notice.

Note—

See division 4A in relation to the engagement of a person who holds a CCYPCG positive notice.’

94 Amendment of s 83 (Application for notice)

- (1) Section 83, heading, after ‘for’—

insert—

‘prescribed’.

- (2) Section 83(2)—

insert—

‘(d) accompanied by the prescribed fee.’

- (3) Section 83(3)—

insert—

‘(d) a declaration by the engaged person that he or she is not a disqualified person.’

- (4) Section 83(5)—

omit.

- (5) Section 83—

insert—

- ‘(5) If a funded non-government service provider asks a person to sign an application under subsection (1) about the person, the service provider must warn the person that it is an offence for a disqualified person to sign the application as an engaged person.

Maximum penalty—10 penalty units.

- ‘(6) For an application under subsection (1)—

[s 95]

- (a) the engaged person is liable to pay the funded non-government service provider the fee mentioned in subsection (2)(d); and
 - (b) if the funded non-government service provider pays the fee, the amount of the fee is a debt payable by the engaged person to the service provider.
- ‘(7) Subsection (6) applies subject to—
- (a) a written agreement entered into between the funded non-government service provider and the engaged person; or
 - (b) an industrial instrument under the *Industrial Relations Act 1999*; or
 - (c) another document that regulates wages and conditions of employment and is enforceable under any of the following—
 - (i) the *Fair Work Act 2009* (Cwlth);
 - (ii) the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth);
 - (iii) the repealed *Workplace Relations Act 1996* (Cwlth).’.

95 Amendment of s 84 (Notice of change of engagement, or name and contact details in application under s 83)

- (1) Section 84, heading, ‘application under s 83’—
omit, insert—
‘prescribed notice application’.
- (2) Section 84(1), from ‘to a person’ to ‘about’—
omit, insert—
‘if a prescribed notice application is made about’.

96 Amendment of s 85 (Decision on application)

- (1) Section 85(1)—

omit, insert—

‘(1) This section applies if a prescribed notice application is made about an engaged person.’.

(2) Section 85(3)(b)(ii) and (iii), ‘an excluding’—

omit, insert—

‘a disqualifying’.

(3) Section 85(3)(b)(iii), note, ‘excluding’—

omit, insert—

‘disqualifying’.

(4) Section 85(7), ‘subsection (6)(b)’—

omit, insert—

‘subsection (8), (9) or (10)’.

(5) Section 85(8), ‘subsection (7)’—

‘subsection (11)’.

(6) Section 85(7) and (8)—

renumber as section 85(11) and (12).

(7) Section 85(6)—

omit, insert—

‘(6) Subject to subsection (8), the chief executive must issue a positive notice to the engaged person if the chief executive—

(a) has, under section 100, cancelled a negative notice issued to the engaged person; or

(b) has issued an eligibility declaration to the engaged person and the eligibility declaration has not expired.

‘(7) The chief executive must issue a negative notice to the engaged person if the chief executive is aware the person is a relevant disqualified person, other than only because the person is subject to either or both of the following—

(a) a temporary offender prohibition order;

(b) an interim sexual offender order.

[s 97]

- ‘(8) Subject to subsection (11), the chief executive must issue a negative notice to an engaged person to whom subsection (6)(a) or (b) applies if the chief executive is aware of any police information about the person, other than information known to the chief executive at the time of taking the action mentioned in the subsection.
- ‘(9) Subject to subsection (11), the chief executive must issue a negative notice to the engaged person if the chief executive is aware the person—
- (a) is a relevant disqualified person because the person is subject to a temporary offender prohibition order or interim sexual offender order; or
 - (b) has been a relevant disqualified person at any time but is no longer a relevant disqualified person (other than a person who was a relevant disqualified person by reason of a conviction, sentence or order that was set aside on appeal); or
 - (c) has been convicted of a serious offence.
- ‘(10) Subject to subsection (11), the chief executive must issue a negative notice to the engaged person if the chief executive is aware the person has been convicted of a serious offence.’.

97 Amendment of s 86 (Decision making under s 85 in relation to discretionary matters)

- (1) Section 86(1), from ‘as mentioned in’—
omit, insert—
‘for a person.’.
- (2) Section 86(2), ‘an engaged person’—
omit, insert—
‘a person’.
- (3) Section 86(2)(a)(ii), ‘an excluding’—
omit, insert—
‘a disqualifying’.

-
- (4) Section 86(2)(b)—
renumber as section 86(2)(e).
- (5) Section 86(2)—
insert—
- (b) any information about the person given to the chief executive under section 114A;
 - (c) a report, if any, about the person’s mental health given to the chief executive under section 114I;
 - (d) any information about the person given to the chief executive under section 114K or 114L;’.
- (6) Section 86(2)(b), after ‘section 114A’—
insert—
‘or 114B’.

98 Amendment of s 87 (Actions of chief executive after making decision on application)

- (1) Section 87(1), ‘an application under section 83’—
omit, insert—
‘a prescribed notice application’.
- (2) Section 87(2)(b) to (e)—
omit, insert—
‘(b) the relevant review and appeal information.’.
- (3) Section 87(3), ‘section 108’—
omit, insert—
‘part 10, division 7, subdivision 1’.
- (4) Section 87(5), after ‘another prescribed notice’—
insert—
‘, or an exemption notice,’.
- (5) Section 87(5)(a), after ‘notice’—

[s 99]

insert—

‘or exemption notice’.

- (6) Section 87(5)(b), ‘previously held prescribed notice’—

omit, insert—

‘engaged person previously held a prescribed notice that’.

99 Amendment of s 88 (Chief executive to invite submissions from engaged person about particular information)

Section 88(1)—

omit, insert—

- ‘(1) This section applies if, for a prescribed notice application, the chief executive must decide whether or not there is an exceptional case for a person.’.

100 Amendment of s 89 (Currency of prescribed notice and positive notice card)

Section 89(2), ‘2 years’—

omit, insert—

‘3 years’.

101 Insertion of new pt 10, div 4A

Part 10—

insert—

**‘Division 4A Issue of exemption notices for
 funded non-government service
 providers**

‘89A Application for exemption notice

- ‘(1) A funded non-government service provider who proposes to start engaging, or continue engaging, a person who holds a CCYPCG positive notice (the *engaged person*) at a service outlet of the service provider, may apply to the chief executive for an exemption notice about the engaged person.
- ‘(2) The application must be—
- (a) in the approved form; and
 - (b) signed by, or on behalf of, the service provider; and
 - (c) signed by the engaged person.
- ‘(3) The approved form must include provision for—
- (a) identifying information about the engaged person; and
 - (b) certification by the service provider that the service provider has sighted documents, relating to proof of the engaged person’s identity, prescribed under a regulation; and
 - (c) a declaration by the engaged person that—
 - (i) he or she holds a CCYPCG positive notice; and
 - (ii) his or her CCYPCG positive notice has not been suspended under the CCYPCG Act; and
 - (d) the engaged person’s consent to screening under this part.
- ‘(4) On receiving the application, the chief executive may ask the service provider or engaged person for further information that the chief executive reasonably considers necessary to establish the engaged person’s identity.

[s 101]

‘89B Notice of change of engagement, or name and contact details in exemption notice application

- ‘(1) This section applies if an exemption notice application is made about an engaged person and any of the following (each a *relevant change*) happens before the chief executive has issued an exemption notice to the engaged person in relation to the application—
- (a) the engaged person’s name or contact details, as stated in the application, change;
 - (b) the engaged person’s engagement, as stated in the application, ends.
- ‘(2) The engaged person must give notice, in the approved form, to the chief executive of the relevant change within 14 days after the relevant change happens.
- Maximum penalty—10 penalty units.
- ‘(3) The approved form mentioned in subsection (2) must provide for an engaged person to give notice withdrawing the person’s consent to screening under this part.

‘89C Decision on application

- ‘(1) This section applies if an exemption notice application is made about an engaged person.
- ‘(2) The chief executive must decide the application by issuing either of the following unless the application is withdrawn—
- (a) a notice declaring the application for the exemption notice is approved (a *positive exemption notice*);
 - (b) a notice declaring the application for the exemption notice is refused (a *negative exemption notice*).
- ‘(3) The chief executive must issue a positive exemption notice to the engaged person if—
- (a) the chief executive is not aware of any police information about the engaged person; and
 - (b) the chief executive—

- (i) has, under section 89D, been advised that the engaged person is the holder of a CCYPCG positive notice whose CCYPCG positive notice is not suspended under the CCYPCG Act; and
- (ii) has not, under section 89D, been advised to undertake further screening of the engaged person under this part.

Note—

If a person's CCYPCG positive notice is suspended under the CCYPCG Act after the application is made, the person's consent to employment screening may be withdrawn under section 117(5A).

- '(4) If subsection (3) does not apply, the chief executive must decide the application in the way the chief executive would be required to decide the application if it were a prescribed notice application.
- '(5) For subsection (4), sections 85(3) to (12), 86 and 88 apply in relation to making the decision as if—
 - (a) a reference in the sections to a prescribed notice application were a reference to an exemption notice application; and
 - (b) a reference in the sections to issuing a positive notice were a reference to issuing a positive exemption notice; and
 - (c) a reference in the sections to issuing a negative notice were a reference to issuing a negative exemption notice.

'89D Obtaining advice from Commissioner for Children and Young People and Child Guardian

- '(1) This section applies if an exemption notice application is made about a person who claims to be the holder of a CCYPCG positive notice.
- '(2) For deciding the application, the chief executive may ask the children's commissioner to advise the chief executive—

[s 101]

- (a) whether or not the person is the holder of a CCYPCG positive notice and, if so, the expiry date of the CCYPCG positive notice; and
 - (b) whether or not the person's CCYPCG positive notice has been suspended under the CCYPCG Act; and
 - (c) if the person is the holder of a CCYPCG positive notice—whether the chief executive may need to undertake further screening of the person under this part.
- ‘(3) For subsection (2), the chief executive's request may include the following information—
- (a) the person's name and any other name that the chief executive believes the person may use or may have used;
 - (b) the person's gender and date and place of birth;
 - (c) the person's address;
 - (d) any number or date given by the person about the CCYPCG positive notice the person holds or claims to hold.
- ‘(4) The children's commissioner must comply with the request.
- ‘(5) However—
- (a) the children's commissioner may give advice under subsection (2)(c) only if the commissioner is aware of police information about the person; and
 - (b) if paragraph (a) applies, the advice must be that the chief executive may need to undertake further screening of the person under this part.
- ‘(6) If the children's commissioner gives the chief executive advice under subsection (2)(c), the advice must be accompanied by a notice stating that no adverse inference about the person's criminal history or suitability for engagement, or continued engagement, in regulated engagement may be drawn by the fact the advice was given.
- ‘(7) In this section—

children's commissioner means the Commissioner for Children and Young People and Child Guardian.

'89E Actions of chief executive after making decision on application

- '(1) After making a decision about an exemption notice application, the chief executive must issue an exemption notice to the engaged person.
- '(2) If the exemption notice is a negative exemption notice, the exemption notice must be accompanied by a notice stating the following—
 - (a) the reasons for the chief executive's decision on the application;
 - (b) the relevant review and appeal information.
- '(3) The notice must also include a copy of part 10, division 7, subdivision 1.
- '(4) After the chief executive issues the exemption notice to the engaged person under this section, the chief executive must give notice to the funded non-government service provider stating whether the engaged person was given a positive exemption notice or negative exemption notice.
- '(5) Within 14 days after an exemption notice is issued under this section to an engaged person who previously held another exemption notice or a prescribed notice, the engaged person must give the chief executive—
 - (a) the previously held exemption notice or prescribed notice; and
 - (b) if the engaged person previously held a prescribed notice that was a positive notice—the positive notice card previously held by the engaged person.

Maximum penalty for subsection (5)—10 penalty units.

[s 102]

‘89F Currency of exemption notice

- ‘(1) A negative exemption notice remains current until it is cancelled under division 6.
- ‘(2) A positive exemption notice remains current while its holder holds a CCYPCG positive notice, unless it is earlier cancelled under division 6.’.

102 Amendment of pt 10, div 5, hdg (Obligations and offences relating to prescribed notices)

Part 10, division 5, heading, after ‘notices’—

insert—

‘and exemption notices’.

103 Replacement of s 90 (When person without current positive notice may be engaged)

Section 90—

omit, insert—

‘90 Starting engagement of certain regular engaged persons other than volunteers

- ‘(1) This section applies in relation to a person if—
 - (a) the person is not engaged by a funded non-government service provider at a service outlet of the service provider but has previously been engaged by the service provider at a service outlet of the service provider; and
 - (b) it is less than 1 year since the person was last engaged by the funded non-government service provider at a service outlet of the service provider; and
 - (c) after considering any agreement relating to a proposed engagement of the person and the person’s engagement during the period when the person was last engaged by the funded non-government service provider at a service outlet of the service provider, the service provider reasonably expects that the person is likely to carry out

work as part of the proposed engagement for the minimum frequency for regulated engagement; and

(d) under the proposed engagement, the person is to be engaged by the service provider other than as a volunteer.

‘(2) The service provider must not engage the person at a service outlet of the service provider unless—

(a) the person has a current positive notice and the service provider has notified, in the approved form, the chief executive that the service provider is proposing to engage the person at a service outlet of the service provider; or

(b) the service provider has applied for a prescribed notice, or a further prescribed notice, about the person.

Maximum penalty—

(a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 206—50 penalty units; or

(b) for a funded non-government service provider—250 penalty units.

‘(3) The approved form for subsection (2)(a) must include provision for—

(a) identifying information about the person; and

(b) certification by the service provider that the service provider has sighted the documents, relating to proof of the person’s identity, prescribed under a regulation.

‘90A Starting engagement of new engaged persons other than volunteers

‘(1) This section applies in relation to a person if—

(a) the person is not engaged by a funded non-government service provider at a service outlet of the service provider; and

[s 103]

- (b) a funded non-government service provider proposes to engage the person at a service outlet of the service provider; and
 - (c) after considering any agreement relating to the proposed engagement, the funded non-government service provider reasonably expects that the person is likely to carry out work as part of the proposed engagement for the minimum frequency for regulated engagement; and
 - (d) under the proposed engagement, the person is to be engaged by the service provider other than as a volunteer.
- ‘(2) The service provider must not engage the person at a service outlet of the service provider unless—
- (a) the person has a current positive notice and the service provider has notified, in the approved form, the chief executive that the service provider is proposing to engage the person at a service outlet of the service provider; or
 - (b) the service provider has applied for a prescribed notice, or a further prescribed notice, about the person.

Maximum penalty—

- (a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 206—50 penalty units; or
 - (b) for a funded non-government service provider—250 penalty units.
- ‘(3) The approved form for subsection (2)(a) must include provision for—
- (a) identifying information about the person; and
 - (b) certification by the service provider that the service provider has sighted the documents, relating to proof of the person’s identity, prescribed under a regulation.

‘90B Continuing engagement of persons other than volunteers

- ‘(1) This section applies in relation to a person if—
- (a) the person is engaged by a funded non-government service provider at a service outlet of the service provider other than as a volunteer; and
 - (b) after considering any agreement relating to the engagement and the hours or times that the person previously carried out work for the funded non-government service provider at a service outlet of the service provider, the service provider reasonably expects that the person is likely to carry out work as part of the engagement for the minimum frequency for regulated engagement; and
 - (c) the person does not have a current positive notice.
- ‘(2) The funded non-government service provider must not continue to engage the person at a service outlet of the service provider unless the service provider has applied for a prescribed notice, or a further prescribed notice, about the person.

Maximum penalty—

- (a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 206—50 penalty units; or
- (b) for a funded non-government service provider—250 penalty units.

‘90C Starting engagement of volunteers

- ‘(1) A funded non-government service provider must not engage a volunteer at a service outlet of the service provider unless—
- (a) the volunteer has a current positive notice and the service provider has notified, in the approved form, the chief executive that the service provider is proposing to engage the volunteer at a service outlet of the service provider; or

[s 104]

- (b) the service provider has applied for a prescribed notice, or a further prescribed notice, about the volunteer.

Maximum penalty—

- (a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 206—50 penalty units; or
- (b) for a funded non-government service provider—250 penalty units.

Note—

See section 78(6) for particular volunteers who are not volunteers engaged by a non-government service provider.

- ‘(2) The approved form mentioned in subsection (1)(a) must include provision for—
 - (a) identifying information about the volunteer; and
 - (b) certification by the funded non-government service provider that the service provider has sighted documents, relating to proof of the volunteer’s identity, prescribed under a regulation.’.

104 Amendment of s 90 (Starting engagement of certain regular engaged persons other than volunteers)

- (1) Section 90(2)(a), after ‘positive notice’—

insert—

‘or current positive exemption notice’.
- (2) Section 90(2)(b), after ‘prescribed notice’—

insert—

‘or exemption notice’.

105 Amendment of s 90A (Starting engagement of new engaged persons other than volunteers)

- (1) Section 90A(2)(a), after ‘positive notice’—

insert—

‘or current positive exemption notice’.

- (2) Section 90A(2)(b), after ‘prescribed notice’—
insert—
‘or exemption notice’.

106 Amendment of s 90B (Continuing engagement of persons other than volunteers)

- (1) Section 90B(1)(c), after ‘positive notice’—
insert—
‘or current positive exemption notice’.
- (2) Section 90B(2), after ‘prescribed notice’—
insert—
‘or exemption notice’.

107 Replacement of s 90C (Starting engagement of volunteers)

Section 90C—
omit, insert—

‘90C Starting engagement of volunteers

- ‘(1) A funded non-government service provider must not engage a volunteer at a service outlet of the service provider unless—
- (a) the volunteer has a current positive notice or current positive exemption notice and the service provider has notified, in the approved form, the chief executive that the service provider is proposing to engage the volunteer at a service outlet of the service provider; or
 - (b) the volunteer holds a CCYPCG positive notice that is not suspended under the CCYPCG Act and the service provider has applied for an exemption notice about the volunteer.

Maximum penalty—

[s 107]

- (a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 206—50 penalty units;
or
- (b) for a funded non-government service provider—250 penalty units.

Note—

See section 78(6) for particular volunteers who are not volunteers engaged by a non-government service provider.

- ‘(2) The approved form mentioned in subsection (1)(a) must include provision for—
 - (a) identifying information about the volunteer; and
 - (b) certification by the funded non-government service provider that the service provider has sighted documents, relating to proof of the volunteer’s identity, prescribed under a regulation.

‘90D **Currency of prescribed notice for volunteer continuing engagement**

- ‘(1) This section applies if—
 - (a) a volunteer engaged by a funded non-government service provider at a service outlet of the service provider has a positive notice (the *previous notice*); and
 - (b) the service provider applied for a further prescribed notice or an exemption notice about the volunteer at least 30 days before the previous notice expires; and
 - (c) the application has not been decided.
- ‘(2) Despite section 89(2), the previous notice remains current from the day it would otherwise end under that subsection until the application is decided or withdrawn unless the previous notice is earlier cancelled under division 6.

Note—

See, however, section 104 for the effect of a suspension of a positive notice.’.

108 Amendment of s 91 (Prohibited engagement)

- (1) Section 91(1), after ‘notice’—
insert—
‘or current positive exemption notice’.
- (2) Section 91(2)(a), after ‘notice’—
insert—
‘or exemption notice’.
- (3) Section 91(2)(a), ‘paragraph (b)’—
omit, insert—
‘paragraph (b)(i)’.
- (4) Section 91(2)(b)—
omit, insert—
‘(b) has been given—
 - (i) a notice of deemed withdrawal relating to the engaged person under section 117(4); or
 - (ii) a notice under section 116(3) because of a change in police information mentioned in section 116(3)(g); or’.
- (5) Section 91(2)(c), after ‘notice’—
insert—
‘or negative exemption notice’.
- (6) Section 91(2), penalty, paragraph (b)(i), ‘100 penalty units’—
omit, insert—
‘200 penalty units or 2 years imprisonment’.
- (7) Section 91(2), penalty, paragraph (b)(ii), ‘500 penalty units’—
omit, insert—
‘1000 penalty units’.

[s 109]

109 Replacement of pt 10, div 5, sdiv 2 (Obligations if holder of negative notice or application for prescribed notice is withdrawn)

Part 10, division 5, subdivision 2 —

omit, insert—

‘Subdivision 2 Obligations if holder of negative notice or negative exemption notice, or prescribed notice or exemption notice application is withdrawn

‘92 Person holding negative notice or negative exemption notice not to apply for, or start or continue in, regulated engagement etc.

- ‘(1) A person who has a current negative notice or current negative exemption notice must not—
- (a) sign an application as an engaged person under section 83 or 89A; or
 - (b) apply for, or start or continue in, regulated engagement.
- Maximum penalty—500 penalty units or 5 years imprisonment.
- ‘(2) However, if the person held a positive notice but a negative notice or negative exemption notice was substituted for the positive notice under section 101(1), 102 or 105, a court may not find the person contravened subsection (1) unless the court is satisfied that notice of the substitution was given to the person.
- ‘(3) Also, if the person held a positive exemption notice but a negative exemption notice was substituted for the positive exemption notice under section 101A(1) or 105B, a court may not find the person contravened subsection (1) unless the court is satisfied that notice of the substitution was given to the person.

‘92A Person who has withdrawn consent to screening not to start or continue in regulated engagement

‘A person must not start or continue in regulated engagement if—

- (a) a prescribed notice application or exemption notice application about a person was made; but
- (b) the person withdrew the person’s consent to screening under this part before a prescribed notice or exemption notice was issued to the person.

Maximum penalty—

- (a) if the person’s consent to screening is withdrawn under section 117(2)—100 penalty units or 1 year’s imprisonment; or
- (b) otherwise—500 penalty units or 5 years imprisonment.’.

110 Amendment of pt 10, div 5, sdiv 3, hdg (Changes in criminal history)

Part 10, division 5, subdivision 3, heading, ‘criminal history’—

omit, insert—

‘police information’.

111 Replacement of s 93 (Acquiring a criminal history)

Section 93—

omit, insert—

‘93 Acquiring police information

‘For a person who does not have police information, there is taken to be a change in the person’s police information if the person acquires police information.’.

[s 112]

112 Replacement of s 94 (Effect of conviction for serious offence or charge for excluding offence)

Section 94—

omit, insert—

‘94 Effect of conviction for serious offence

‘(1) This section applies to a person with a current positive notice or positive exemption notice if the person is convicted of a serious offence.

‘(2) The person must immediately return the positive notice or positive exemption notice to the chief executive, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(3) Until and unless a prescribed event happens for the person, the person must not start or continue in regulated engagement.

Maximum penalty—500 penalty units or 5 years imprisonment.

‘(4) For subsection (3), a *prescribed event* happens for a person if the person’s positive notice or positive exemption notice is cancelled and the person is issued a new positive notice or positive exemption notice.

‘(5) In this section, a reference to a person’s positive notice is taken to include a reference to any positive notice card relating to the notice.’.

113 Amendment of s 95 (Change in criminal history of engaged person)

(1) Section 95, heading—

omit, insert—

‘95 Change in police information of person engaged by funded non-government service provider’.

(2) Section 95(1) and (2), ‘criminal history’—

omit, insert—

‘police information’.

- (3) Section 95(3), after ‘prescribed notice’—

insert—

‘or exemption notice’.

114 Insertion of new s 95A

After section 95—

insert—

‘95A Change in criminal history of person engaged by department

- ‘(1) This section applies to a person engaged by the department at a service outlet of the department if there is a change in the person’s criminal history.
- ‘(2) The person must immediately disclose to the chief executive that there has been a change in the person’s criminal history.
- Maximum penalty—100 penalty units.
- ‘(3) If the chief executive receives information about a change in the person’s criminal history under subsection (2), the chief executive may, under section 82A, ask the person for written consent for the chief executive to undertake screening of the person under this part.
- ‘(4) To remove any doubt, it is declared that it is not a requirement of subsection (2) that the person give the chief executive any information about the change other than that a change has happened.’.

115 Amendment of s 95A (Change in criminal history of person engaged by department)

- (1) Section 95A, heading, ‘criminal history’—

omit, insert—

‘police information’.

- (2) Section 95A(1) to (3), ‘criminal history’—

[s 116]

omit, insert—

‘police information’.

116 Amendment of s 96 (Change in criminal history of other persons)

- (1) Section 96, heading, ‘criminal history’—

omit, insert—

‘police information’.

- (2) Section 96(1)(a), after ‘notice’—

insert—

‘or current positive exemption notice’.

- (3) Section 96(1)(b), ‘criminal history’—

omit, insert—

‘police information’.

- (4) Section 96(1)(c), from ‘by’—

omit, insert—

‘at a service outlet by the department or a funded non-government service provider.’.

- (5) Section 96(2), from ‘criminal history’ to ‘notice’—

omit, insert—

‘police information since the person’s current positive notice or current exemption notice’.

- (6) Section 96(3), after ‘notice’—

insert—

‘or exemption notice’.

117 Replacement of s 99 (Return of positive notice and positive notice card to chief executive)

Section 99—

omit, insert—

‘99 Return of cancelled positive notice to chief executive

- ‘(1) This section applies to a person with a current positive notice (*old notice*) if the chief executive cancels the notice and issues a negative notice or negative exemption notice to the person.
- ‘(2) The person must immediately return the old notice and any positive notice card issued to the person to the chief executive, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

‘99A Return of cancelled positive exemption notice to chief executive

- ‘(1) This section applies to a person with a current positive exemption notice (*old notice*) if the chief executive cancels the notice and issues a negative exemption notice to the person.
- ‘(2) The person must immediately return the old notice to the chief executive, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.’.

118 Replacement of pt 10, div 6, hdg (Cancellation and replacement of prescribed notices)

Part 10, division 6, heading—

omit, insert—

‘Division 6 Cancellation of prescribed notices and exemption notices etc.’.

119 Amendment of s 100 (Cancellation of negative notice and issuing of positive notice)

- (1) Section 100, heading—

omit, insert—

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‘100 Cancellation of negative notice or negative exemption notice and issuing of positive notice or positive exemption notice’.

(2) Section 100(1) and (5), after ‘negative notice’—

insert—

‘or negative exemption notice’.

(3) Section 100—

insert—

‘(1A) However, this section does not apply to the person if the person is a relevant disqualified person.’.

(4) Section 100(3), ‘section.’—

omit, insert—

‘section, unless—

(a) the decision to issue the negative notice or negative exemption notice was based on wrong or incomplete information; or

(b) the negative notice or negative exemption notice was issued because the person was a relevant disqualified person and the person is no longer a relevant disqualified person.’.

(5) Section 100(7), from ‘must’—

omit, insert—

‘must—

(a) for an application relating to a negative notice—cancel the negative notice and issue a positive notice to the person; or

(b) for an application relating to a negative exemption notice—cancel the negative exemption notice and issue a positive exemption notice to the person.’.

(6) Section 100—

insert—

- ‘(8) However, the chief executive may issue a positive notice or positive exemption notice under subsection (7) only if the chief executive is satisfied the person is proposing, if the positive notice or positive exemption notice is issued, to be engaged in regulated engagement.’.

120 Amendment of s 101 (Chief executive may cancel a prescribed notice and substitute another prescribed notice)

- (1) Section 101(1)(b), from ‘regard’—
omit, insert—
‘regard to—
- (i) information received under section 114, 114A or 115 about the person, other than information known to the chief executive at the time the cancelled notice was issued; or
 - (ii) a decision of a court made after the cancelled notice was issued, including the reasons for the decision, relating to an offence committed by the person.’.
- (2) Section 101(1)(b)(i), after ‘114A’—
insert—
‘, 114B’.
- (3) Section 101(3)—
omit, insert—
- ‘(3) The chief executive may cancel a negative notice (the ***cancelled notice***) about a person and, subject to subsection (6), substitute it with a positive notice if—
- (a) the chief executive is satisfied that the decision on the application for the cancelled notice was based on wrong or incomplete information and, based on the correct or complete information, the chief executive should issue a positive notice to the person; or

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- (b) a penalty or order of a court of the type mentioned in section 102(1), that required the chief executive to cancel the positive notice and issue a negative notice, is not upheld on appeal; or
 - (c) the chief executive is satisfied that it is appropriate to cancel the negative notice having regard to information not known to the chief executive at the time the negative notice was issued.’.
- (4) Section 101(3)(b)—
- omit, insert—*
- ‘(b) the negative notice was issued because the person was a relevant disqualified person and the person is no longer a relevant disqualified person; or’.
- (5) Section 101(6)—
- omit, insert—*
- ‘(6) If, for subsection (3), the chief executive’s decision under subsection (4) is that the person should be issued a positive notice, the chief executive may issue a positive notice to the person only if the chief executive is satisfied the person is proposing, if the positive notice is issued, to be engaged in regulated engagement.
- ‘(7) The chief executive may cancel a person’s negative notice under subsection (3) even if—
- (a) a positive notice is not issued to the person under subsection (6) until a later time; or
 - (b) a positive notice is never issued to the person under subsection (6).
- ‘(8) The chief executive may act under subsection (3) only on the chief executive’s own initiative.

Note—

For the chief executive’s power to cancel a negative notice on application by a person, see section 100.’.

121 Insertion of new s 101A

After section 101—

insert—

‘101A Chief executive may cancel an exemption notice and substitute another exemption notice

- ‘(1) The chief executive may cancel a positive exemption notice (the *cancelled notice*) about a person and substitute a negative exemption notice if the chief executive is satisfied that—
- (a) the decision on the application for the cancelled notice was based on wrong or incomplete information and, based on the correct or complete information, the chief executive should issue a negative exemption notice to the person; or
 - (b) it is appropriate to cancel the cancelled notice having regard to—
 - (i) information received under section 114, 114A, 114B or 115 about the person, other than information known to the chief executive at the time the cancelled notice was issued; or
 - (ii) a decision of a court made after the cancelled notice was issued, including the reasons for the decision, relating to an offence committed by the person.
- ‘(2) If the person is engaged by a funded non-government service provider at the time the negative exemption notice is substituted, the chief executive must give notice of the substitution to the service provider.
- ‘(3) The chief executive may cancel a negative exemption notice (the *cancelled notice*) about a person and, subject to subsection (6), substitute a positive exemption notice if—
- (a) the chief executive is satisfied that the decision on the application for the cancelled notice was based on wrong or incomplete information and, based on the correct or complete information, the chief executive should issue a positive exemption notice to the person; or

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- (b) the negative exemption notice was issued because the person was a relevant disqualified person and the person is no longer a relevant disqualified person; or
 - (c) the chief executive is satisfied that it is appropriate to cancel the negative exemption notice having regard to information not known to the chief executive at the time the negative exemption notice was issued.
- ‘(4) In making a decision under subsection (1) or (3), the chief executive must make the decision as if it were a decision about an exemption notice application and, for that purpose, sections 89C, 89D and 89E apply to the decision under this section.
- ‘(5) If the chief executive proposes to substitute a negative exemption notice as mentioned in subsection (1), the chief executive must first comply with section 88 as if—
 - (a) the reference in section 88(2) to deciding the application by issuing a negative notice were a reference to substituting a negative exemption notice for a positive exemption notice; and
 - (b) the reference in section 88(4) to deciding the application were a reference to substituting a negative exemption notice for a positive exemption notice.
- ‘(6) If, for subsection (3), the chief executive’s decision under subsection (4) is that the person should be issued a positive exemption notice, the chief executive may issue a positive exemption notice to the person only if the chief executive is satisfied the person is proposing, if the positive exemption notice is issued, to be engaged in regulated engagement.
- ‘(7) The chief executive may cancel a person’s negative exemption notice under subsection (3) even if—
 - (a) a positive exemption notice is not issued to the person under subsection (6) until a later time; or
 - (b) a positive exemption notice is never issued to the person under subsection (6).

- ‘(8) The chief executive may act under subsection (3) only on the chief executive’s own initiative.

Note—

For the chief executive’s power to cancel a negative exemption notice on application by a person, see section 100.’.

122 Amendment of s 102 (Cancellation if conviction for excluding offence and imprisonment or disqualification order)

- (1) Section 102, heading—

omit, insert—

‘102 Cancellation of positive notice if relevant disqualified person’.

- (2) Section 102(1)—

omit, insert—

- ‘(1) This section applies if a person who is the holder of a positive notice, including a positive notice that is suspended under section 104, becomes a relevant disqualified person other than only because the person is subject to either or both of the following—

- (a) a temporary offender prohibition order;
- (b) an interim sexual offender order.’.

- (3) Section 102(3)(a) to (c)—

omit, insert—

- ‘(a) the person can not apply under section 100 for the cancellation of the negative notice, even after 2 years; and
- (b) the relevant review and appeal information.’.

- (4) Section 102(5)—

omit.

[s 123]

123 Omission of s 103 (Cancellation if conviction for excluding offence but no imprisonment or disqualification order)

Section 103—

omit.

124 Amendment of s 104 (Effect of charge for excluding offence pending charge being dealt with)

(1) Section 104, heading—

omit, insert—

‘104 Suspension of positive notice if charged with disqualifying offence or subject to temporary or interim order’.

(2) Section 104(1)—

omit, insert—

‘(1) The chief executive must, by notice, suspend a positive notice held by a person if the person—

(a) is charged with a disqualifying offence; or

(b) becomes a relevant disqualified person because the person is subject to a temporary offender order or interim sexual offender order.’.

(3) Section 104(2)—

insert—

‘(f) the relevant review and appeal information.’.

(4) Section 104(3)—

omit, insert—

‘(3) Until the suspension ends, the person whose positive notice is suspended and who is given a notice under subsection (1) must not apply for, or start or continue in, regulated engagement.

Maximum penalty—500 penalty units or 5 years imprisonment.’.

125 Amendment of s 105 (Cancellation of suspension and issue of further prescribed notice)

(1) Section 105, heading, ‘Cancellation’—

omit, insert—

‘Ending’.

(2) Section 105(2) to (4)—

omit, insert—

‘(2) The suspension ends if—

(a) the suspended notice is cancelled under another provision of this division; or

(b) on the chief executive’s own initiative or on application by the person—

(i) the chief executive cancels the suspended notice and issues a further positive notice or a negative notice to the person; or

(ii) the chief executive cancels the suspended notice as mentioned in subsection (5).’.

(3) Section 105(5), ‘under subsection (3)’—

omit, insert—

‘to cancel the suspended notice and, subject to subsection (5), issue a further positive notice or a negative notice to the person’.

(4) Section 105(5) and (6)—

renumber as section 105(3) and (4).

(5) Section 105—

insert—

‘(5) The chief executive may cancel the suspended positive notice without issuing a further prescribed notice to the person if the chief executive is satisfied that the person is no longer proposing to be engaged in regulated engagement, even if a further positive notice is issued to the person.’.

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(6) Section 105—

insert—

- ‘(6) Despite an application made by the person as mentioned in subsection (2)(b), the chief executive is not required to decide the application—
- (a) while a charge against the person for a disqualifying offence is pending; or
 - (b) while the person is a relevant disqualified person because the person is subject to a temporary offender prohibition order or interim sexual offender order; or
 - (c) if the person has been convicted of a disqualifying offence and—
 - (i) the period allowed for an appeal relating to the conviction or sentence of the person has not ended; or
 - (ii) an appeal relating to the conviction or sentence has started but has not been decided; or
 - (d) if the person is subject to a final offender prohibition order, disqualification order or final sexual offender order and—
 - (i) the period allowed for an appeal relating to the order has not ended; or
 - (ii) an appeal relating to the order has started but has not been decided.’.

126 Insertion of new ss 105A–105D

After section 105—

insert—

‘105A Suspension of a positive exemption notice if CCYPCG positive notice suspended

- ‘(1) This section applies if—

-
- (a) a person holds a positive exemption notice on the basis the person also holds a CCYPCG positive notice; and
 - (b) the CCYPCG positive notice is suspended under the CCYPCG Act.
- ‘(2) The chief executive must suspend the person’s positive exemption notice by notice given to the person.
- ‘(3) The notice about the suspension must state the following—
- (a) the positive exemption notice held by the person is suspended;
 - (b) the reason for the suspension;
 - (c) how long the suspension will continue;
 - (d) the effect of the suspension;
 - (e) the person must return the positive exemption notice to the chief executive within 7 days after the notice about the suspension is given to the person;
 - (f) the relevant review and appeal information.
- ‘(4) Until the suspension ends, the person whose positive exemption notice is suspended and who is given a notice under subsection (2) must not apply for, or start or continue in, regulated engagement.
- Maximum penalty—500 penalty units or 5 years imprisonment.
- ‘(5) Within 7 days after a person is given notice under subsection (2), the person must return the person’s positive exemption notice to the chief executive.
- Maximum penalty—100 penalty units.
- ‘(6) Also, if the person is engaged by a funded non-government service provider, the chief executive must give notice to the service provider stating the following—
- (a) the positive exemption notice held by the person is suspended;
 - (b) how long the suspension will continue;

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- (c) the effect of the suspension;
 - (d) that the service provider must not allow the person to work at a service outlet of the service provider while the person's positive exemption notice is suspended;
 - (e) the service provider must not terminate the persons engagement or continued engagement solely or mainly because the person's positive exemption notice is suspended.
- '(7) A funded non-government service provider to whom notice is given under subsection (6) must not allow the person to work at a service outlet of the service provider while the person's positive exemption notice is suspended.

Maximum penalty—

- (a) for an individual guilty under chapter 2 of the Criminal Code of an offence or for section 206—200 penalty units; or
 - (b) for a funded non-government service provider—1000 penalty units.
- '(8) A funded non-government service provider to whom a notice is given under subsection (6) about a person must not terminate the person's engagement or continued engagement solely or mainly because the service provider is given the notice.

'105B Ending of suspension and issue of further exemption notice or prescribed notice

- '(1) This section applies to a positive exemption notice held by a person that is suspended under section 105A (the *suspended notice*).
- '(2) The suspension ends if—
- (a) the suspended notice is cancelled under another provision of this division; or

- (b) the suspended notice ceases to have effect under section 89F(2) because the person's CCYPCG positive notice is cancelled under the CCYPCG Act; or
 - (c) on the chief executive's own initiative or on application by the person—
 - (i) the chief executive cancels the suspended notice and issues a further positive exemption notice or negative exemption notice to the person; or
 - (ii) the chief executive cancels the suspended notice as mentioned in subsection (6).
- '(3) If subsection (2)(b) applies—
- (a) the chief executive may, on the chief executive's own initiative or on application by the person, issue a positive notice or negative notice to the person; and
 - (b) in making a decision under paragraph (a), the chief executive must make the decision as if it were a decision about a prescribed notice application and, for that purpose, sections 85, 86 and 87 apply in relation to making the decision.
- '(4) In making a decision under subsection (2)(c) to cancel the suspended notice and, subject to subsection (6), issue a replacement notice to the person, the chief executive must make the decision as if it were a decision about an exemption notice application and, for that purpose, sections 89C, 89D and 89E apply in relation to making the decision.
- '(5) If the chief executive proposes to issue a negative notice or negative exemption notice under subsection (3) or (4), the chief executive must first comply with section 88 as if—
- (a) the reference in section 88(2) to deciding the application by issuing a negative notice were a reference to issuing a negative notice or negative exemption notice under this section; and
 - (b) the reference in section 88(4) to deciding the application were a reference to cancelling the suspended notice and

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issuing a prescribed notice or exemption notice under this section.

- ‘(6) The chief executive may cancel the suspended positive exemption notice without issuing a further exemption notice or a prescribed notice to the person if the chief executive is satisfied that the person is no longer proposing to be engaged in regulated engagement, even if a positive exemption notice or positive notice is issued to the person.
- ‘(7) If the chief executive issues a negative notice or negative exemption notice to the person under this section, the chief executive must give the person a notice stating—
 - (a) the reasons for the chief executive’s decision to issue a negative notice or negative exemption notice to the person; and
 - (b) the relevant review and appeal information.
- ‘(8) Also, if the person is engaged by a funded non-government service provider and the chief executive issues a further exemption notice or a prescribed notice to the person under this section, the chief executive must give notice to the service provider stating—
 - (a) the person’s suspended notice has been cancelled under this section or, if subsection (2)(b) applies, ceased to have effect under section 89F; and
 - (b) whether the person has been issued a positive notice, negative notice, positive exemption notice or negative exemption notice.
- ‘(9) Despite an application made by the person as mentioned in subsection (2)(c), the chief executive is not required to decide the application while the person’s CCYPCG positive notice is suspended under the CCYPCG Act.

‘105C Notifying holder of expiry of positive exemption notice

- ‘(1) This section applies if—

-
- (a) a person was issued a positive exemption notice; and
 - (b) the person no longer holds a CCYPCG positive notice that is current under the CCYPCG Act.
- ‘(2) The chief executive must give the person a notice stating that the person’s positive exemption notice has ceased to have effect under section 89F.
- ‘(3) The notice must also advise the person that a prescribed notice application may be made about the person if the person does not hold a CCYPCG positive notice and is not a disqualified person.
- ‘(4) Also, if the person is engaged by a funded non-government service provider at a service outlet of the service provider, the chief executive must give the service provider a notice stating that—
- (a) the positive exemption notice held by the person has ceased to have effect under section 89F; and
 - (b) a prescribed notice application may be made about the person if the person does not hold a CCYPCG positive notice and is not a disqualified person.
- ‘(5) A person who is given notice under subsection (2) that the person’s positive exemption notice has ceased to have effect must immediately return the positive exemption notice to the chief executive, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—100 penalty units.

‘105D Request to cancel positive notice or positive exemption notice

- ‘(1) A person, including a person whose positive notice is suspended under section 104 or whose positive exemption notice is suspended under section 105A, may, by notice, ask the chief executive to cancel the person’s positive notice or positive exemption notice.
- ‘(2) After receiving the notice, the chief executive must—

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- (a) cancel the positive notice or positive exemption notice; and
 - (b) give the person a notice stating that—
 - (i) the positive notice or positive exemption notice has been cancelled; and
 - (ii) the person must not apply for, or start or continue in, regulated engagement.
- ‘(3) The person must not apply for, or start or continue in, regulated engagement unless the chief executive issues a further positive notice or positive exemption notice to the person.
- Maximum penalty—500 penalty units or 5 years imprisonment.
- ‘(4) If the person is engaged by a funded non-government service provider, the chief executive must give notice about the cancellation of the person’s positive notice or positive exemption notice to the service provider.
- ‘(5) A notice under subsection (4) must state that a funded non-government service provider to whom the notice is given must not engage, or continue to engage, the person at a service outlet of the service provider.’.

127 Amendment of s 106 (Replacement of positive notice or positive notice card)

- (1) Section 106, heading, ‘or positive notice card’—
omit, insert—
‘, positive notice card or positive exemption notice’.
- (2) Section 106(1)—
omit, insert—
 - ‘(1) If a person’s current positive notice, positive notice card, or positive exemption notice, is lost or stolen, the person must, within 14 days after the loss or theft—
 - (a) give the chief executive notice of the loss or theft; and

-
- (b) if the person has a current positive notice and a positive notice card and only the notice is lost or stolen, or only the card is lost or stolen, return the card or the notice that is not lost or stolen to the chief executive; and
 - (c) either—
 - (i) apply for a replacement notice or card; or
 - (ii) ask the chief executive to cancel the person's positive notice or positive exemption notice under section 105D.

Maximum penalty—10 penalty units.’.

- (3) Section 106(2), ‘The application’—

omit, insert—

‘An application under subsection (1)(c)(i)’.

- (4) Section 106(3)—

omit, insert—

- ‘(3) The chief executive must—

- (a) cancel—

- (i) for a lost or stolen positive notice—the lost or stolen notice and any positive notice card issued for it; or
- (ii) for a lost or stolen positive notice card—the lost or stolen card and the positive notice for which it was issued; or
- (iii) for a lost or stolen positive exemption notice—the lost or stolen notice; and

- (b) if the person makes an application under subsection (1)(c)(i)—issue to the person—

- (i) for a lost positive notice or positive notice card—a replacement positive notice and, if the person had a positive notice card for the person's previous positive notice, a replacement positive notice card; or

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- (ii) for a lost or stolen positive exemption notice—a replacement positive exemption notice.’.
- (5) Section 106(4), ‘may’—
omit, insert—
‘must’.
- (6) Section 106(6), ‘or current’ to ‘card’—
omit, insert—
‘current positive notice card, or current positive exemption notice’.

128 Amendment of s 107 (Change of details for prescribed notice or positive notice card)

- (1) Section 107, heading—
omit, insert—

‘107 Change of details for positive notice, positive notice card or positive exemption notice’.

- (2) Section 107(1), after ‘positive notice’—
insert—
‘or positive exemption notice’.
- (3) Section 107(3) to (5)—
omit, insert—
- ‘(3) If the chief executive considers it is appropriate to do so, the chief executive may issue to the holder—
 - (a) for the holder of a positive notice—a replacement positive notice and, if the holder also has a positive notice card, a replacement positive notice card; or
 - (b) for the holder of a positive exemption notice—a replacement positive exemption notice.
- ‘(4) If the chief executive issues the holder a replacement positive notice, positive notice card or positive exemption notice, the holder must return the replaced notice or card to the chief

executive within 14 days after receiving the replacement notice or card.

Maximum penalty—10 penalty units.

- ‘(5) The chief executive must cancel the previously held positive notice, positive notice card or positive exemption notice if the chief executive has issued a replacement notice or card.’

129 Insertion of new s 107A

After section 107—

insert—

‘107A Replacement notice etc. if change in engagement details

- ‘(1) This section applies if the holder of a positive notice that is not suspended changes the person’s engagement by a funded non-government service provider from engagement as a volunteer to engagement as other than a volunteer (the *relevant change*).
- ‘(2) The holder must give notice, in the approved form, to the chief executive about the relevant change within 14 days after the change.
- Maximum penalty—10 penalty units.
- ‘(3) After receiving a notice under subsection (2), the chief executive must issue to the holder a new positive notice and, if the holder also has a positive notice card, a new positive notice card.
- ‘(4) If the chief executive issues to the holder a new positive notice or positive notice card under subsection (3), the holder must return the person’s previously held notice or card to the chief executive within 14 days after receiving the new notice or card.
- Maximum penalty—10 penalty units.
- ‘(5) The chief executive must cancel the previously held positive notice or positive notice card if the chief executive has issued a new notice or card.

positive notice, the chief executive must instead issue a negative exemption notice to the person.

‘(6) This section applies despite section 82B.

‘107C Person who holds negative exemption notice but no longer holds CCYPCG positive notice

‘(1) This section applies if—

- (a) a person was issued a negative exemption notice on the basis the person held a CCYPCG positive notice; and
- (b) the person no longer holds a CCYPCG positive notice.

‘(2) The negative exemption notice continues in effect despite section 89A(1).

‘(3) If, after cancelling the negative exemption notice under section 100 or 101A(3), the chief executive is required or permitted to issue a positive exemption notice to the person and the chief executive is aware the person does not hold a CCYPCG positive notice, the chief executive must instead issue a positive notice to the person.

‘Division 6B Disqualified persons

‘107D Who is a *disqualified person*

‘(1) A person is a *disqualified person* if the person—

- (a) has been or is convicted of a disqualifying offence; or
- (b) is subject to—
 - (i) offender reporting obligations; or
 - (ii) an offender prohibition order; or
 - (iii) a disqualification order; or
 - (iv) a sexual offender order.

‘(2) However, a person to whom subsection (1)(a) applies is not a disqualified person if the chief executive issued an eligibility

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declaration to the person and the eligibility declaration has not expired.

Notes—

- 1 Under section 107I, a person who is issued a positive notice, or whose negative notice or negative exemption notice is cancelled, is taken to be issued with an eligibility declaration.
- 2 See section 107M for when an eligibility declaration expires, including if the person is charged with a disqualifying offence or becomes a relevant disqualified person after the declaration was issued.

‘107E Offences for disqualified person

‘(1) A disqualified person must not—

- (a) sign an application as an engaged person under section 83; or
- (b) apply for, or start or continue in, regulated engagement.

Maximum penalty—500 penalty units or 5 years imprisonment.

‘(2) If the chief executive is satisfied a person who has signed an application as mentioned in subsection (1)(a) is a disqualified person, the chief executive must give a notice to the person stating the following—

- (a) the chief executive is satisfied the person is a disqualified person;
- (b) the application is invalid;
- (c) the person must not apply for, or start or continue in, regulated engagement.

‘(3) Also, the chief executive must give a notice stating the following to the funded non-government service provider who made the application—

- (a) that the chief executive is satisfied that the person for whom the application has been made is a disqualified person;

- (b) the service provider must not allow the person to start or continue in engagement by the service provider at a service outlet of the service provider.
- ‘(4) Subsection (1)(b) applies even though it is not an offence for a funded non-government service provider to engage the disqualified person at a service outlet of the service provider.

‘107F Application for an eligibility declaration

- ‘(1) The purpose of this section is to allow a person who may be a disqualified person to apply to the chief executive for a declaration (*eligibility declaration*) that the person is not a disqualified person and is eligible to sign an application as an engaged person under section 83.
- ‘(2) A person may make an application (*eligibility application*) to the chief executive for an eligibility declaration.
- ‘(3) The person can not make an eligibility application less than 2 years after making a previous eligibility application that has been refused, unless—
 - (a) the decision to refuse the previous eligibility application was based on wrong or incomplete information; or
 - (b) the previous eligibility declaration was refused because the person was a relevant disqualified person and the person is no longer a relevant disqualified person.
- ‘(4) The eligibility application must be—
 - (a) in the approved form; and
 - (b) signed by the person; and
 - (c) accompanied by the prescribed fee.
- ‘(5) The approved form must include provision for—
 - (a) identifying information about the person; and
 - (b) certification by a prescribed person that the prescribed person has sighted the documents, relating to proof of the person’s identity, prescribed under a regulation.
- ‘(6) In this section—

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prescribed person means a justice, commissioner for declarations, lawyer or police officer.

‘107G Notice of change of name and contact details in eligibility application

- ‘(1) This section applies if, after a person makes an eligibility application, the person’s name or contact details, as stated in the application, change before the chief executive issues an eligibility declaration or a notice relating to the application under section 107H.
- ‘(2) Within 14 days after the change happens, the person must give notice of it, in the approved form, to the chief executive.
Maximum penalty—10 penalty units.

‘107H Chief executive’s decision on eligibility application

- ‘(1) The chief executive may issue an eligibility declaration to a person only if the person—
 - (a) has been convicted of a disqualifying offence; and
 - (b) is not a relevant disqualified person.
- ‘(2) The chief executive must decide the eligibility application as if it were a decision about an application for a prescribed notice and, for that purpose, sections 85, 86 and 88 apply to the decision.
- ‘(3) For subsection (2), sections 85, 86 and 88 apply as if—
 - (a) a reference in the sections to a prescribed notice application were a reference to an eligibility application; and
 - (b) a reference in the sections to issuing a positive notice were a reference to issuing an eligibility declaration; and
 - (c) a reference in the sections to issuing a negative notice were a reference to refusing to issue an eligibility declaration.

-
- ‘(4) If the eligibility application is granted, the chief executive must issue the eligibility declaration to the person.
- ‘(5) If the eligibility application is refused, the chief executive must give the person a notice stating—
- (a) the reasons for the refusal; and
 - (b) if the reasons include investigative information—
 - (i) that, within 28 days after the person is given the notice, the person may appeal to a Magistrates Court about the police commissioner’s decision that the information is investigative information; and
 - (ii) how the person may appeal to the Magistrates Court.
- ‘(6) If the chief executive considers the person has not been convicted of a disqualifying offence, the chief executive must give notice to the person stating the following—
- (a) the chief executive may only issue an eligibility declaration if the person has been convicted of a disqualifying offence;
 - (b) the chief executive does not consider the person has been convicted of a disqualifying offence and, for that reason, the chief executive can not issue an eligibility declaration to the person;
 - (c) if the person is not a disqualified person for another reason, a prescribed notice application may be made for the person;
 - (d) the eligibility application will not be further dealt with by the chief executive.
- ‘(7) There is no review or appeal under this Act in relation to a decision of the chief executive under this section to refuse an eligibility application.

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‘107I Eligibility declaration taken to have been issued

‘The chief executive is taken to have issued an eligibility declaration to a disqualified person if the chief executive—

- (a) issues a positive notice to the person; or
- (b) cancels a negative notice or negative exemption notice issued to the person.

‘107J Withdrawing eligibility application generally

‘A person may withdraw the person’s eligibility application at any time before the chief executive issues an eligibility declaration or a notice relating to the application under section 107H.

‘107K Deemed withdrawal of eligibility application if identity can not be established

‘A person is taken to have withdrawn the person’s eligibility application if—

- (a) the chief executive gives the person a notice—
 - (i) asking the person to provide, within a reasonable stated time, stated information that the chief executive reasonably needs to establish the person’s identity; and
 - (ii) warning the person that, if the person does not comply with the request, the person’s eligibility application may be taken to have been withdrawn; and
- (b) the person does not comply with the request within the stated time; and
- (c) the chief executive can not establish with certainty the person’s identity; and
- (d) the chief executive gives the person a notice stating that the person is taken to have withdrawn the eligibility application.

‘107L Deemed withdrawal of eligibility application if particular requests not complied with

‘A person is taken to have withdrawn the person’s eligibility application if—

- (a) the chief executive gives the person—
 - (i) a notice asking the person to provide, within a reasonable stated time, stated information, including by way of a submission, about a stated matter that the chief executive reasonably believes is relevant to the application; or
 - (ii) a notice under section 114D; or
 - (iii) a notice asking the person to give the necessary consent for section 114F or 114G; or
 - (iv) a notice asking the person to give the necessary consent for section 114K or 114L; and
- (b) the notice includes a warning that, if the person does not comply with the notice, the person’s eligibility application may be taken to have been withdrawn; and
- (c) the person does not comply with the notice; and
- (d) the chief executive gives the person a notice stating that the person is taken to have withdrawn the eligibility application.

‘107M Expiry of eligibility declaration

‘An eligibility declaration issued to a person expires if, after it is issued—

- (a) the person—
 - (i) is charged with a disqualifying offence; or
 - (ii) is convicted of a serious offence; or
 - (iii) becomes a relevant disqualified person; or
 - (iv) is issued with a negative notice or negative exemption notice; or

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- (b) any positive notice or positive exemption notice held by the person is cancelled.

‘107N Reversal of decision refusing an eligibility declaration

- ‘(1) The chief executive may revoke a decision to refuse an eligibility application and issue an eligibility declaration if the chief executive is satisfied—
 - (a) the decision on the application was based on wrong or incomplete information; and
 - (b) based on the correct or complete information, the chief executive decides under section 107H that the chief executive may issue the eligibility declaration.
- ‘(2) The chief executive may exercise the power under subsection (1) on the chief executive’s own initiative or on application by the person whose eligibility application was refused.’.

131 Insertion of new pt 10, div 7, sdiv 1, hdg

Part 10, division 7—

insert—

‘Subdivision 1 Reviews and appeals against particular decisions’.

132 Amendment of s 108 (Person may apply for review of decision)

Section 108(1)(a), ‘, 103(2) or 105(3)’—

omit, insert—

‘or 103(2)’.

133 Replacement of s 108 (Person may apply for review of decision)

Section 108—

omit, insert—

‘108 Definitions for sdiv 1

‘In this subdivision—

issue—

- (a) in relation to a negative notice—includes substitute a negative notice after cancelling a positive notice; and
- (b) in relation to a negative exemption notice—includes substitute a negative exemption notice after cancelling a positive exemption notice.

part 10 reviewable decision, about a person, means—

- (a) a decision of the chief executive as to whether or not there is an exceptional case for the person if, because of the decision, the chief executive—
 - (i) issued a negative notice or negative exemption notice to the person; or
 - (ii) refused to cancel a negative notice or negative exemption notice issued to the person; or
- (b) a decision of the chief executive that the person has been charged with a disqualifying offence if—
 - (i) because of the decision, the positive notice held by the person was suspended under section 104; and
 - (ii) the person claims he or she has not been charged with the disqualifying offence; and
 - (iii) the person has applied for a cancellation of the suspension under section 105 and that application has been refused; or
- (c) a decision of the chief executive that the person’s CCYPCG positive notice has been suspended under the CCYPCG Act if—
 - (i) because of the decision, the positive exemption notice held by the person was suspended under section 105A; and

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- (ii) the person claims his or her CCYPCG positive notice has not been suspended under the CCYPCG Act; and
 - (iii) the person has applied for a cancellation of the suspension under section 105B and that application has been refused; or
- (d) a relevant disqualified person decision if—
- (i) because of the decision, the chief executive issued a negative notice or negative exemption notice to the person; and
 - (ii) the person claims he or she is not the person to whom the conviction, reporting obligations or order in relation to which the decision was made relates; and
 - (iii) the person has applied for a cancellation of the negative notice or negative exemption notice under section 100, and that application has been refused.

prescribed period, for a review of a part 10 reviewable decision about a person, means 28 days after the person is given notice of the following—

- (a) for a part 10 decision mentioned in definition *part 10 reviewable decision*, paragraph (a)—the decision;
- (b) for a part 10 decision mentioned in definition *part 10 reviewable decision*, paragraph (b)—the decision on the application under section 105 about the suspension;
- (c) for a part 10 decision mentioned in definition *part 10 reviewable decision*, paragraph (c)—the decision on the application under section 105B about the suspension;
- (d) for a part 10 decision mentioned in definition *part 10 reviewable decision*, paragraph (d)—the decision on the application under section 100 about the negative notice or negative exemption notice.

relevant disqualified person decision means—

-
- (a) a decision of the chief executive that a person has been or is convicted of a disqualifying offence for which an imprisonment order was or is imposed;
 - (b) a decision of the chief executive that a person is subject to—
 - (i) offender reporting obligations; or
 - (ii) a final offender prohibition order; or
 - (iii) a disqualification order; or
 - (iv) a final sexual offender order.

‘108A Person may apply for review of part 10 reviewable decision

- ‘(1) A person who is not a disqualified person may apply, within the prescribed period and as otherwise provided under the QCAT Act, to the tribunal for a review of a part 10 reviewable decision about the person.
- ‘(2) If a person applies under subsection (1) to have a part 10 reviewable decision reviewed, the tribunal may not—
 - (a) stay the operation of the decision; or
 - (b) grant an injunction in the proceeding for the review.
- ‘(3) To remove any doubt, it is declared that there is no review or appeal under this Act in relation to a decision of the chief executive to issue, or refuse to cancel, a negative notice or negative exemption notice about a person other than because of a part 10 reviewable decision.

Note—

There is also no review or appeal under this Act in relation to a decision of the chief executive to refuse an eligibility application. See section 107H(7).

- ‘(4) This section does not limit section 111.

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‘108B Effect of applicant for a review becoming a disqualified person

- ‘(1) This section applies if a disqualified person made an application under section 108A before the person became a disqualified person.
- ‘(2) The application and any proceeding in relation to the application must be dismissed—
 - (a) if a proceeding in relation to the application is before a court—by the court; or
 - (b) otherwise—by QCAT, even if the dismissal would be contrary to a direction of the District Court.
- ‘(3) Any appeal by the person from a decision of QCAT on the application must be dismissed.’.

134 Insertion of new pt 10, div 7, sdiv 2, hdg

After section 108—

insert—

‘Subdivision 2 Provisions about investigative information’.

135 Amendment of s 109 (Police commissioner may decide that information about a person is investigative information)

- (1) Section 109(1)(a)—
omit, insert—
 - ‘(a) there is or was evidence of acts or omissions that, at the time of the acts or omissions, constituted a schedule 6A offence (the *alleged offence*) by the investigated person against a person (the *complainant*); and’.
- (2) Section 109—
insert—
- ‘(3) For this section, a *schedule 6A offence* is—

- (a) an offence against a provision of an Act mentioned in schedule 6A, column 1, subject to any qualification relating to the provision mentioned opposite in column 3; or
- (b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or
- (c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or
- (d) an offence that has, as an element, intention to commit an offence of a kind mentioned in paragraph (a); or
- (e) an offence that, at the time it was committed was an offence of a kind mentioned in paragraph (a); or
- (f) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraphs (a) to (e).

Note—

Column 2 in schedule 6A is included for information purposes only and states a section heading for the provision mentioned opposite in column 1.

- ‘(4) For subsection (3), it is immaterial if a provision mentioned in schedule 6A, column 1, for an Act has been amended from time to time or that the provision was previously numbered with a different number.’.

136 Amendment of s 111 (Decision by police commissioner that information is investigative information)

- (1) Section 111(1)(c)—

omit, insert—

- ‘(c) after the investigative information is given to the chief executive, any of the following happens (*relevant event*)—
- (i) a negative notice or negative exemption notice is issued to the person;

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- (ii) the person's positive notice is cancelled and a negative notice or negative exemption notice is substituted for it;
 - (iii) the person's positive exemption notice is cancelled and a negative exemption notice is substituted for it;
 - (iv) the person's eligibility application is refused.'
- (2) Section 111(3)—
omit, insert—
- '(3) However, an appeal under subsection (2) may only be made within 28 days after the person is given notice of the relevant event.'

137 Amendment of s 113 (Consequence of decision on appeal)

Section 113(2)(a), after 'section 85(4) or (7)'—
insert—
'or 103(2)'.
omit, insert—

138 Replacement of s 113 (Consequence of decision on appeal)

Section 113—
omit, insert—

'113 Consequence of decision on appeal

- '(1) This section applies if a Magistrates Court hears and decides an appeal against the police commissioner's decision under section 109 that information given to the chief executive about a person is investigative information.
- '(2) If the court sets aside the decision appealed against, the person may—
- (a) if the person was issued a negative notice or negative exemption notice on the basis of the information—apply

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- under section 100 to cancel the negative notice or negative exemption notice issued to the person on the grounds that the decision to issue the notice was based on wrong information; or
- (b) if the person's eligibility application was refused on the basis of the information—apply under section 107N for the chief executive to revoke the refusal on the grounds the refusal was based on wrong information.
- '(3) If the court confirms the decision appealed against—
- (a) the person who appealed the decision may apply, within 28 days after receiving the notice under section 112(4) and as otherwise provided under the QCAT Act, to the tribunal for a review of a decision of the chief executive if—
- (i) the person is not a disqualified person; and
- (ii) the decision is a part 10 reviewable decision as defined under section 108; and
- (b) the notice under section 112(4) must state how, and the period within which, the person may apply for the review.
- '(4) If a person applies under subsection (3)(a) to have a decision reviewed, the tribunal may not—
- (a) stay the operation of the decision; or
- (b) grant an injunction in the proceeding for the review.
- '(5) In this section—
- issue*—
- (a) in relation to a negative notice—includes substitute a negative notice after cancelling a positive notice; and
- (b) in relation to a negative exemption notice—includes substitute a negative exemption notice after cancelling a positive exemption notice.'

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139 Insertion of new pt 10, div 7, sdiv 3, hdg and s 113A

After section 113—

insert—

‘Subdivision 3 Obtaining police information or information related to police information about a person

‘113A Persons to whom ss 114 and 114A applies

‘Sections 114 and 114A apply in relation to the following persons—

- (a) a person who has a current positive notice or current positive exemption notice;
- (b) a person about whom the chief executive has received a prescribed notice application or exemption notice application, if the application has not been withdrawn;
- (c) a person who has applied to the chief executive to cancel a negative notice or negative exemption notice about the person;
- (d) a person who has applied, under section 105, to the chief executive to cancel the person’s positive notice that is suspended and issue a further positive notice to the person;
- (e) a person who has applied, under section 105B, to the chief executive to cancel the person’s positive exemption notice that is suspended and issue a further positive exemption notice or a positive notice to the person;
- (f) a person who has made an eligibility application if—
 - (i) the chief executive has not given the person written notice under section 107H; and
 - (ii) the application has not been withdrawn;
- (g) a person who has an eligibility declaration, if the eligibility declaration has not expired;

-
- (h) a person who has a negative notice or negative exemption notice if—
 - (i) the person has made an application under section 108A or 113(3) that has not been decided; or
 - (ii) an appeal to an entity has been made in relation to an application under section 108A or 113(3), and the appeal has not been decided.’.

140 Amendment of s 114 (Chief executive may obtain information from police commissioner)

- (1) Section 114(1), from ‘if’—
omit, insert—
‘mentioned in section 113A.’.
- (2) Section 114(3)(c) and (d)—
omit, insert—
 - ‘(c) the person’s address;
 - (d) if the person is currently the holder of a prescribed notice—any number or date relevant to the prescribed notice or a positive notice card;
 - (e) if the person is currently the holder of an exemption notice—any number or date relevant to the exemption notice;
 - (f) whether or not the person is engaged, or to be engaged, as a volunteer;
 - (g) the basis on which the chief executive may request information about the person, including, for example, by referencing the relevant provision of subsection (1).’.
- (3) Section 114—
insert—
 - ‘(6A) If the police commissioner gives the chief executive information under this section about a person who is or has

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been a relevant disqualified person, the information must include the following information about the person—

- (a) that the person is or has been a relevant disqualified person;
- (b) if the person is or has been subject to a disqualification order—the duration and details of the disqualification order;
- (c) if the person is or has been subject to an offender prohibition order—
 - (i) a brief description of the conduct that gave rise to the order; and
 - (ii) the duration and details of the order, including whether it is or was a temporary offender prohibition order or a final offender prohibition order.

‘(6B) If the police commissioner gives the chief executive information under this section about a person who is or has been the subject of an application for a disqualification order or named as the respondent for an application for an offender prohibition order, and the order was not made, the information must include the following information about the person—

- (a) that the person is or has been the subject of an application for a disqualification order or named as the respondent for an application for an offender prohibition order and the order was not made;
- (b) the reasons why the application was made;
- (c) the reasons why the order was not made;
- (d) if the application was for an offender prohibition order and the magistrate or court hearing the application decided not to make a CPOPOA disqualification order for the person—the reasons why the CPOPOA disqualification order was not made.’

(4) Section 114—

insert—

‘(13) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the police commissioner may disclose information to which that part applies to the chief executive for complying with a request under subsection (2) or (4).’.

141 Insertion of new ss 114A and 114B and sdivs 4 and 5 and sdiv 6, hdg

After section 114—

insert—

‘114A Obtaining information from director of public prosecutions

- ‘(1) This section applies to a person mentioned in section 113A.
- ‘(2) If the chief executive becomes aware that the person has been charged with or convicted of an offence, the chief executive may, by notice, ask the director of public prosecutions for the following—
- (a) a written statement briefly describing the circumstances of a charge or conviction for the offence;
 - (b) a copy or written summary of evidentiary material about the offence;
 - (c) if a charge for the offence was not proceeded with—a written summary of the reasons why the charge was not proceeded with.
- ‘(3) The chief executive’s request may include the following information—
- (a) the person’s name and any other name the chief executive believes the person may use or have used;
 - (b) the person’s gender and date and place of birth.
- ‘(4) The director of public prosecutions may comply with a request under subsection (2) if the director reasonably believes the statement, copy or summary may help the chief executive in making a screening decision about the person.

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- ‘(5) However, the director of public prosecutions must not give the chief executive a copy or written summary of evidentiary material about the offence that relates only to a person other than the person about whom the request is made.

Example of evidential material for subsection (5)—

a report by an expert about a person other than the person about whom the request is made

- ‘(6) The director of public prosecutions must not give information, or a document containing information, to the chief executive under this section if the director is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (c) endanger a person’s life or physical safety;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before a court.
- ‘(7) The giving of information, or a document containing information, under this section by the director of public prosecutions is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See section 221 for restrictions on disclosing or giving access to information or documents obtained under this part.

- ‘(8) Without limiting subsection (7), this section applies despite the *Director of Public Prosecutions Act 1984*, section 24A.
- ‘(9) In this section—

evidentiary material, about an offence, means material compiled in the course of the investigation or prosecution of the offence, including, for example, the following—

- (a) a summary of the circumstances of the alleged offence prepared by a police officer;

Examples—

bench charge sheet, QP9

- (b) a witness statement;
- (c) an indictment;
- (d) a record of an interview or a transcript of a record of an interview;
- (e) a report by an expert about the person alleged to have committed the offence.

‘114B Obtaining information from chief executive (corrective services)

- ‘(1) The chief executive (corrective services) must give the chief executive notice of each person who is or becomes subject to a sexual offender order.
- ‘(2) The notice must state the following—
 - (a) the person’s name;
 - (b) that the person is subject to a sexual offender order;
 - (c) any other information the chief executive (corrective services) reasonably considers is necessary for the chief executive to perform a function or exercise a power under this part.
- ‘(3) The chief executive (corrective services) and the chief executive may enter into a written arrangement by which notices are given under subsection (1).
- ‘(4) Without limiting subsection (3), the arrangement may provide for giving the notices electronically.

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- ‘(5) However, if notices under subsection (1) are to be given electronically and, under an Act, there is a limitation on who may access the information mentioned in the notices or the purposes for which that information may be used, the arrangement must provide for the limitation.
- ‘(6) The disclosure of information by the chief executive (corrective services) under this section is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See section 221 for restrictions on disclosing or giving access to information or documents obtained under this part.

- ‘(7) In this section—
- chief executive (corrective services)* means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

‘Subdivision 4 **Obtaining report about person’s mental health**

‘114C **Application of sdiv 4**

- ‘(1) This subdivision applies if—
- (a) the chief executive is deciding whether or not there is an exceptional case for a person who has been—
- (i) charged with or convicted of a serious offence; or
- (ii) charged with or convicted of an offence (other than a serious offence) relating to or involving a person with a disability; and
- (b) the chief executive reasonably believes it is necessary to consider a report about the person’s mental health prepared under this section for deciding whether or not there is an exceptional case for the person.

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- ‘(2) For subsection (1)(b), the chief executive may form the reasonable belief only if—
- (a) in relation to the charge or conviction mentioned in subsection (1)(a)—
 - (i) the matter of the person’s mental condition relating to the offence has been or was referred to the Mental Health Court or an entity of another State with similar functions to that court; or
 - (ii) a court has ordered the person to undertake treatment of a psychiatric nature; or
 - (iii) a court has been given a report about the person’s mental health prepared by a registered health practitioner; or
 - (b) the chief executive has, under this part, been given a report about the person’s mental health prepared by a registered health practitioner.

‘114D Chief executive may request person to undergo examination by registered health practitioner etc.

- ‘(1) The chief executive may, by notice, ask the person—
- (a) to undergo an examination by a registered health practitioner nominated by the chief executive, and any further examination required by the health practitioner, so that a report about the person’s mental health can be given to the chief executive under this subdivision; and
 - (b) to give the chief executive consent to obtain a report about the person’s mental health from the registered health practitioner who conducts the examination.
- ‘(2) The notice given under subsection (1) must state the following—
- (a) the reasons for the chief executive’s request;
 - (b) the name and qualifications of the registered health practitioner nominated by the chief executive to conduct the examination;

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- (c) when and where the examination is to be conducted;
 - (d) that the registered health practitioner may require the person to undergo further examinations so that a report about the person's mental health can be prepared;
 - (e) that, under section 86(2)(c), the chief executive must have regard to the report about the person's mental health prepared under this subdivision in deciding whether or not there is an exceptional case for the person;
 - (f) that the person may withdraw the person's consent to employment screening under this part or, if the person is an applicant for an eligibility declaration, the person's eligibility application;
 - (g) that, if the person fails to undergo the examination, and any further examination required by the registered health practitioner, or to give the consent mentioned in subsection (1)(b), either—
 - (i) the person's consent to screening under this part may be withdrawn under section 117(3A), or the person's eligibility application may be withdrawn under section 107L, by the chief executive giving notice of the withdrawal under that section; or
 - (ii) the chief executive may decide whether or not there is an exceptional case for the person in the absence of a report about the person's mental health.
- (3) If the person does not comply with the chief executive's request under subsection (1), the chief executive may decide whether or not there is an exceptional case for the person in the absence of a report about the person's mental health.

Note—

See also section 107L (in relation to the withdrawal of an eligibility application) and section 117(3A) (in relation to the withdrawal of a prescribed notice application or exemption notice application).

‘114E Nominating registered health practitioner to conduct examination

‘The chief executive may nominate a registered health practitioner to conduct an examination under this subdivision only if the chief executive is reasonably satisfied the health practitioner has the necessary qualifications, expertise or experience to conduct the examination.

‘114F Registered health practitioner obtaining information from Mental Health Court

- ‘(1) This section applies if—
- (a) the person (*charged person*) has been charged with, but not convicted of—
 - (i) a serious offence; or
 - (ii) an offence (other than a serious offence) relating to or involving a person with a disability; and
 - (b) the matter of the charged person’s mental condition relating to the offence has been referred to the Mental Health Court; and
 - (c) the chief executive is reasonably satisfied that it may be necessary or desirable for a registered health practitioner conducting an examination of the charged person under this subdivision to have regard to information mentioned in subsection (2) for preparing a report about the person’s mental health.
- ‘(2) The chief executive may, by notice, ask the charged person to give the Mental Health Court consent to give the registered health practitioner the following information—
- (a) the court’s decision in relation to the reference;
 - (b) the court’s reasons for its decision;
 - (c) a copy or written summary of any expert’s report about the person received in evidence by the court, including, for example, a medical report, psychiatrist’s report or expert report that accompanied the reference;

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- (d) transcripts of any hearing conducted for the reference that the court has directed may be given to a party to the hearing or another person.
- ‘(3) The notice must state the following—
- (a) the reasons for the chief executive’s request;
 - (b) that, if the charged person fails to give the consent, the person’s consent to screening under this part may be withdrawn by the chief executive giving the person notice of the withdrawal.
- ‘(4) If the charged person gives the consent, the Mental Health Court may give the information mentioned in subsection (2) to the chief executive for giving it to the registered health practitioner.
- ‘(5) However, information or documents given under this section must not include—
- (a) any record of material given to the court under the *Mental Health Act 2000*, section 284, or of how the material was taken into account; or
 - (b) the Mental Health Court’s reasons for taking material mentioned in paragraph (a) into account or not taking the material into account; or
 - (c) the content of an expert report about a person other than the charged person; or
 - (d) information about a person other than the charged person the Mental Health Court reasonably considers is not relevant to the registered health practitioner preparing a report about the charged person’s mental health.
- ‘(6) Also, the Mental Health Court must not give information, or a document containing information, under this section if the court is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice an investigation or a matter before the Mental Health Court;

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- (b) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before another court;
 - (f) endanger a person's life or physical safety;
 - (g) adversely affect a person's mental health.
- ‘(7) If the chief executive is given information under this section to give to the registered health practitioner, the chief executive—
- (a) must give the information to the registered health practitioner as soon as possible; and
 - (b) must not use the information for any purpose other than giving it to the registered health practitioner.
- ‘(8) The giving of information under this section by the Mental Health Court is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See sections 114H and 221 for restrictions on disclosing or giving access to information or documents obtained under this section.

- ‘(9) Without limiting subsection (8)—
- (a) information may be given under this section even if the information can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2000*, section 426; and
 - (b) this section applies in relation to an expert's report despite the *Mental Health Act 2000*, section 318.

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- ‘(10) A decision of the Mental Health Court not to give an expert report about the charged person under this section does not prevent the chief executive applying under the *Mental Health Act 2000*, section 318(2) for leave of the court to give the report to the registered health practitioner.

‘114G Registered health practitioner obtaining information from Mental Health Review Tribunal

- ‘(1) This section applies if—
- (a) the person (*charged person*) has been charged with, but not convicted of—
 - (i) a serious offence; or
 - (ii) an offence (other than a serious offence) relating to or involving a person with a disability; and
 - (b) the Mental Health Review Tribunal has reviewed the person’s mental condition under the *Mental Health Act 2000*, chapter 6, part 3 or 4; and
 - (c) the chief executive is reasonably satisfied that it may be necessary or desirable for a registered health practitioner conducting an examination of the charged person under this subdivision to have regard to information mentioned in subsection (2) for preparing a report about the person’s mental health.
- ‘(2) The chief executive may, by notice, ask the charged person to give the Mental Health Review Tribunal consent to give the registered health practitioner the following information—
- (a) the tribunal’s decision on the review;
 - (b) the tribunal’s reasons for the decision;
 - (c) a copy or written summary of any expert’s report about the charged person received by the tribunal in the proceeding for the review, including, for example, a report about an examination of the person by a psychiatrist under the *Mental Health Act 2000*, section 203A;

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- (d) transcripts of any hearing conducted for the review that the tribunal has directed may be given to a party to the hearing or another person.
- ‘(3) The notice must state the following—
- (a) the reasons for the chief executive’s request;
 - (b) that, if the charged person fails to give the consent, the person’s consent to screening under this part may be withdrawn by the chief executive giving the person notice of the withdrawal.
- ‘(4) If the person gives the consent, the Mental Health Review Tribunal may give the information mentioned in subsection (2) to the chief executive for giving it to the registered health practitioner.
- ‘(5) However, information or documents given under this section must not include—
- (a) any record of material given to the Mental Health Review Tribunal under the *Mental Health Act 2000*, section 464, or of how the material was taken into account; or
 - (b) the Mental Health Review Tribunal’s reasons for taking material mentioned in paragraph (a) into account or not taking the material into account; or
 - (c) the content of an expert report about a person other than the charged person; or
 - (d) information about a person other than the charged person the Mental Health Review Tribunal reasonably considers is not relevant to the registered health practitioner preparing a report about the charged person’s mental health.
- ‘(6) Also, the Mental Health Review Tribunal must not give information, or a document containing information, under this section if the tribunal is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice a matter before the tribunal;

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- (b) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before a court;
 - (f) endanger a person's life or physical safety;
 - (g) adversely affect a person's mental health.
- '(7) If the chief executive is given information under this section to give to the registered health practitioner, the chief executive—
- (a) must give the information to the registered health practitioner as soon as possible; and
 - (b) must not use the information for any purpose other than giving it to the registered health practitioner.
- '(8) The giving of information under this section by the Mental Health Review Tribunal is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See sections 114H and 221 for restrictions on disclosing or giving access to information or documents obtained under this section.

- '(9) Without limiting subsection (8), information may be given under this section even if the information can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2000*, section 458.

‘114H Use of information obtained from Mental Health Court or Mental Health Review Tribunal

- ‘(1) This section applies if the chief executive gives a registered health practitioner information or a document about a person given to the commissioner—
- (a) by the Mental Health Court under section 114F; or
 - (b) by the Mental Health Review Tribunal under section 114G.
- ‘(2) The registered health practitioner must not—
- (a) make a record of the information or information in the document; or
 - (b) disclose the information or information in the document to anyone; or
 - (c) give anyone access to the document; or
 - (d) include any details of the information, or information in the document, in the report about the person’s mental health prepared under this subdivision.

Maximum penalty—100 penalty units.

‘114I Chief executive may obtain report about person’s mental health from registered health practitioner

- ‘(1) This section applies if a person gives the chief executive consent as mentioned in section 114D(1)(b) in relation to an examination of the person conducted under this subdivision.
- ‘(2) The chief executive may ask the registered health practitioner who conducts the examination to give a report about the person’s mental health to the chief executive, and the registered health practitioner may give the report to the chief executive.
- ‘(3) The giving of a report under this section by a registered health practitioner is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the examination.

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Note—

See section 221 for restrictions on disclosing or giving access to information or documents obtained under this part.

‘114J Chief executive to bear medical costs

- ‘(1) The chief executive must bear the medical costs for obtaining a report from a registered health practitioner under this subdivision.
- ‘(2) In this section—
 - medical costs*, for obtaining a report from a registered health practitioner under this subdivision, means amounts charged by the health practitioner to—
 - (a) conduct an examination for preparing the report; or
 - (b) prepare the report.

‘Subdivision 5 Obtaining other information about person’s mental health

‘114K Chief executive may obtain particular information from Mental Health Court

- ‘(1) This section applies if—
 - (a) the chief executive is deciding whether or not there is an exceptional case for a person (*charged person*) who has been charged with, but not convicted of—
 - (i) a serious offence; or
 - (ii) an offence (other than a serious offence) relating to or involving a person with a disability; and
 - (b) the matter of the charged person’s mental condition relating to the offence has been referred to the Mental Health Court; and

-
- (c) the chief executive has the charged person's consent to obtain information about the person from the Mental Health Court under this section.
- '(2) The chief executive may ask the Mental Health Court for the following (*requested information*)—
- (a) the court's decision in relation to the reference;
 - (b) the court's reasons for its decision;
 - (c) a copy or written summary of any expert's report about the charged person received in evidence by the court, including, for example, a medical report, psychiatrist's report or expert report that accompanied the reference;
 - (d) transcripts of any hearing conducted for the reference that the court has directed may be given to a party to the hearing or another person.
- '(3) The Mental Health Court may comply with the request if the court reasonably considers the requested information may help the chief executive in deciding whether or not there is an exceptional case for the charged person.
- '(4) However, the information or documents given to the chief executive for complying with the request must not include—
- (a) any record of material given to the court under the *Mental Health Act 2000*, section 284, or of how the material was taken into account; or
 - (b) the Mental Health Court's reasons for taking material mentioned in paragraph (a) into account or not taking the material into account; or
 - (c) information that can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2000*, section 426; or
 - (d) the content of an expert report about a person other than the charged person; or
 - (e) information about a person other than the charged person that the Mental Health Court reasonably considers is not relevant to the chief executive deciding

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whether or not there is an exceptional case for the charged person.

- ‘(5) Also, the Mental Health Court must not give information, or a document containing information, to the chief executive under this section if the court is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice an investigation or a matter before the Mental Health Court;
 - (b) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before another court;
 - (f) endanger a person’s life or physical safety;
 - (g) adversely affect a person’s mental health.
- ‘(6) The giving of information under this section by the Mental Health Court is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See section 221 for restrictions on disclosing or giving access to information or documents obtained under this part.

- ‘(7) Without limiting subsection (6), this section applies in relation to an expert’s report despite the *Mental Health Act 2000*, section 318.
- ‘(8) A decision of the Mental Health Court not to give the chief executive an expert report about the charged person under this section does not prevent the chief executive applying under

the *Mental Health Act 2000*, section 318(2) for leave of the court to give the report to the chief executive.

‘114L Chief executive may obtain particular information from Mental Health Review Tribunal

- ‘(1) This section applies if—
- (a) the chief executive is deciding whether or not there is an exceptional case for a person (*charged person*) who has been charged with, but not convicted of—
 - (i) a serious offence; or
 - (ii) an offence (other than a serious offence) relating to or involving a person with a disability; and
 - (b) the Mental Health Review Tribunal has reviewed the person’s mental condition under the *Mental Health Act 2000*, chapter 6, part 3 or 4; and
 - (c) the chief executive has the charged person’s consent to obtain information about the person from the Mental Health Review Tribunal under this section.
- ‘(2) The chief executive may ask the Mental Health Review Tribunal for the following (*requested information*)—
- (a) the tribunal’s decision on the review;
 - (b) the tribunal’s reasons for the decision;
 - (c) a copy or written summary of any expert’s report about the charged person received by the tribunal in the proceeding for the review, including, for example, a report about an examination of the person by a psychiatrist under the *Mental Health Act 2000*, section 203A;
 - (d) transcripts of any hearing conducted for the review that the tribunal has directed may be given to a party to the hearing or another person.
- ‘(3) The Mental Health Review Tribunal may comply with the request if the tribunal reasonably considers the requested

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information may help the chief executive in deciding whether or not there is an exceptional case for the charged person.

- ‘(4) However, the information or documents given to the chief executive for complying with the request must not include—
- (a) any record of material given to the Mental Health Review Tribunal under the *Mental Health Act 2000*, section 464, or of how the material was taken into account; or
 - (b) the tribunal’s reasons for taking material mentioned in paragraph (a) into account or not taking the material into account; or
 - (c) information that can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2000*, section 458; or
 - (d) the content of an expert report about a person other than the charged person; or
 - (e) information about a person other than the charged person that the Mental Health Review Tribunal reasonably considers is not relevant to the chief executive deciding whether or not there is an exceptional case for the charged person.
- ‘(5) Also, the Mental Health Review Tribunal must not give information, or a document containing information, to the chief executive under this section if the tribunal is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice a matter before the tribunal;
 - (b) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (c) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or

dealing with a contravention or possible contravention of the law;

- (e) prejudice a prosecution or another matter before a court;
 - (f) endanger a person's life or physical safety;
 - (g) adversely affect a person's mental health.
- ‘(6) The giving of information under this section by the Mental Health Review Tribunal is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See section 221 for restrictions on disclosing or giving access to information or documents obtained under this part.

‘Subdivision 6 Obtaining information about changes in police information’.

142 Amendment of s 115 (Notice of change in police information about a person)

- (1) Section 115(1), from ‘either’ to ‘to (c)’—

omit, insert—

‘any of the following happens (the *relevant event*), the police commissioner reasonably suspects the person is a person mentioned in section 113A(a) to (h)’.

- (2) Section 115(1)—

insert—

- ‘(c) the person becomes, or is no longer, a relevant disqualified person;
- (d) the person is named as the respondent for an application for an offender prohibition order.’.

- (3) Section 115(5) to (7)—

renumber as section 115(7) to (9).

[s 142]

- (4) Section 115(2) to (4)—
omit, insert—
- ‘(2) For a relevant event mentioned in subsection (1)(a) or (b), the police commissioner may notify the chief executive of the following—
- (a) that the relevant event has happened;
 - (b) if subsection (1)(a) applies because the person has been charged with or convicted of an offence—
 - (i) the offence the person has been charged with or convicted of; and
 - (ii) the particulars of the offence; and
 - (iii) the date of the charge or conviction;
 - (c) if subsection (1)(b) applies—a brief description of the investigative information.
- ‘(4) A notice given under subsection (2) must state the following—
- (a) the person’s name and any other name that the police commissioner believes the person may use or may have used;
 - (b) the person’s gender and date and place of birth.
- ‘(5) The chief executive may confirm the police commissioner’s suspicions under subsection (1).
- ‘(6) The duty imposed on the police commissioner to provide information to the chief executive under this section applies only to information in the police commissioner’s possession or to which the police commissioner has access.’.
- (5) Section 115—
insert—
- ‘(3) For a relevant event mentioned in subsection (1)(c) or (d), the police commissioner must notify the chief executive of the following—
- (a) that the relevant event has happened;

-
- (b) if subsection (1)(c) applies because the person has become a relevant disqualified person—the information mentioned in section 114(6A);
- (c) if subsection (1)(d) applies—the information mentioned in section 114(6B) in relation to the offender prohibition order.’.
- (6) Section 115(4) and (7), after ‘subsection (2)’—
insert—
‘or (3)’.
- (7) Section 115—
insert—
- ‘(10) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the police commissioner may disclose information to which that part applies to the chief executive under subsection (2) or (3).’.

143 Insertion of new pt 10, div 7, sdiv 7, hdg

After section 115—

insert—

‘Subdivision 7 Other miscellaneous provisions’.

144 Amendment of s 116 (Chief executive to give notice to funded non-government service provider about making screening decision about engaged person)

- (1) Section 116(1)(a), from ‘the holder’ to ‘*person*’—
omit, insert—
‘an engaged person’.
- (2) Section 116(2)—
omit, insert—
- ‘(2) However, this section does not apply to a change in police information if—

[s 144]

- (a) the change is that the engaged person—
 - (i) has been charged with or convicted of a disqualifying offence; or
 - (ii) has become a relevant disqualified person; or
- (b) both of the following apply—
 - (i) the change is that the engaged person has been named as the respondent in an application for an offender prohibition order and the proceeding for the offender prohibition order has not ended;
 - (ii) an application for a prescribed notice or exemption notice about the engaged person has been made under this part and has not been decided.’.
- (3) Section 116(3) and (4)—
omit, insert—
- ‘(3) If the chief executive considers the change in police information may be relevant to the engagement of the engaged person by a funded non-government service provider, the chief executive must give notice to the service provider stating the following—
 - (a) the engaged person’s name and identifying details;
 - (b) the chief executive has received police information about the engaged person that the chief executive considers relevant to the engagement of the engaged person by the service provider;
 - (c) the chief executive is making a screening decision about the engaged person;
 - (d) a reminder of the risk management requirements under section 82;
 - (e) a funded non-government service provider may not terminate the engagement of the engaged person solely or mainly because the service provider is given a notice under this section;

-
- (f) if the change in police information is a change in criminal history, whether it is a charge or conviction and whether or not the charge or conviction is for a serious offence.’.
- (4) Section 116(3)—
insert—
‘(g) if the change in police information is a conviction for a serious offence—
(i) that under section 91, it is an offence for the funded non-government service provider to engage, or continue to engage, the engaged person at a service outlet of the service provider; and
(ii) the effect of section 94.’.
- (5) Section 116(5)—
renumber as section 116(4).
- (6) Section 116—
insert—
‘(5) In this section—
engaged person means—
(a) the holder of a positive notice, other than a positive notice that is suspended under section 104; or
(b) the holder of a positive exemption notice, other than a positive exemption notice that is suspended under section 105A; or
(c) a person about whom a prescribed notice application or exemption notice application is made if the application has not been decided or withdrawn.’.

145 Amendment of s 117 (Withdrawal of engaged person’s consent to screening)

- (1) Section 117(1), after ‘prescribed notice’—
insert—

[s 145]

‘or exemption notice’.

(2) Section 117—

insert—

‘(3A) Also, the engaged person is taken to have withdrawn his or her consent to screening under this part if—

(a) the chief executive gives the engaged person—

(i) a notice asking the person to provide, within a reasonable stated time, stated information, including by way of a submission, about a stated matter that the chief executive reasonably believes is relevant to the application; or

(ii) a notice under section 114D; or

(iii) a notice asking the person to give the necessary consent for section 114F or 114G; or

(iv) a notice asking the person to give the necessary consent for section 114K or 114L; and

(b) the notice includes a warning that, if the engaged person does not comply with the notice, the chief executive may give the person a notice of deemed withdrawal; and

(c) the engaged person does not comply with the notice; and

(d) the chief executive gives the engaged person and the service provider a notice of deemed withdrawal.’.

(3) Section 117(4), ‘Also’—

omit, insert—

‘Further’.

(4) Section 117(5), ‘Further’—

omit, insert—

‘In addition’.

(5) Section 117(5)(a), ‘an excluding offence’—

omit, insert—

‘a disqualifying offence, whether the charge was made before, when or after the application was made’.

(6) Section 117—

insert—

‘(5A) Additionally for an exemption notice application, the engaged person is taken to have withdrawn his or her consent to screening under this part if—

(a) the engaged person gives the chief executive, or the chief executive gives the engaged person, notice that the engaged person’s CCYPCG positive notice is suspended under the CCYPCG Act; and

(b) the chief executive gives the engaged person and the service provider a notice of deemed withdrawal.’.

(7) Section 117(6), after ‘prescribed notice’—

insert—

‘or exemption notice’.

146 Amendment of s 118 (Compliance with requirement to end, or not start, a person’s engagement)

Section 118(4)—

omit, insert—

‘(4) A person whose positive notice is suspended under section 104, or whose positive exemption notice is suspended under section 105A, may be engaged by the service provider other than at a service outlet of the service provider until the suspension ends.’.

147 Amendment of s 122 (Disqualification order)

(1) Section 122(1)—

omit, insert—

‘(1) This section applies if a person is convicted of—

[s 148]

- (a) a disqualifying offence and the court that convicts the person does not impose an imprisonment order for the offence; or
 - (b) another serious offence committed in relation to, or otherwise involving, a person with a disability.’.
- (2) Section 122(2) from ‘stating’—
omit, insert—
‘stating that—
- (a) the person may not hold a positive notice or positive exemption notice, or apply for a prescribed notice or exemption notice, for a stated period; or
 - (b) the person may never hold a positive notice or positive exemption notice or apply for a prescribed notice or exemption notice.’.
- (3) Section 122(3)—
renumber as section 122(5).
- (4) Section 122—
insert—
- ‘(3) However, the court may make the disqualification order only if the court considers it would not be in the interests of people with a disability for the chief executive to issue a positive notice or positive exemption notice to the person.
- ‘(4) A person against whom the disqualification order is made may appeal against the court’s decision under subsection (2) in the same way the person may appeal against the conviction.’.

148 Amendment of s 123 (Register of persons engaged by funded non-government entities)

- (1) Section 123(1), from ‘information’—
omit, insert—
‘information for the following—

-
- (a) each person engaged by the department at a service outlet of the department;
- (b) each person for whom a prescribed notice application or exemption notice application is made.’.
- (2) Section 123(2)(a) to (f)—
omit, insert—
- ‘(a) the person’s name;
- (b) whether the person is engaged by the department or by a funded non-government service provider and, if the person is engaged by a funded non-government service provider, the service provider’s name;
- (c) whether the person has been issued a positive notice, negative notice, positive exemption notice or negative exemption notice;
- (d) the date of issue of the prescribed notice or exemption notice;
- (e) if the person’s consent to screening under part 10 is taken to have been withdrawn, the date of the withdrawal;
- (f) if the person applies for a review of a decision of the chief executive relating to a prescribed notice or exemption notice, the details of the review and its outcome.’.

149 Amendment of s 123ZL (Period for which short term approval has effect)

Section 123ZL(2), ‘3 months’—

omit, insert—

‘6 months’.

[s 150]

150 Amendment of s 123ZZG (Definitions for sdiv 3)

Section 123ZZG, definition *health professional*, paragraphs (a) to (c)—

omit, insert—

- ‘(a) a registered health practitioner;
- (b) any other person, including, for example, an audiologist, dietitian or social worker.’.

151 Amendment of s 221 (Confidentiality of information about criminal history and related information)

(1) Section 221(1)(b), after ‘under’—

insert—

‘previous’.

(2) Section 221(2)—

omit, insert—

‘(2) This section also applies to a person who—

- (a) is, or has been, the chief executive, a public service employee or a selection panel member; and
- (b) in that capacity acquired information, or gained access to a document, under part 10 about—
 - (i) another person’s police information; or
 - (ii) another person’s mental health, including information, or a document, about a proceeding in the Mental Health Court or the Mental Health Review Tribunal.’.

(3) Section 221(4)(b)—

omit, insert—

‘(b) if subsection (2) applies—

- (i) to the chief executive or a public service employee for the purpose of a screening decision; or

- (ii) for information or a document about a person engaged or to be engaged by the department—to the chief executive, a public service employee or selection panel member for the purpose of assessing the person’s suitability to be, or continue to be, engaged by the department at a service outlet; or’.

- (4) Section 221(5)—

insert—

‘previous part 9 means part 9 of this Act as in force from time to time before the commencement of this definition.’.

152 Amendment of s 248 (Circumstances in which subdivision stops applying)

Section 248(2)(a)—

omit, insert—

- ‘(a) for a restrictive practice considered by the tribunal—the tribunal gives, or refuses to give, an approval under the *Guardianship and Administration Act 2000*, section 80V or 80X authorising the relevant service provider to use the restrictive practice in relation to the adult; or’.

153 Amendment of s 250 (Short term approvals not to be given during transitional period)

Section 250—

insert—

- ‘(2) In this section—

transitional period means the period starting on the commencement and ending on the date of assent of the *Criminal History Screening Legislation Amendment Act 2010*.’.

[s 154]

154 Renumbering of pt 16, div 3 (Transitional provision for Criminal Code and Other Acts Amendment Act 2008)

Part 16, division 3, second mention—

renumber as part 16, division 4.

155 Renumbering of s 241 (References in schs 3 and 5 to Criminal Code offence)

Section 241, second mention—

renumber as section 251.

156 Insertion of new pt 16, div 5

Part 16—

insert—

‘Division 5 Transitional provisions for Criminal History Screening Legislation Amendment Act 2010

‘Subdivision 1 Preliminary

‘252 Definition for div 5

‘In this division—

amending Act means the *Criminal History Screening Legislation Amendment Act 2010*.

‘Subdivision 2 Transitional provisions relating to previous part 9

‘253 Definitions for sdiv 2

‘In this subdivision—

commencement means the commencement of this section.

engaged by the department means engaged by the department as defined under section 63 of the unamended Act.

prescribed police information means a report or other information mentioned in section 70(2) of the unamended Act.

unamended Act means this Act as in force from time to time before the commencement.

‘254 Notice about change in criminal history not given at the commencement

- ‘(1) This section applies if—
- (a) before the commencement, there is a change in the criminal history of a person engaged by the department; and
 - (b) at the commencement, the person has not disclosed the details of the change to the chief executive as required by section 67 of the unamended Act; and
 - (c) the person is engaged by the department at a service outlet of the department.
- ‘(2) Section 95A applies in relation to the change in the person’s criminal history.

Note—

See also the *Public Service Act 2008*, sections 155B and 257.

‘255 Request for prescribed police information not complied with at the commencement

- ‘(1) This section applies if—
- (a) the chief executive has, under section 70 of the unamended Act, asked the police commissioner for prescribed police information about a person; and
 - (b) at the commencement, the police commissioner has not given the prescribed police information to the chief executive.

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- ‘(2) Despite section 70(3) of the unamended Act, the police commissioner is no longer required to comply with the chief executive’s request.

‘256 Particular prescribed police information obtained but not used before commencement

- ‘(1) This section applies if—
- (a) before the commencement, the police commissioner gave the chief executive a person’s prescribed police information under section 70 of the unamended Act; and
 - (b) at the commencement, the chief executive has not, in relation to the prescribed police information, made an assessment about the person’s suitability for engagement, or continued engagement, by the department under section 72 of the unamended Act.
- ‘(2) The chief executive must immediately—
- (a) destroy the prescribed police information; and
 - (b) stop making the assessment.

Note—

Now see the following for assessing the person’s suitability for engagement, or continued engagement, by the department—

- (a) if the person is engaged or to be engaged at a service outlet of the department—part 10;
- (b) if the person is engaged or to be engaged in regulated employment—the CCYPCG Act, chapter 8 and the *Public Service Act 2008*, chapter 5, part 6, division 3A;
- (c) in any other case—the *Public Service Act 2008*, chapter 5, part 6.

‘257 Notice not given by prosecuting authority at the commencement

- ‘(1) This section applies if—
- (a) before the commencement, a person engaged by the department is charged with an indictable offence; and

- (b) at the commencement, the police commissioner or director of public prosecutions (a *prosecuting authority*) has not given information about the charge to the chief executive as required by section 71 of the unamended Act.
- ‘(2) Despite section 71 of the unamended Act, the prosecuting authority is no longer required to give the information to the chief executive.

‘258 Use of particular information obtained before commencement

‘Section 72(2) of the unamended Act continues to apply in relation to information about a person received by the chief executive under part 9 of the unamended Act as if the amending Act had not been enacted.

‘Subdivision 3 Transitional provisions relating to particular amendments of part 10

‘259 Explanation of sdiv 3

- ‘(1) The amendments of provisions of part 10 of this Act by the amending Act are to commence in 2 stages.
- ‘(2) This subdivision provides for particular transitional arrangements for amendments of provisions of part 10 that are to commence in the first of the 2 stages.

‘260 Definitions for sdiv 3

‘In this subdivision—

commencement means the commencement of this section.

stage 2 commencement date means the day subdivision 4 commences.

unamended Act means this Act as in force from time to time before the commencement.

‘261 New serious offences

- ‘(1) The amendment of section 79 by the amending Act does not affect a positive notice that is in force at the commencement.
- ‘(2) Without limiting subsection (1), the chief executive may not cancel a person’s positive notice on the basis the person would not have been issued a positive notice under this Act because the person was charged with or convicted of a new serious offence before the commencement.
- ‘(3) However, subsections (1) and (2) do not prevent the chief executive having regard to a charge or conviction of a person for a new serious offence happening before the commencement in making a decision about the person if—
 - (a) the decision is being made under this Act after the commencement—
 - (i) because there has been a change in the person’s criminal history; or
 - (ii) because the chief executive has become aware of the charge or conviction (but was not aware of it at the time the positive notice was issued); or
 - (b) the decision relates to a prescribed notice application about the person—
 - (i) to which section 262 applies; or
 - (ii) made after the commencement.
- ‘(4) In this section—

new serious offence means an offence that—

 - (a) is a serious offence under this Act; but
 - (b) was not a serious offence under section 79 as in force immediately before the commencement.

‘262 Existing applications for prescribed notice

- ‘(1) This section applies if—

- (a) a prescribed notice application has been made about a person; and
 - (b) the application has not been decided or withdrawn at the commencement.
- ‘(2) This Act applies to the application and, if the application complies with the requirements of the unamended Act, the application is not invalid only because it does not comply with this Act as in force immediately after the commencement.

‘263 Continuation if chief executive acting on own initiative

- ‘(1) This section applies if—
- (a) before the commencement, the chief executive had started on the chief executive’s own initiative to exercise a power in relation to a person or a prescribed notice; and
 - (b) the chief executive may, immediately after the commencement, exercise the power under this Act.
- ‘(2) The chief executive may continue to exercise the power under this Act in relation to the person or prescribed notice.

‘264 Replacement of positive notice or positive notice card

- ‘(1) This section applies if—
- (a) a person’s current positive notice or current positive notice card is lost or stolen 14 days or less before the commencement; and
 - (b) at the commencement, the person has not applied for a replacement notice or card as required under section 106 of the unamended Act.
- ‘(2) Section 106 of the unamended Act does not apply to the person.
- ‘(3) Section 106 as in force after the commencement applies to the person as if the reference to 14 days after the loss or theft were a reference to the later of the following—

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- (a) 14 days after the loss or theft;
- (b) 7 days after the commencement.

‘265 Existing reviews and appeals

- ‘(1) This section applies if—
 - (a) before the commencement, a person—
 - (i) applied for a review of a decision of the chief executive under section 108 or 113(2)(a) of the unamended Act; or
 - (ii) appealed under the QCAT Act against a decision of the tribunal relating to a review under section 108 or 113(2)(a) of the unamended Act; and
 - (b) the review or appeal has not been decided at the commencement.
- ‘(2) The entity hearing the review or appeal must apply this Act in relation to the matter the subject of the review or appeal.
- ‘(3) Without limiting subsection (2), the entity may exercise a power of the chief executive under part 10 for deciding a review of a decision of the chief executive, or an appeal against a decision of the tribunal, as to whether or not there is an exceptional case for a person.

‘266 Police commissioner’s decision that information is investigative information

- ‘(1) This section applies in relation to an offence (*new investigative information offence*) that—
 - (a) is a schedule 6A offence; but
 - (b) was not a serious sexual or violent offence within the meaning of that term under the unamended Act.
- ‘(2) Section 109 applies in relation to a positive notice holder’s acts or omissions constituting a new investigative information offence even if the acts were committed or omissions were made before the commencement of this section.

- ‘(3) In this section—
schedule 6A offence see section 109.

‘267 References to exemption notices etc.

- ‘(1) The purpose of this section is to explain references to any of the following in a provision of this Act as in force immediately after the commencement—
- (a) an exemption notice application;
 - (b) an exemption notice;
 - (c) a positive exemption notice or negative exemption notice;
 - (d) a provision of proposed part 10, division 4A.
- ‘(2) Proposed part 10, division 4A provides for the making of an exemption notice application and the issue of an exemption notice to a person who holds a CCYPCG positive notice.
- ‘(3) An exemption notice issued under proposed part 10, division 4A may be a positive exemption notice or negative exemption notice.
- ‘(4) Proposed part 10, division 4A is to commence at the stage 2 commencement date, which is after the commencement.
- ‘(5) A reference in part 10 to a thing mentioned in subsection (1)(a) to (d) does not have any effect until the stage 2 commencement date.
- ‘(6) In this section—
proposed part 10, division 4A means part 10, division 4A of this Act to be inserted by the amending Act.

‘268 References to eligibility declarations etc.

- ‘(1) The purpose of this section is to explain references to any of the following in a provision of this Act as in force immediately after the commencement—
- (a) an eligibility application;

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- (b) an eligibility declaration;
 - (c) a provision of proposed part 10, division 6B.
- ‘(2) Proposed part 10, division 6B provides for the making of an eligibility application and the issue of an eligibility declaration to a person.
- ‘(3) Proposed part 10, division 6B is to commence at the stage 2 commencement date, which is after the commencement.
- ‘(4) A reference in part 10 to a thing mentioned in subsection (1)(a) to (c) does not have any effect until the stage 2 commencement date.
- ‘(5) In this section—
- proposed part 10, division 6B* means part 10, division 6B of this Act to be inserted by the amending Act.

‘Subdivision 4 Transitional provisions relating to other amendments of part 10

‘269 Explanation of sdiv 4

- ‘(1) The amendments of provisions of part 10 of this Act by the amending Act are to commence in 2 stages.
- ‘(2) This subdivision provides for particular transitional arrangements for amendments of provisions of part 10 that are to commence in the second of the 2 stages.

‘270 Definitions for sdiv 4

‘In this subdivision—

commencement means the commencement of this section.

unamended Act means this Act as in force from time to time before the commencement.

‘271 Obtaining particular information from police commissioner about particular persons

- ‘(1) This section applies in relation to a person if—
- (a) the person—
 - (i) has a current positive notice; or
 - (ii) is the subject of an application for a prescribed notice that has not been decided or withdrawn at the commencement; or
 - (iii) has made an application for the cancellation of the person’s negative notice, or the cancellation of the suspension of the person’s positive notice, that has not been decided or withdrawn at the commencement; and
 - (b) under section 114, the chief executive requested information from the police commissioner, or access to the police commissioner’s records, about the person before the commencement.
- ‘(2) If, at the commencement, the police commissioner has complied with the request, the chief executive may ask the police commissioner for information, or access to the police commissioner’s records, to enable the chief executive to learn whether there is any new police information about the person.
- ‘(3) Section 114 applies in relation to the chief executive’s request under subsection (2) as if it were made under section 114(2) in relation to only new police information.
- ‘(4) If, at the commencement, the police commissioner has not complied with the request, section 114 as in force from the commencement applies in relation to the request.
- ‘(5) In this section—
- new police information* means information mentioned in section 114(6A) or (6B).

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‘272 Existing applications for prescribed notice about a disqualified person who is not a relevant disqualified person

- ‘(1) This section applies to a prescribed notice application made before the commencement if the application—
- (a) has not been decided or withdrawn at the commencement; and
 - (b) relates to a person who is a disqualified person but not a relevant disqualified person.
- ‘(2) If, at the time of the application, the person did not hold a positive notice or held a positive notice that was suspended under section 104—
- (a) the application is taken to have been withdrawn; and
 - (b) the chief executive must give notice of the withdrawal to the person and the funded non-government service provider who made the application.
- ‘(3) If, at the time of the application, the person held a positive notice that was not suspended under section 104—
- (a) the person is taken to have been issued with an eligibility declaration other than for section 85(6)(b); and
 - (b) the chief executive must decide the application under this Act.
- ‘(4) Subject to subsection (5), this Act applies to an application mentioned in subsection (3)(b) and, if the application complies with the requirements of the unamended Act, the application is not invalid only because it does not comply with this Act as in force immediately after the commencement.
- ‘(5) Despite section 89(2), a prescribed notice issued under subsection (3)(b) in relation to a prescribed notice application made before the commencement remains current for 2 years after it is issued, unless it is earlier cancelled under part 10, division 6.

‘273 Existing applications for prescribed notice about a relevant disqualified person

- ‘(1) This section applies to a prescribed notice application made before the commencement if the application—
- (a) has not been decided or withdrawn at the commencement; and
 - (b) relates to a person who is a relevant disqualified person.
- ‘(2) The application is taken to have been withdrawn.
- ‘(3) The chief executive must give notice of the withdrawal to the person and the funded non-government service provider who made the application.

‘274 Other existing applications for prescribed notice

- ‘(1) This section applies if—
- (a) a prescribed notice application has been made about a person; and
 - (b) the application has not been decided or withdrawn at the commencement; and
 - (c) neither section 272 nor section 273 applies to the application.
- ‘(2) Subject to subsection (3), this Act applies to the application and, if the application complies with the requirements of the unamended Act, the application is not invalid only because it does not comply with this Act as in force immediately after the commencement.
- ‘(3) Despite section 89(2), a prescribed notice issued under subsection (2) in relation to a prescribed notice application made before the commencement remains current for 2 years after it is issued, unless it is earlier cancelled under part 10, division 6.

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‘275 Existing positive notices held by disqualified persons who are not relevant disqualified persons

- ‘(1) This section applies in relation to a positive notice issued under section 85(2)(a) before the commencement to a person who is a disqualified person but who is not—
- (a) a relevant disqualified person; or
 - (b) a person in relation to whom the chief executive has started, before the commencement, to exercise a power under section 101.
- ‘(2) If, at the commencement, the positive notice is not suspended under section 104, the person is taken to have been issued with an eligibility declaration.
- ‘(3) If, at the commencement, the positive notice is suspended under section 104, this Act continues to apply in relation to the positive notice.
- ‘(4) If, after the commencement, the chief executive is to make a decision about the person under section 85, and it is the first time the chief executive is to make a decision under that section about the person after the commencement, section 85(6)(b) does not apply to the chief executive making the decision.
- ‘(5) Without limiting subsection (3), the chief executive may have regard to a charge or conviction of a person for a new disqualifying offence happening before the commencement in making a decision about the person or the person’s positive notice under this Act.
- ‘(6) In this section—
- new disqualifying offence* means an offence that—
- (a) is a disqualifying offence under this Act; but
 - (b) was not an excluding offence under section 81 as in force immediately before the commencement.

‘276 Existing positive notices held by relevant disqualified person because of temporary or interim order

- ‘(1) This section applies in relation to a positive notice issued under section 85(2) before the commencement (including a positive notice that is suspended under section 104 at the commencement) to a person who is a relevant disqualified person only because the person is subject to either or both of the following—
- (a) a temporary offender prohibition order;
 - (b) an interim sexual offender order.
- ‘(2) If the positive notice is not suspended under section 104 at the commencement, the chief executive must, by notice given to the person, suspend the person’s positive notice.
- ‘(3) The notice must state the matters mentioned in section 104(2).
- ‘(4) If the positive notice is suspended under section 104 at the commencement, the suspension continues subject to subsection (5).
- ‘(5) Sections 104 and 105 apply to the suspended positive notice as if the notice were suspended under section 104(1) as in force immediately after the commencement.

‘277 Existing positive notices held by other relevant disqualified person

- ‘(1) This section applies in relation to a positive notice issued under section 85(2) before the commencement (including a positive notice that is suspended under section 104 at the commencement) to a person who is a relevant disqualified person other than a relevant disqualified person mentioned in section 276(1).
- ‘(2) The positive notice is cancelled.
- ‘(3) If the positive notice is suspended under section 104 at the commencement, any application for the cancellation of the suspension under section 105 that has not been decided or withdrawn at the commencement is taken to have been withdrawn.

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- ‘(4) The chief executive must give notice of the cancellation of the positive notice to—
- (a) the person; and
 - (b) the funded non-government service provider who—
 - (i) is engaging the person at a service outlet of the service provider; or
 - (ii) if the positive notice is suspended under section 104 at the commencement—was engaging the person at a service outlet of the service provider immediately before the positive notice was suspended.
- ‘(5) A notice mentioned in subsection (4)—
- (a) must state that the positive notice is cancelled and the date the positive notice is cancelled; and
 - (b) is taken, for section 91 and 92, to be a notice that a negative notice has been issued to the person on the date the positive notice is cancelled.

‘278 Currency of existing prescribed notices

- ‘(1) A positive notice in force at the commencement remains current for 2 years after it was issued under the unamended Act, unless it is earlier cancelled under part 10, division 6.
- ‘(2) Subsection (1) applies despite section 89(2).

‘279 Existing applications to cancel negative notice by relevant disqualified person

- ‘(1) This section applies if—
- (a) a person who is a relevant disqualified person has applied to the chief executive to cancel the person’s negative notice under section 100 or 101(3); and
 - (b) the application has not been decided or withdrawn at the commencement.

- '(2) The application is taken to have been withdrawn.
- '(3) The chief executive must give notice of the withdrawal to the person.

'280 Other existing applications to cancel a negative notice

- '(1) This section applies if—
 - (a) a person has applied to the chief executive to cancel the person's negative notice under section 100 or 101(3); and
 - (b) the application has not been decided or withdrawn at the commencement; and
 - (c) section 279 does not apply to the application.
- '(2) This chief executive must decide the application under this Act.
- '(3) For subsection (2), an application made under section 101(3) of the unamended Act is taken to have been made under section 100.

'281 Continuation if chief executive acting on own initiative

- '(1) This section applies if—
 - (a) before the commencement, the chief executive had started on the chief executive's own initiative to exercise a power in relation to a person or a prescribed notice; and
 - (b) the chief executive may, immediately after the commencement, exercise the power under this Act.
- '(2) The chief executive may continue to exercise the power under this Act in relation to the person or prescribed notice.
- '(3) For subsection (1)(b), the chief executive's power under section 103 of the unamended Act is taken to be exercisable, immediately after the commencement, under section 101(1)(b)(ii).

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‘282 Application of s 107D and sch 7, definition *relevant disqualified person*

‘For section 107D(1)(a) and schedule 7, definition *relevant disqualified person*, paragraph (a), it is immaterial as to when the offence mentioned in the provision was committed or when the person to whom the provision applies was convicted.

Example—

An offence may have been committed, and the person convicted of the offence, before the commencement.

‘283 Application of s 107E

- ‘(1) This section applies in relation to a person who—
- (a) is a disqualified person; and
 - (b) at the commencement, is engaged by a funded non-government service provider at a service outlet of the service provider; and
 - (c) is not a person in relation to whom section 272(3) or 275(2) applies.
- ‘(2) To remove any doubt, it is declared that section 107E(1)(b) applies to the person even if it is not an offence for a funded non-government service provider to engage the person at a service outlet of the service provider.

‘284 Existing reviews and appeals by disqualified person

- ‘(1) This section applies if—
- (a) before the commencement, a person—
 - (i) applied for a review of a decision of the chief executive under section 108 or 113(2)(a) of the unamended Act; or
 - (ii) appealed under the QCAT Act against a decision of the tribunal relating to a review under section 108 or 113(2)(a) of the unamended Act; and

- (b) the review or appeal has not been decided at the commencement; and
 - (c) the person is a disqualified person.
- ‘(2) The entity hearing the review or appeal must dismiss the review or appeal.

‘285 Other existing reviews and appeals

- ‘(1) This section applies if—
- (a) before the commencement, a person—
 - (i) applied for a review of a decision of the chief executive under section 108 or 113(2)(a) of the unamended Act; or
 - (ii) appealed under the QCAT Act against a decision of the tribunal relating to a review under section 108 or 113(2)(a) of the unamended Act; and
 - (b) the review or appeal has not been decided at the commencement; and
 - (c) the person is not a disqualified person.
- ‘(2) The entity hearing the review or appeal must apply this Act in relation to the matter the subject of the review or appeal.
- ‘(3) For subsection (2), a review under section 108 of the unamended Act is taken to be a review under section 108A.
- ‘(4) Without limiting subsection (2), the entity may exercise a power of the chief executive under part 10 for deciding a review of a decision of the chief executive, or an appeal against a decision of the tribunal, as to whether or not there is an exceptional case for a person.

‘286 Disqualification orders for acts done or omissions made before commencement

‘A court may make a disqualification order under section 122 in relation to a person convicted of an offence after the

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commencement arising out of an act done or omission made before the commencement.

'287 Continuing engagement of volunteers

- '(1) This section applies if—
- (a) immediately before the commencement, a person was engaged by a funded non-government service provider at a service outlet of the service provider as a volunteer; and
 - (b) at the commencement—
 - (i) the person does not have a current positive notice; and
 - (ii) there is a current prescribed notice application about the person.
- '(2) The funded non-government service provider—
- (a) may continue to engage the person in the regulated engagement even though the person does not have a current positive notice; and
 - (b) does not commit an offence against section 90C for the continued engagement.
- '(3) Subsection (2) applies until the earlier of the following—
- (a) 12 months after the commencement;
 - (b) the funded non-government service provider is given a notice by the chief executive that a negative notice has been issued to the person or the application is withdrawn.

'288 Provision about persons engaged to provide disability services only to children

- '(1) Sections 272 to 274 apply in relation to a prescribed notice application about a person engaged, or to be engaged, by a funded non-government service provider to provide disability services only to children.

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- ‘(2) Sections 89 and 275 to 277 apply in relation to a current positive notice held by a person engaged by a funded non-government service provider to provide disability services only to children.
 - ‘(3) A current positive notice card or current negative notice held by a person engaged by a funded non-government service provider to provide disability services only to children continues subject to section 89.
 - ‘(4) This section applies despite section 76A.
 - ‘(5) In this section—

current, for a prescribed notice or positive notice card, means current under section 89 at the commencement.

Note—

See the CCYPCG Act, chapter 8 for obligations relating to children disability services.

‘289 Provision about holders of CCYPCG positive notice

- ‘(1) Sections 272 to 274 apply in relation to a prescribed notice application about the holder of a CCYPCG positive notice despite section 82B.
- ‘(2) Sections 89 and 275 to 277 apply in relation to a current positive notice held by the holder of a CCYPCG positive notice at the commencement despite section 82B.
- ‘(3) A current positive notice card or current negative notice held by the holder of a CCYPCG positive notice at the commencement continues in effect despite section 82B but subject to section 89.
- ‘(4) Section 107B applies to a current positive notice or current negative notice held by the holder of a CCYPCG positive notice at the commencement.
- ‘(5) A court may make an order under section 122 before the commencement stating that a person who holds a CCYPCG positive notice—

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- (a) may not hold a positive exemption notice, or apply for an exemption notice, for a stated period; or
- (b) may never hold a positive exemption notice or apply for an exemption notice.

‘Subdivision 5 Other transitional provision

‘290 References to Youth Justice Act 1992

- ‘(1) This section applies to a reference to the *Youth Justice Act 1992* in a provision of this Act if the provision commences before the JJA short title amendment commences.
- ‘(2) Until the JJA short title amendment commences, the reference is taken to be a reference to the *Juvenile Justice Act 1992*.
- ‘(3) In this section—

JJA short title amendment means the *Juvenile Justice and Other Acts Amendment Act 2009*, section 9.’

157 Amendment of sch 3 (Current serious offences)

- (1) Schedule 3, all entries, third column, heading, ‘Limitation’—
omit, insert—
‘Qualification’.
- (2) Schedule 3, entry for *Classification of Publications Act 1991*, entry for section 17 of that Act—
omit, insert—

- ‘17(1) Producing only if an offender was or could have
 prohibited been liable as mentioned in section
 publication 17(1), penalty, paragraph (c)

- 17(2) Producing prohibited publication only if an offender was or could have been liable as mentioned in section 17(2), penalty, paragraph (c)
- 17(3) and (4) Producing prohibited publication’.
- (3) Schedule 3, entry for the Criminal Code, entry for section 419, third column, ‘and (ii)’—
omit, insert—
 ‘or (ii)’.
- (4) Schedule 3—
insert—

‘6 *Crimes Act 1914* (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	
50BB	Inducing child under 16 to engage in sexual intercourse	
50BC	Sexual conduct involving child under 16	
50BD	Inducing child under 16 to be involved in sexual conduct	
50DA	Benefiting from offence against this Part	

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50DB Encouraging
offence against this
Part

7 Criminal Code (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
270.6	Sexual servitude offences	only if an offender was or could have been liable as mentioned in section 270.8
270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8
474.19	Using a carriage service for child pornography material	
474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service	
474.22	Using a carriage service for child abuse material	

474.23 Possessing,
controlling,
producing,
supplying or
obtaining child
abuse material for
use through a
carriage service

474.26 Using a carriage
service to procure
persons under 16
years of age

474.27 Using a carriage
service to “groom”
persons under 16
years of age

8 *Customs Act 1901* (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
233BAB	Special offence relating to tier 2 goods	if the offence involved child pornography or child abuse material’.

158 Replacement of schs 5 and 6

Schedules 5 and 6—

omit, insert—

‘Schedule 5 Current disqualifying offences

section 81

1 Classification of Computer Games and Images Act 1995

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
23	Demonstration of an objectionable computer game before a minor	
26(3)	Possession of objectionable computer game	
27(3) and (4)	Making objectionable computer game	
28	Obtaining minor for objectionable computer game	

2 Classification of Films Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
41(3)	Possession of objectionable film	
42(3) and (4)	Making objectionable film	
43	Procurement of minor for objectionable film	

3 *Classification of Publications Act 1991*

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
12	Sale etc. of prohibited publication or child abuse photograph	only if an offender was or could have been liable as mentioned in section 12, penalty, paragraph (c)
13	Possession of prohibited publication	only if an offender was or could have been liable as mentioned in section 13, penalty, paragraph (c)
14	Possession of child abuse publication or child abuse photograph	
15	Exhibition or display of prohibited publication or child abuse photograph	only if an offender was or could have been liable as mentioned in section 15, penalty, paragraph (c)
16	Leaving prohibited publication or child abuse photograph in or on public place	only if an offender was or could have been liable as mentioned in section 16, penalty, paragraph (c)
17(1)	Producing prohibited publication	only if an offender was or could have been liable as mentioned in section 17(1), penalty, paragraph (c)
17(2)	Producing prohibited publication	only if an offender was or could have been liable as mentioned in section 17(2), penalty, paragraph (c)

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17(3) and (4)	Producing prohibited publication	
18	Procurement of minor for RC publication or child abuse photograph	
20	Leaving prohibited publication or child abuse photograph in or on private premises	only if an offender was or could have been liable as mentioned in section 20, penalty, paragraph (c)

4 Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind
210	Indecent treatment of children under 16	
213	Owner etc. permitting abuse of children on premises	
215	Carnal knowledge with or of children under 16	
216	Abuse of persons with an impairment of the mind	

217	Procuring young person etc. for carnal knowledge	
218	Procuring sexual acts by coercion etc.	if the offence was committed against a child
218A	Using internet etc. to procure children under 16	
219	Taking child for immoral purposes	
221	Conspiracy to defile	if the offence was committed against a child
222	Incest	if the offence was committed against a child
228	Obscene publications and exhibitions	only if an offender was or could have been liable as mentioned in section 228(2) or (3)
228A	Involving child in making child exploitation material	
228B	Making child exploitation material	
228C	Distributing child exploitation material	
228D	Possessing child exploitation material	

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229B	Maintaining a sexual relationship with a child	
229G	Procuring prostitution	only if an offender was or could have been liable as mentioned in section 229G(2)
229H	Knowingly participating in provision of prostitution	only if an offender was or could have been liable as mentioned in section 229H(2)
229I	Persons found in places reasonably suspected of being used for prostitution etc.	only if an offender was or could have been liable as mentioned in section 229I(2)
229L	Permitting young person etc. to be at place used for prostitution	
300	Unlawful homicide	only if the unlawful killing is murder under section 302 and was committed against a child
349	Rape	if the offence was committed against a child
350	Attempt to commit rape	if the offence was committed against a child
351	Assault with intent to commit rape	if the offence was committed against a child
352	Sexual assaults	if the offence was committed against a child

5 *Crimes Act 1914* (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	
50BB	Inducing child under 16 to engage in sexual intercourse	
50BC	Sexual conduct involving child under 16	
50BD	Inducing child under 16 to be involved in sexual conduct	
50DA	Benefiting from offence against this Part	
50DB	Encouraging offence against this Part	

6 *Criminal Code* (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
270.6	Sexual servitude offences	only if an offender was or could have been liable as mentioned in section 270.8
270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8

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- 474.19 Using a carriage service for child pornography material
- 474.20 Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service
- 474.22 Using a carriage service for child abuse material
- 474.23 Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service
- 474.26 Using a carriage service to procure persons under 16 years of age
- 474.27 Using a carriage service to “groom” persons under 16 years of age

7 *Customs Act 1901* (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
233BAB	Special offence relating to tier 2 goods	if the offence involved child pornography or child abuse material

‘Schedule 6 Repealed or expired disqualifying offences

section 81

Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
212	Defilement of Girls under Twelve	as the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i>
214	Attempt to Abuse Girls under Ten	as the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i>
220	Unlawful Detention with Intent to Defile or in a Brothel	as the provision was in force from time to time before its repeal by the <i>Criminal Code, Evidence Act and Other Acts Amendment Act 1989</i> only if, at the time of the offence, the person in relation to whom the offence was committed was a child

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- | | | |
|-----|------------------------|---|
| 223 | Incest by adult female | as the provision was in force from time to time before its repeal by the <i>Criminal Law Amendment Act 1997</i> only if, at the time of the offence, the person in relation to whom the offence was committed was a child |
| 344 | Aggravated assaults | as the provision was in force from 20 December 1946 to 30 June 1997 if—
(a) the circumstance of aggravation was that the unlawful assault was an offence of a sexual nature as defined in the <i>Criminal Law Amendment Act 1945</i> , section 2A; and
(b) at the time of the offence, the person in relation to whom the offence was committed was a child’. |

159 Insertion of new sch 6A

After schedule 6—
insert—

‘Schedule 6A Offences that may form basis of investigative information

section 109

1 Classification of Computer Games and Images Act 1995

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
23	Demonstration of an objectionable computer game before a minor	
28	Obtaining minor for objectionable computer game	

2 Classification of Films Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
43	Procurement of minor for objectionable film	

3 Classification of Publications Act 1991

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
18	Procurement of minor for RC publication or child abuse photograph	

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4 Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind
210	Indecent treatment of children under 16	
213	Owner etc. permitting abuse of children on premises	
215	Carnal knowledge with or of children under 16	
216	Abuse of persons with an impairment of the mind	
217	Procuring young person etc. for carnal knowledge	
218	Procuring sexual acts by coercion etc.	if the offence was committed against a child or a person with a disability
219	Taking child for immoral purposes	
221	Conspiracy to defile	if the offence was committed against a child or a person with a disability
222	Incest	if the offence was committed against a child or a person with a disability

228A	Involving child in making child exploitation material	
229B	Maintaining a sexual relationship with a child	
229G	Procuring prostitution	only if an offender was or could have been liable as mentioned in section 229G(2)
229H	Knowingly participating in provision of prostitution	only if an offender was or could have been liable as mentioned in section 229H(2)
229L	Permitting young person etc. to be at place used for prostitution	
300	Unlawful homicide	only if the unlawful killing is murder under section 302 and was committed against a child or a person with a disability
349	Rape	if the offence was committed against a child or person with a disability
350	Attempt to commit rape	if the offence was committed against a child or a person with a disability
351	Assault with intent to commit rape	if the offence was committed against a child or a person with a disability
352	Sexual assaults	if the offence was committed against a child or a person with a disability

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5 Crimes Act 1914 (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	
50BB	Inducing child under 16 to engage in sexual intercourse	
50BC	Sexual conduct involving child under 16	
50BD	Inducing child under 16 to be involved in sexual conduct	

6 Criminal Code (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
270.6	Sexual servitude offences	only if an offender was or could have been liable as mentioned in section 270.8 or if the offence is committed against a person with a disability
270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8 or if the offence is committed against a person with a disability’.

160 Amendment of sch 7 (Dictionary)

- (1) Schedule 7, definitions *commencement*, *engaged by the department*, *engaged person*, *imprisonment order* and *screening decision*—

omit.

(2) Schedule 7—

insert—

'amending Act, for part 16, division 5, see section 252.

CCYPCG Act means the *Commission for Children and Young People and Child Guardian Act 2000*.

CCYPCG positive notice means a positive notice issued under the CCYPCG Act.

commencement—

- (a) for part 16, division 3—see section 241(1); or
- (b) for part 16, division 5, subdivision 2—see section 253;
or
- (c) for part 16, division 5, subdivision 3—see section 260;
or
- (d) for part 16, division 5, subdivision 4—see section 271.

engaged by the department—

- (a) generally—see section 77A; or
- (b) for part 16, division 5, subdivision 2—see section 253.

engaged person, for a prescribed notice application, see section 83(1).

exceptional case means exceptional case as mentioned in section 85(4) or (7).

imprisonment order—

- (a) means either of the following orders—
 - (i) an order of a court that convicts a person for an offence, if the order includes a penalty that includes imprisonment for the offence, whether wholly or partially suspended;
 - (ii) an intensive correction order under the *Penalties and Sentences Act 1992* or an order of another

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jurisdiction that substantially corresponds to an intensive correction order; but

- (b) does not include an order of imprisonment that is imposed as a consequence of a breach of a community service order or probation order within the meaning of the *Penalties and Sentences Act 1992*.

minimum frequency for regulated engagement means—

- (a) at least 8 consecutive days; or
- (b) at least once a week for each week during a period of 4 weeks; or
- (c) at least once a fortnight for each fortnight during a period of 8 weeks; or
- (d) at least once a month for each month during a period of 6 months.

prescribed notice application means an application for a prescribed notice under section 83.

prescribed police information, for part 16, division 5, subdivision 2, see section 253.

registered health practitioner means—

- (a) a person registered under any of the following Acts—
- *Chiropractors Registration Act 2001*
 - *Dental Practitioners Registration Act 2001*
 - *Dental Technicians and Dental Prosthetists Registration Act 2001*
 - *Medical Practitioners Registration Act 2001*
 - *Medical Radiation Technologists Registration Act 2001*
 - *Occupational Therapists Registration Act 2001*
 - *Optometrists Registration Act 2001*
 - *Osteopaths Registration Act 2001*
 - *Pharmacists Registration Act 2001*

-
- *Physiotherapists Registration Act 2001*
 - *Podiatrists Registration Act 2001*
 - *Psychologists Registration Act 2001*
 - *Speech Pathologists Registration Act 2001*; or
- (b) a person enrolled, registered or authorised to practice under the *Nursing Act 1992*.

regulated engagement means—

- (a) engagement by the department at a service outlet of the department; or
- (b) engagement by a funded non-government service provider at a service outlet of the service provider.

relevant review and appeal information, for a decision about a person, means the following information—

- (a) if the reasons for the decision do not include investigative information—the circumstances in which the person may apply to the tribunal for a review of the decision under part 10, division 7, subdivision 1;
- (b) if the reasons for the decision include investigative information—
- (i) the right of the person to appeal, under section 111, to a Magistrates Court about the police commissioner’s decision that the information is investigative information; and
 - (ii) the circumstances in which the person may apply to the tribunal for a review of the decision under section 113;
- (c) the period within which the person must apply to the tribunal for the review or appeal to a Magistrates Court;
- (d) how the person may apply for the review to the tribunal or appeal to a Magistrates Court;
- (e) there is no review or appeal under this Act in relation to the decision other than as mentioned in paragraph (a) or (b).

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screening decision, in relation to a person, means a decision about—

- (a) whether a positive notice or a negative notice should be issued to the person, including a decision about—
 - (i) whether a person's positive notice should be cancelled and substituted with a negative notice or negative exemption notice; and
 - (ii) whether a person's negative notice should be cancelled and, if so, whether a positive notice or positive exemption notice should be issued to the person; and
 - (iii) whether a person's negative notice should be cancelled and substituted with a positive notice or positive exemption notice; and
 - (iv) whether a person's suspended positive notice should be cancelled and a further prescribed notice or an exemption notice issued to the person; or
- (b) whether a positive exemption notice or negative exemption notice should be issued to the person, including a decision about—
 - (i) whether a person's positive exemption notice should be cancelled and substituted with a negative exemption notice; and
 - (ii) whether a person's negative exemption notice should be cancelled and, if so, whether a positive exemption notice or positive notice should be issued to the person; and
 - (iii) whether a person's negative exemption notice should be cancelled and substituted with a positive exemption notice or positive notice; and
 - (iv) whether a person's suspended positive exemption notice should be cancelled and a further exemption notice or a prescribed notice issued to the person; or

- (c) whether an eligibility declaration should be issued to the person.

stage 2 commencement date, for part 16, division 5, subdivision 3, see section 260.

unamended Act—

- (a) for part 16, division 5, subdivision 2—see section 253;
or
- (b) for part 16, division 5, subdivision 3—see section 260;
or
- (c) for part 16, division 5, subdivision 4—see section 271.’.
- (3) Schedule 7, definition *Commissioner for Children and Young People and Child Guardian*, from ‘*Commission*’ to ‘2000’—
omit, insert—
‘CCYPCG Act’.
- (4) Schedule 7, definitions *current*, *disqualification order*, *engaged person*, *excluding offence* and *serious sexual or violent offence*—
omit.
- (5) Schedule 7—

insert—

‘***CPOPOA disqualification order*** means a disqualification order made under the *Child Protection (Offender Prohibition Order) Act 2008*, section 25.

current—

- (a) for a prescribed notice—means current under section 89; or
- (b) for an exemption notice—means current under section 89F.

disqualification order means—

- (a) an order under section 122; or
- (b) a CPOPOA disqualification order.

disqualified person see section 107D.

disqualifying offence see section 81.

eligibility application see section 107F(2).

eligibility declaration see section 107F(1).

engaged person—

- (a) for a prescribed notice application—see section 83(1);
or
- (b) for an exemption notice application—see section 89A(1).

exemption notice means a notice issued under section 89C.

exemption notice application means an application for an exemption notice under section 89A.

final offender prohibition order means a final order under the *Child Protection (Offender Prohibition Order) Act 2008*.

final sexual offender order means a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

interim sexual offender order means an interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

issue, for part 10, division 7, subdivision 1, see section 108.

negative exemption notice see section 89C(2)(b).

offender prohibition order means an offender prohibition order under the *Child Protection (Offender Prohibition Order) Act 2008*.

offender reporting obligations means reporting obligations under the *Child Protection (Offender Reporting) Act 2004*.

part 10 reviewable decision, for part 10, division 7, subdivision 1, see section 108.

positive exemption notice see section 89C(2)(a).

prescribed period, for part 10, division 7, subdivision 1, see section 108.

relevant disqualified person means a person who—

- (a) has been convicted of a disqualifying offence for which an imprisonment order was or is imposed; or
- (b) is subject to—
 - (i) offender reporting obligations; or
 - (ii) an offender prohibition order; or
 - (iii) a disqualification order or CPOPOA disqualification order; or
 - (iv) a sexual offender order.

relevant disqualified person decision, for part 10, division 7, subdivision 1, see section 108.

sexual offender order means a division 3 order, interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

temporary offender prohibition order means a temporary order under the *Child Protection (Offender Prohibition Order) Act 2008*.

- (6) Schedule 7, definition *exceptional case*, ‘or (7)’—
omit, insert—
‘or (11)’.
- (7) Schedule 7, definition *police information*—
insert—
‘(c) information as to whether the person is or has been—
 - (i) a relevant disqualified person; or
 - (ii) named as the respondent to an application for an offender prohibition order; or
 - (iii) the subject of an application for a disqualification order or CPOPOA disqualification order.’.

Part 8 **Amendment of Education (Accreditation of Non-State Schools) Act 2001**

161 Act amended

This part amends the *Education (Accreditation of Non-State Schools) Act 2001*.

162 Amendment of s 15 (Application of Commission for Children and Young People and Child Guardian Act 2000, pt 6)

(1) Section 15, heading, ‘pt 6’—

omit, insert—

‘**ch 8**’.

(2) Section 15, ‘part 6’—

omit, insert—

‘chapter 8’.

163 Amendment of s 16 (Procedural requirements for application)

Section 16(1)(c)(ii), after ‘positive notices’—

insert—

‘or current positive exemption notices’.

164 Amendment of s 39 (Suitability of governing body)

Section 39(3), after ‘positive notice’—

insert—

‘or current positive exemption notice’.

165 Amendment of s 49 (Application to change attribute of provisional accreditation)

Section 49(3), after ‘positive notices’—

insert—

‘or current positive exemption notices’.

166 Amendment of s 140 (Application of Commission for Children and Young People and Child Guardian Act 2000, pt 6)

(1) Section 140, heading, ‘pt 6’—

omit, insert—

‘**ch 8**’.

(2) Section 140, ‘part 6’—

omit, insert—

‘chapter 8’.

167 Amendment of s 145 (Suitability of proposed authorised person)

Section 145(2), after ‘positive notice’—

insert—

‘or current positive exemption notice’.

168 Amendment of s 146 (Appointment conditions)

Section 146(2)—

omit, insert—

‘(2) One of the conditions must be that the authorised person notify the board of the authorised person making either of the following applications within 7 days after making the application—

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- (a) an application for a prescribed notice under the *Commission for Children and Young People and Child Guardian Act 2000*, section 211;
- (b) an application for an exemption notice under the *Commission for Children and Young People and Child Guardian Act 2000*, section 272.’.

169 Amendment of s 168 (Disclosure of application for prescribed notice under Commission for Children and Young People and Child Guardian Act 2000)

- (1) Section 168, heading, after ‘notice’—
insert—
‘or exemption notice’.
- (2) Section 168(1)(b)—
omit, insert—
‘(b) a director of the school’s governing body—
 - (i) applies for a prescribed notice under the *Commission for Children and Young People and Child Guardian Act 2000*, section 211; or
 - (ii) applies for an exemption notice under the *Commission for Children and Young People and Child Guardian Act 2000*, section 272.’.
- (3) Section 168(2)(b)—
omit, insert—
‘(b) a director of the school’s proposed governing body—
 - (i) applies for a prescribed notice under the *Commission for Children and Young People and Child Guardian Act 2000*, section 211; or
 - (ii) applies for an exemption notice under the *Commission for Children and Young People and Child Guardian Act 2000*, section 272.’.

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'police'.

- (2) Section 11(1)(a), 'the person's criminal history'—
omit, insert—
'police information about the person'.
- (3) Section 11(1)—
insert—
'(c) information about the person obtained under section 15B, 15C or 15D.'

174 Amendment of s 14 (Application for registration or permission to teach)

- (1) Section 14(2)(b)(iv), ';'—
omit, insert—
'; and'.
- (2) Section 14(2)(b)(v)—
omit, insert—
'(c) be accompanied by the following—
(i) for an applicant who is the holder of a positive notice under the Commissioner's Act—
(A) if there is no police information about the applicant—the CCYPCG fee; or
(B) if there is police information about the applicant—the criminal history check fee;
(ii) for another applicant—the criminal history check fee.'
- (3) Section 14(4) and (5), 'the person's criminal history'—
omit, insert—
'police information about the person'.
- (4) Section 14—

insert—

- ‘(7) Subsection (8) applies if—
- (a) the person is the holder of a CCYPCG positive notice; and
 - (b) the application was accompanied by the CCYPCG fee and not the criminal history check fee; and
 - (c) before the application is decided, the college—
 - (i) is given advice by the children’s commissioner under section 15D(2)(c); or
 - (ii) otherwise becomes aware there is police information about the person.

- ‘(8) The college may—
- (a) by notice ask the person to pay the criminal history check fee; and
 - (b) defer deciding the application until the criminal history check fee is paid.

- ‘(9) For subsection (8), it is immaterial whether or not there was police information about the person when the application was made.

- ‘(10) In this section—

CCYPCG fee means the fee prescribed under a regulation under the Commissioner’s Act for obtaining information from the children’s commissioner under section 15D.

criminal history check fee means the criminal history check fee prescribed under a regulation.’

175 Amendment of s 15 (Criminal history check etc.)

- (1) Section 15, heading—

omit, insert—

‘15 Obtaining police information about applicant’.

- (2) Section 15(1), ‘about the criminal history of’—

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omit, insert—

‘containing details of the police information, if any, existing in relation to’.

(3) Section 15(3)—

insert—

‘(c) the applicant’s address.’.

(4) Section 15—

insert—

‘(6A) If the commissioner of police gives a written report in response to a request under subsection (1) about a person who is or has been a relevant excluded person, the report must include the following information—

(a) that the person is or has been a relevant excluded person;

(b) if the person is or has been subject to an offender prohibition order—

(i) a brief description of the conduct that gave rise to the order; and

(ii) the duration and details of the order, including whether it is or was a temporary offender prohibition order or a final offender prohibition order;

(c) if the person is or has been subject to a disqualification order or CPOPOA disqualification order—the duration and details of the disqualification order.

‘(6B) If the commissioner of police gives a written report in response to a request under subsection (1) about a person who is or has been named as the respondent for an application for an offender prohibition order, or the subject of an application for a disqualification order or CPOPOA disqualification order, and the order was not made, the report must include the following information—

-
- (a) that the person is or has been named as the respondent for an application for an offender prohibition order, or the subject of an application for a disqualification order or CPOPOA disqualification order, and the order was not made;
 - (b) the reasons why the application was made;
 - (c) the reasons why the order was not made;
 - (d) if the application was for an offender prohibition order and the magistrate or court hearing the application decided not to make a CPOPOA disqualification order for the person—the reasons why the CPOPOA disqualification order was not made.’.
- (5) Section 15(7), ‘or (2)’—
omit, insert—
‘, (2), (6A) or (6B)’.
- (6) Section 15—
insert—
- ‘(8) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the commissioner of police may disclose information to which that part applies to the college for complying with a request under subsection (1) or (2).
- ‘(9) This section does not apply if—
- (a) the college—
 - (i) has, under section 15D, been advised that the applicant is the holder of a positive notice under the Commissioner’s Act whose positive notice has not been suspended under that Act; and
 - (ii) has not, under section 15D, been advised that the college may need to have regard to the matters mentioned in section 11(1) for deciding whether the applicant is suitable to teach; and
 - (b) having regard to advice given to the college under section 15D and any other information about the

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applicant the college is aware of, the college is reasonably satisfied that there is no police information in relation to the applicant.’.

176 Insertion of new ss 15B–15D

Before section 16—

insert—

‘15B Obtaining information from director of public prosecutions

- ‘(1) If the college becomes aware that an applicant for registration or permission to teach has been charged with or convicted of an offence, the college may, by notice, ask the director of public prosecutions for the following—
- (a) a written statement briefly describing the circumstances of a charge or conviction for the offence;
 - (b) a copy or written summary of evidentiary material about the offence;
 - (c) if a charge for the offence was not proceeded with—a written summary of the reasons why the charge was not proceeded with.
- ‘(2) The college’s request may include the following information—
- (a) the applicant’s name and any other name the college believes the applicant may use or have used;
 - (b) the applicant’s gender and date and place of birth.
- ‘(3) The director of public prosecutions may comply with a request under subsection (1) if the director reasonably believes the statement, copy or summary may help the college in deciding whether the applicant is suitable to teach.
- ‘(4) Without limiting subsection (3), the director of public prosecutions must not give the college a copy or written summary of evidentiary material about the offence that relates only to a person other than the applicant.

- ‘(5) The director of public prosecutions must not give information, or a document containing information, to the college under this section if the director is reasonably satisfied that giving the information may do any of the following—
- (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case;
 - (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
 - (c) endanger a person’s life or physical safety;
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law;
 - (e) prejudice a prosecution or another matter before a court.

- ‘(6) The giving of information, or a document containing information, under this section by the director of public prosecutions is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See section 283 for restrictions on disclosing or giving access to information or documents obtained under this Act.

- ‘(7) Without limiting subsection (6), this section applies despite the *Director of Public Prosecutions Act 1984*, section 24A.
- ‘(8) In this section—

evidentiary material, about an offence, means material compiled in the course of the investigation or prosecution of the offence, including, for example, the following—

- (a) a summary of the circumstances of the alleged offence prepared by a police officer;

Examples—

bench charge sheet, QP9

- (b) a witness statement;

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- (c) an indictment;
- (d) a record of an interview or a transcript of a record of an interview;
- (e) a report by an expert about the applicant.

‘15C Obtaining information from chief executive (corrective services)

- ‘(1) The chief executive (corrective services) must give the college notice of each person who is or becomes subject to a sexual offender order.
- ‘(2) The notice must state the following—
 - (a) the person’s name;
 - (b) that the person is subject to a sexual offender order;
 - (c) any other information the chief executive (corrective services) reasonably considers is necessary for the college to perform a function or exercise a power under this chapter.
- ‘(3) The chief executive (corrective services) and the college may enter into a written arrangement by which notices are given under subsection (1).
- ‘(4) Without limiting subsection (3), the arrangement may provide for giving the notices electronically.
- ‘(5) However, if notices under subsection (1) are to be given electronically and, under an Act, there is a limitation on who may access the information mentioned in the notices or the purposes for which that information may be used, the arrangement must provide for the limitation.
- ‘(6) The disclosure of information by the chief executive (corrective services) under this section is authorised despite any other Act or law, including a law imposing an obligation to maintain confidentiality about the information.

Note—

See section 283 for restrictions on disclosing or giving access to information or documents obtained under this Act.

‘(7) In this section—

chief executive (corrective services) means the chief executive of the department in which the *Corrective Services Act 2006* is administered.

‘15D Obtaining information from children’s commissioner

‘(1) This section applies if an applicant for registration or permission to teach claims to be the holder of a positive notice under the Commissioner’s Act.

‘(2) The college may ask the children’s commissioner to advise the college about—

- (a) whether or not the applicant is the holder of a positive notice under the Commissioner’s Act; and
- (b) whether or not the applicant’s positive notice is suspended under the Commissioner’s Act; and
- (c) if the applicant is the holder of a positive notice under that Act that is not suspended—whether the college may need to have regard to the matters mentioned in section 11(1) for deciding whether the applicant is suitable to teach.

‘(3) For subsection (2), the college’s request may include the following information—

- (a) the person’s name and any other name that the college believes the person may use or may have used;
- (b) the person’s gender and date and place of birth;
- (c) the person’s address;
- (d) any number or date given by the person about the positive notice the person holds or claims to hold.

‘(4) The children’s commissioner must comply with the request.

‘(5) However—

- (a) the children’s commissioner may give advice under subsection (2)(c) only if the commissioner is aware of police information about the person; and

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- (b) if paragraph (a) applies, the advice must be that the college may need to have regard to the matters mentioned in section 11(1) for deciding whether the applicant is suitable to teach.
- ‘(6) If the children’s commissioner gives advice under subsection (2)(c) about the applicant, the advice must be accompanied by a notice stating that no adverse inference about the applicant’s police information or suitability to teach may be drawn by the fact the advice was given.’.

177 Amendment of 16 (Requirement to advise applicant of criminal history information received)

- (1) Section 16, heading, ‘criminal history’—
omit, insert—
‘police’.
- (2) Section 16(1), ‘section 15(4)’—
omit, insert—
‘section 15’.

178 Amendment of s 28 (Application for renewal of full registration or permission to teach)

- (1) Section 28(2)(c)(iii), from ‘the criminal’—
omit, insert—
‘the fee mentioned in section 14(2)(c).’.
- (2) Section 28(4) and (5), ‘criminal history’—
omit, insert—
‘police information’.
- (3) Section 28—
insert—

- ‘(7) Section 14(7) to (9) applies in relation to the application as if a reference in the section to the application were a reference to an application under this section.’

179 Amendment of s 37 (Requirements for application for restoration)

Section 37(2) and (3), ‘criminal history’—

omit, insert—

‘police information’.

180 Amendment of s 48 (Effect of charge for disqualifying offence pending charge being dealt with)

- (1) Section 48, heading, from ‘pending’—

omit, insert—

‘, **temporary offender prohibition order or interim sexual offender order**’.

- (2) Section 48—

insert—

- ‘(1A) This section also applies if an approved teacher is or becomes a relevant excluded person because the teacher is or becomes subject to a temporary offender prohibition order or interim sexual offender order.’

- (3) Section 48(2), after ‘charge’—

insert—

‘or order’.

- (4) Section 48(1A) and (2)—

renumber as section 48(2) and (3).

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181 Amendment of s 56 (Cancellation if conviction for disqualifying offence and imprisonment or disqualification order imposed)

- (1) Section 56, heading—
omit, insert—

'56 Cancellation in particular circumstances'

- (2) Section 56—
insert—

'(1A) This section also applies if an approved teacher is or becomes a relevant excluded person because the teacher is or becomes subject to—

- (a) offender reporting obligations; or
- (b) a final offender prohibition order; or
- (c) a CPOPOA disqualification order; or
- (d) a final sexual offender order.'

- (3) Section 56(2), after 'conviction'—
insert—

'or that the teacher is or has become a relevant excluded person as mentioned in subsection (2).'

- (4) Section 56(4)(c)(ii)—
omit, insert—

'(ii) the conviction or order in relation to which the teacher's registration or permission to teach was cancelled is overturned on appeal.'

- (5) Section 56(1A) to (7)—
renumber as section 56(2) to (8).

182 Amendment of s 57 (Effect of appeal on cancellation)

- (1) Section 57(1)(b)—
insert—

- ‘(iv) a decision of a court resulting in the teacher being subject to offender reporting obligations;
 - (v) the making of an offender prohibition order, CPOPOA disqualification order or sexual offender order.’.
- (2) Section 57(3), from ‘or an order’ to ‘(iii)’—
omit, insert—
‘, order or decision’.

183 Amendment of s 58 (Disqualification order)

- (1) Section 58(1)—
omit, insert—
- ‘(1) This section applies if an approved teacher is convicted of—
- (a) a disqualifying offence and the court that convicts the teacher does not impose an imprisonment order for the offence; or
 - (b) another serious offence committed in relation to, or otherwise involving, a child.’.
- (2) Section 58(2) from ‘stating’—
omit, insert—
‘stating that—
- (a) the teacher may not be granted, or apply for the grant of, registration or permission to teach for a stated period; or
 - (b) the teacher may never be granted, or apply for the grant of, registration or permission to teach.’.
- (3) Section 58—
insert—
- ‘(2A) However, the court may make the disqualification order only if the court considers it would not be in the interests of children for the college to register the teacher or grant the teacher permission to teach.

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‘(2B) A person against whom a disqualification order is made may appeal against the court’s decision under subsection (2) in the same way the person may appeal against the conviction.’.

(4) Section 58(2A) to (3)—
renumber as section 58(3) to (5).

184 Amendment of s 65 (College’s power to obtain criminal history etc. in relation to an approved teacher)

(1) Section 65, heading, ‘criminal history’—

omit, insert—

‘police information’.

(2) Section 65(1)(a)(i), from ‘about’ to ‘history’—

omit, insert—

‘containing details of the police information, if any, existing in relation to the teacher’.

185 Replacement of s 68 (Changes in criminal history)

Section 68—

omit, insert—

‘68 Changes in police information

‘(1) If there is a change in an approved teacher’s police information, the teacher must immediately disclose to the college the details of the change.

‘(2) For an approved teacher in relation to whom police information does not exist, there is taken to be a change in the teacher’s police information if the teacher acquires police information.’.

186 Amendment of s 69 (Requirements for disclosure of changes in criminal history)

(1) Section 69, heading, ‘criminal history’—

omit, insert—

‘police information’.

(2) Section 69—

insert—

‘(3) The information disclosed by the approved teacher about the teacher being or becoming a relevant excluded person must include the following information—

(a) that the teacher is or has been a relevant excluded person;

(b) if the teacher is or has been subject to an offender prohibition order—

(i) a brief description of the conduct that gave rise to the order; and

(ii) the duration and details of the order, including whether it is or was a temporary offender prohibition order or final offender prohibition order;

(c) if the teacher is or has been subject to a disqualification order or CPOPOA disqualification order—the duration and details of the disqualification order.

‘(4) The information disclosed by the approved teacher about the teacher being named as the respondent for an application for an offender prohibition order that was not made, or becoming the subject of an application for a disqualification order or CPOPOA disqualification order that was not made, must include the following information—

(a) that the teacher is or has been named as the respondent for an application for an offender prohibition order, or the subject of an application for a disqualification order or CPOPOA disqualification order, and the order was not made;

(b) the reasons why the application was made;

(c) the reasons why the order was not made;

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- (d) if the application was for an offender prohibition order and the magistrate or court hearing the application decided not to make a CPOPOA disqualification order for the teacher—the reasons why the CPOPOA disqualification order was not made.’.

187 Amendment of s 70 (Failure to disclose changes in criminal history)

Section 70, heading, ‘criminal history’—

omit, insert—

‘police information’.

188 Amendment of s 71 (Disclosure of other change in circumstances)

Section 71(2), ‘criminal history’—

omit, insert—

‘police information’.

189 Amendment of s 75 (Commissioner of police must notify changes in criminal history)

- (1) Section 75, heading, ‘criminal history’—

omit, insert—

‘police information’.

- (2) Section 75(1) to (3)—

omit, insert—

- ‘(1) This section applies if—

- (a) police information about a person changes because of any of the following (the ***relevant event***)—

- (i) the person’s criminal history changes;
- (ii) the person becomes, or is no longer, a relevant excluded person;

-
- (iii) the person is named as the respondent for an application for an offender prohibition order;
 - (iv) the person becomes subject to an application for a disqualification order or CPOPOA disqualification order; and
 - (b) the commissioner of police reasonably suspects the person—
 - (i) is an approved teacher; or
 - (ii) was an approved teacher when the act or omission leading to the relevant event happened.
 - ‘(2) The commissioner of police must notify the college of the relevant event.
 - ‘(3) The notice must state the following—
 - (a) the person’s personal information;
 - (b) if the person’s criminal history has changed—
 - (i) the offence the person is charged with or convicted of; and
 - (ii) particulars of the offence; and
 - (iii) the date of the charge or conviction;
 - (c) if the person has become a relevant excluded person—
 - (i) that the person has become a relevant excluded person; and
 - (ii) if the person has become subject to an offender prohibition order—
 - (A) a brief description of the conduct that gave rise to the order; and
 - (B) the duration and details of the order, including whether it is or was a temporary offender prohibition order or final offender prohibition order; and
 - (iii) if the person has become subject to a disqualification order or CPOPOA disqualification

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order—the duration and details of the disqualification order;

(d) if the person is named as the respondent for an application for an offender prohibition order, or becomes subject to an application for a disqualification order or CPOPOA disqualification order—

(i) the reasons why the application was made; and

(ii) if the magistrate or court hearing the application for the order decides not to make the order—the reasons why the order is not made; and

(iii) if the application was for an offender prohibition order and the magistrate or court hearing the application decides not to make a CPOPOA disqualification order for the person—the reasons why the CPOPOA disqualification order is not made.’.

(3) Section 75—

insert—

‘(4A) The commissioner of police’s obligation to comply with this section applies only to information in the possession of the commissioner or to which the commissioner has access.’.

(4) Section 75—

insert—

‘(7) To remove any doubt, it is declared that, despite the *Youth Justice Act 1992*, part 9, the commissioner of police may disclose information to which that part applies to the college under subsection (2).

‘(8) In this section—

personal information, for a person, means the following—

(a) the person’s name and address, or any other name the commissioner of police believes that the person may use or may have used;

(b) the person’s gender and place and date of birth.’.

- (5) Section 75(4A) to (8)—
renumber as section 75(5) to (9).

190 Amendment of s 83 (Requirement to hold registration or permission to teach to teach in schools)

Section 83, heading, ‘or permission to teach’—
omit, insert—
‘, or permission to teach,’.

191 Amendment of s 92 (Grounds for disciplinary action)

- (1) Section 92(1)(a) and (b)—
omit, insert—

‘(a) the relevant teacher has been convicted of a serious offence, except if either of the following circumstances apply—

- (i) the offence is a disqualifying offence and the court that convicts the teacher imposes an imprisonment order or makes a disqualification order;
- (ii) in relation to the conviction, the teacher becomes a relevant excluded person because the teacher becomes subject to—
 - (A) offender reporting obligations; or
 - (B) a final offender prohibition order; or
 - (C) a CPOPOA disqualification order; or
 - (D) a final sexual offender order;

Note—

See section 56 for action that may be taken against an approved teacher to whom the circumstances mentioned in subparagraph (i) or (ii) apply.

- (b) the relevant teacher has been convicted of an indictable offence that is not a serious offence, or an offence against this Act, except if, in relation to the conviction,

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the teacher becomes a relevant excluded person because the teacher is or becomes subject to—

- (i) offender reporting obligations; or
- (ii) a final offender prohibition order; or
- (iii) a CPOPOA disqualification order; or
- (iv) a final sexual offender order;

Note—

See section 56 for action that may be taken against an approved teacher who becomes a relevant excluded person as mentioned in this paragraph.’.

(2) Section 92(2)(a) to (c)—

omit, insert—

‘(a) a relevant teacher whose registration or permission to teach is suspended under section 48 if any of the following applies—

- (i) the teacher has been charged with a disqualifying offence and the charge has been dealt with;
- (ii) the teacher has been charged with a disqualifying offence and the teacher is convicted of an offence other than an indictable offence;
- (iii) the teacher is or becomes subject to a temporary offender prohibition order or interim sexual offender order;

(b) a relevant teacher whose registration or permission to teach is suspended under section 49.’.

192 Amendment of s 97 (Requirement for college to start disciplinary proceedings)

Section 97(3), ‘teacher’—

omit, insert—

‘teacher’s registration or permission to teach’.

193 Amendment of s 102 (Disciplinary action by QCAT—approved teachers)

Section 102(5)(b), ‘teacher’—

omit, insert—

‘teacher’s registration or permission to teach’.

194 Amendment of s 159 (Ending of suspension if ground for disciplinary action not established)

Section 159(1)(b), ‘teacher’—

omit, insert—

‘teacher’s registration or permission to teach’.

195 Amendment of s 160 (Decision about disciplinary action against approved teacher)

Section 160(2)(b), ‘teacher’—

omit, insert—

‘teacher’s registration or permission to teach’.

196 Amendment of s 230 (College’s functions about registration and permission to teach)

Section 230(e), ‘criminal history’—

omit, insert—

‘police information’.

197 Amendment of s 282 (Definition for pt 1)

(1) Section 282, definition *relevant personal information*, paragraphs (a)(iv) to (vi)—

renumber as paragraphs (a)(vii) to (ix).

(2) Section 282, definition *relevant personal information*, paragraph (a)(iii)—

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omit, insert—

‘(iii) section 15B;

(vi) section 15(4) or 15B as applied by section 29(5),
31(3) or 38(1);’.

- (3) Section 282, definition *relevant personal information*,
paragraph (a)—

insert—

‘(iv) section 15C;

(v) section 15D;’.

- (4) Section 282, definition *relevant personal information*,
paragraph (a)(vi), ‘or 15B’—

omit, insert—

‘, 15B, 15C or 15D’.

**198 Replacement of s 285 (College may give information
about teachers to commissioner for children in particular
circumstances)**

Section 285—

omit, insert—

**‘285 College may give information about disciplinary
action etc. against teachers to children’s
commissioner in particular circumstances**

‘(1) This section applies if—

(a) either of the following happens—

(i) the college decides to suspend an approved
teacher’s registration or permission to teach under
section 48 or 49;

(ii) a disciplinary committee makes a decision about
disciplinary proceedings against a relevant teacher;
and

- (b) the college reasonably believes the decision may be relevant to the functions or powers of the children's commissioner under the Commissioner's Act.
- '(2) The college may give notice of the decision to the children's commissioner.
- '(3) A notice under subsection (2) must state the following—
- (a) the teacher's name and address;
 - (b) the teacher's date of birth;
 - (c) that disciplinary action has been taken against the person, without stating anything further about the disciplinary action.
- '(4) Subsection (5) applies if the children's commissioner—
- (a) requests further information about disciplinary action mentioned in a notice under subsection (3) about an approved teacher; and
 - (b) notifies the college that the approved teacher is an applicant for, or holder of, a prescribed notice or exemption notice under the Commissioner's Act.
- '(5) The college must give the children's commissioner a notice stating the following—
- (a) for a suspension mentioned in subsection (1)(a)(i)—whether it is a suspension under section 48 or 49 and, if it is a suspension under section 49—
 - (i) when the conduct giving rise to the suspension happened; and
 - (ii) the nature of the conduct that led to the suspension;
 - (b) for a decision mentioned in subsection (1)(a)(ii)—
 - (i) when the grounds for the disciplinary action arose; and
 - (ii) the nature of grounds for the disciplinary action;

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- (c) any other information the college considers may be relevant to employment screening under the Commissioner's Act, chapter 8.
- '(6) If a notice given under subsection (2) or (5) about a suspension mentioned in subsection (1)(a)(i), or a decision mentioned in subsection (1)(a)(ii), relates to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.
- '(7) If the college gives the children's commissioner information under subsection (5) about a suspension mentioned in subsection (1)(a)(i), or a decision mentioned in subsection (1)(a)(ii), and the suspension or decision is set aside on review or appeal, the college must notify the commissioner of the following—
 - (a) that the suspension or decision has been set aside;
 - (b) the reasons given by the entity that set the suspension or decision aside for setting it aside.
- '(8) This section does not limit section 285A.

'285A College must give information about the status of a teacher's registration to children's commissioner in particular circumstances

- '(1) This section applies if—
 - (a) any of the following happens (each a *relevant matter*) in relation to a registered teacher—
 - (i) the teacher's registration ends under section 26(3);
 - (ii) the teacher's provisional registration is cancelled under section 47;
 - (iii) the teacher's full registration is cancelled under section 47 because the teacher did not comply with a returning to teach condition;
 - (iv) the teacher's registration is suspended under section 48 or 49;

- (v) the teacher's registration is cancelled under section 56, 66(6) or 160(2)(d);
 - (vi) the teacher surrenders the teacher's registration under section 59; and
 - (b) the children's commissioner has notified the college that the registered teacher is an applicant for, or the holder of, an exemption notice under the Commissioner's Act.
- '(2) The college must give notice of the relevant matter to the children's commissioner.
- '(3) A notice under subsection (2) must state the following—
- (a) the teacher's name and address;
 - (b) the teacher's date of birth;
 - (c) for the end of the teacher's registration as mentioned in subsection (1)(a)(i)—that on a stated date the person's registration ended under this Act;
 - (d) for a cancellation mentioned in subsection (1)(a)(ii), (iii) or (v)—
 - (i) that the teacher's registration has been cancelled; and
 - (ii) when the conduct giving rise to the cancellation happened; and
 - (iii) the nature of the conduct that led to the cancellation;
 - (e) for a suspension mentioned in subsection (1)(a)(iv)—
 - (i) that the teacher's registration has been suspended under section 48 or 49; and
 - (ii) when the conduct giving rise to the suspension happened; and
 - (iii) the nature of the conduct that led to the suspension;
 - (f) for a surrender mentioned in subsection (1)(a)(vi)—that on a stated date the person surrendered the person's registration under this Act;

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- (g) any other information the college considers may be relevant to employment screening under the Commissioner's Act, chapter 8.
- '(4) However, if a notice about a decision mentioned in subsection (1)(a)(ii) to (v) relates to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.
- '(5) If, under this section, the college gives the children's commissioner information about a cancellation mentioned in subsection (1)(a)(ii), (iii) or (v), or a suspension mentioned in subsection (1)(a)(iv), and the suspension or cancellation is set aside on review or appeal, the college must notify the commissioner of the following—
 - (a) that the suspension or cancellation has been set aside;
 - (b) the reasons given by the entity that set the suspension or cancellation aside for setting it aside.

'285B College may enter into information sharing agreement with children's commissioner

- '(1) This section applies only to the extent—
 - (a) another provision of this Act allows the college to give information to the children's commissioner; or
 - (b) a provision of the Commissioner's Act allows the children's commissioner to give information to the college.
- '(2) The college and the children's commissioner may enter into a written arrangement by which the information is given or received.
- '(3) Without limiting subsection (2), the arrangement may provide for the electronic transfer of information.
- '(4) However, if the information is to be electronically transferred and, under this Act or the Commissioner's Act, there is a limitation on who may access the information or the purposes

for which the information may be used, the arrangement must provide for the limitation.’.

199 Amendment of ch 12, pt 9, hdg

Chapter 12, part 9, heading, ‘provisions’—

omit, insert—

‘provision’.

200 Insertion of new ch 12, pt 11

Chapter 12—

insert—

**‘Part 11 Transitional provisions for
Criminal History Screening
Legislation Act 2010**

**‘Division 1 Transitional provision about giving
information under section 285**

**‘332 Giving particular information to children’s
commissioner**

‘(1) This section applies if—

(a) before the commencement—

(i) the college decided to suspend an approved teacher’s registration or permission to teach under section 49; or

(ii) the disciplinary committee made a decision about disciplinary proceedings against a relevant teacher; and

(b) at the commencement, the college has neither given nor decided not to give the children’s commissioner notice

[s 200]

of the decision as provided under section 285 of this Act as in force before the commencement.

‘(2) Section 285 as in force after the commencement applies in relation to the decision.

‘(3) In this section—

commencement means the day this section commences.

‘Division 2 Other transitional provisions

‘333 Definition div 2

‘In this division —

commencement means the commencement of this division.

‘334 Existing applications by new excluded persons

‘(1) This section applies if—

(a) a person has applied to the college for—

(i) full or provisional registration or permission to teach; or

(ii) the renewal of full registration or permission to teach; or

(iii) the restoration of the person’s full registration that has ended; and

(b) the application has not been decided or withdrawn at the commencement; and

(c) the person is a new excluded person.

‘(2) The application is taken to be withdrawn.

‘(3) The college must give notice of the withdrawal to the person.

‘(4) In this section—

new excluded person means a person who is an excluded person immediately after the commencement but was not an

excluded person under this Act as in force immediately before the commencement.

'335 Other existing applications

- '(1) This section applies if—
- (a) a person has applied to the college for—
 - (i) full or provisional registration or permission to teach; or
 - (ii) the renewal of full registration or permission to teach; or
 - (iii) the restoration of the person's full registration that has ended; and
 - (b) the application has not been decided or withdrawn at the commencement; and
 - (c) section 334 does not apply to the application.
- '(2) This Act applies to the application and, if the application complies with the requirements of the unamended Act, the application is not invalid only because it does not comply with this Act as in force immediately after the commencement.
- '(3) In this section—
- unamended Act* means this Act as in force immediately before the commencement.

'336 Obtaining particular information from commissioner of police about particular persons

- '(1) This section applies in relation to a person if—
- (a) the person has applied to the college for—
 - (i) full or provisional registration or permission to teach; or
 - (ii) the renewal of full registration or permission to teach; or

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- (iii) the restoration of the person's full registration that has ended; and
 - (b) the application has not been decided or withdrawn at the commencement; and
 - (c) in relation to the application, the college requested information from the commissioner of police about the applicant under section 15 before the commencement.
- '(2) This section also applies in relation to a person if—
 - (a) the person is an approved teacher; and
 - (b) the college requested information about the approved teacher under section 65 before the commencement.
- '(3) If, at the commencement, the commissioner of police has complied with the request, the college may ask the commissioner of police for a written report containing details of any non-criminal history police information about the person.
- '(4) Section 15(3) to (7) applies in relation to the college's request under subsection (3) as if it were made under section 15 in relation to only non-criminal history police information.
- '(5) If, at the commencement, the commissioner of police has not complied with the request, section 15(3) to (7) as in force from the commencement applies in relation to the request.
- '(6) In this section—
non-criminal history police information, of a person, means police information about the person other than the person's criminal history.

'337 Disqualification orders for acts done or omissions made before commencement

'A court may make a disqualification order under section 58 in relation to a person convicted of an offence after the commencement arising out of an act done or omission made before the commencement.

‘338 Disclosure of changes in police information

- ‘(1) To remove any doubt, it is declared that—
- (a) section 68 only requires a person to disclose to the college a change in the person’s non-criminal history police information if the change happened after the commencement; and
 - (b) section 75 only requires the commissioner of police to disclose to the college a change in a person’s non-criminal history police information if the change happened after the commencement.
- ‘(2) In this section—
- non-criminal history police information*, of a person, means police information about the person other than the person’s criminal history.

‘339 References to Youth Justice Act 1992

- ‘(1) This section applies to a reference to the *Youth Justice Act 1992* in a provision of this Act if the provision commences before the JJA short title amendment commences.
- ‘(2) Until the JJA short title amendment commences, the reference is taken to be a reference to the *Juvenile Justice Act 1992*.
- ‘(3) In this section—
- JJA short title amendment* means the *Juvenile Justice and Other Acts Amendment Act 2009*, section 9.’

201 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definitions *commencement* and *imprisonment order*—
- omit.*
- (2) Schedule 3—
- insert—*

[s 201]

'children's commissioner' means the Commissioner for Children and Young People and Child Guardian under the Commissioner's Act.

commencement—

- (a) for chapter 12, parts 1 to 7—see section 299; or
- (b) for chapter 12, part 11, division 2—see section 333.

Commissioner's Act means the *Commission for Children and Young People and Child Guardian Act 2000*.

CPOPOA disqualification order means a disqualification order made under the *Child Protection (Offender Prohibition Order) Act 2008*, section 25.

final offender prohibition order means a final order under the *Child Protection (Offender Prohibition Order) Act 2008*.

final sexual offender order means a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

imprisonment order—

- (a) means either of the following orders—
 - (i) an order of a court that convicts a person for an offence, if the order includes a penalty that includes imprisonment for the offence, whether wholly or partially suspended;
 - (ii) an intensive correction order under the *Penalties and Sentences Act 1992* or an order of another jurisdiction that substantially corresponds to an intensive correction order; but
- (b) does not include an order of imprisonment that is imposed as a consequence of a breach of a community service order or probation order within the meaning of the *Penalties and Sentences Act 1992*.

interim sexual offender order means an interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

offender prohibition order means an offender prohibition order under the *Child Protection (Offender Prohibition Order) Act 2008*.

offender reporting obligations means reporting obligations under the *Child Protection (Offender Reporting) Act 2004*.

police information, about a person, means the following—

- (a) the person's criminal history;
- (b) information as to whether the person is or has been—
 - (i) a relevant excluded person; or
 - (ii) named as the respondent to an application for an offender prohibition order; or
 - (iii) the subject of an application for a disqualification order or CPOPOA disqualification order.

relevant excluded person means a person who is subject to—

- (a) offender reporting obligations; or
- (b) an offender prohibition order; or
- (c) a disqualification order; or
- (d) a CPOPOA disqualification order; or
- (e) a sexual offender order.

sexual offender order means a division 3 order, interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

temporary offender prohibition order means a temporary order under the *Child Protection (Offender Prohibition Order) Act 2008*.

- (3) Schedule 3, definitions *commencement*, *existing register*, *former board*, *former by-law*, *former office*, *new board* and *repealed Act*, after 'chapter 12,'—

insert—

'parts 1 to 7,'.

- (4) Schedule 3, definition *disqualifying offence*—

-
- ‘(2A) Also, the commissioner of the police service or the director of public prosecutions has authority for subsection (1) if the commissioner or director has the possession or does the thing mentioned in the subsection for the purpose of—
- (a) preparing a transcript of a section 93A criminal statement so that it can be given to the CCYPCG commissioner as mentioned in paragraph (b); or
 - (b) giving, under the CCYPCG Act, a section 93A transcript, or a summary of a section 93A transcript, to the CCYPCG commissioner.
- ‘(2B) A person does not commit an offence against subsection (1)(a) by possessing a section 93A transcript, or a summary of a section 93A transcript, if the transcript or summary—
- (a) was, under the CCYPCG Act, given to the CCYPCG commissioner by the commissioner of the police service or the director of public prosecutions; and
 - (b) is in the person’s possession, at the relevant time, for the purpose of making a CCYPCG employment-screening decision.
- ‘(2C) A person does not commit an offence against subsection (1)(b) if the person supplies, or offers to supply, a written summary of a section 93A transcript that is in the person’s possession under subsection (2B)—
- (a) to a relevant CCYPCG applicant; and
 - (b) for a legitimate purpose directly related to the making of a CCYPCG employment-screening decision.
- ‘(2D) A person does not commit an offence against subsection (1)(c) if—
- (a) the person copies, or permits a person to copy, a section 93A transcript, or a summary of a section 93A transcript, that is in the person’s possession under subsection (2B); and
 - (b) the copying is done for the purpose of making a CCYPCG employment-screening decision.

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- ‘(2E) A relevant CCYPCG applicant—
- (a) does not commit an offence against subsection (1)(a) by possessing a written summary of a section 93A transcript, if the summary—
 - (i) was given to the applicant under subsection (2C); and
 - (ii) is in the applicant’s possession, at the relevant time, for a legitimate purpose directly related to the making of a CCYPCG employment-screening decision; and
 - (b) does not commit an offence against subsection (1)(b) if the applicant supplies, or offers to supply, a written summary of a section 93A transcript that is in the applicant’s possession under paragraph (a), or a copy of the summary—
 - (i) to an Australian lawyer; and
 - (ii) for the purpose of obtaining legal advice directly related to the making of a CCYPCG employment-screening decision; and
 - (c) does not commit an offence against subsection (1)(c) if—
 - (i) the applicant copies, or permits a person to copy, a written summary of a section 93A transcript that is in the applicant’s possession under paragraph (a); and
 - (ii) the copying is done so that a copy of the summary can be given to an Australian lawyer for the purpose of obtaining legal advice directly related to the making of a CCYPCG employment-screening decision.
- ‘(2F) An Australian lawyer does not commit an offence against subsection (1)(a) by possessing a written summary of a section 93A transcript, or a copy of a written summary of a section 93A transcript, if the summary or copy—

-
- (a) was given to the lawyer under subsection (2E) by a relevant CCYPCG applicant; and
 - (b) is in the lawyer's possession, at the relevant time, for the purpose of providing legal advice directly related to the making of a CCYPCG employment-screening decision about the applicant.'.

(3) Section 93AA(3)—

insert—

'**Australian lawyer** has the meaning given by the *Legal Profession Act 2007*.

CCYPCG Act means the *Commission for Children and Young People and Child Guardian Act 2000*.

CCYPCG commissioner means the Commissioner for Children and Young People and Child Guardian.

CCYPCG employment-screening decision means an employment-screening decision under the CCYPCG Act.

relevant CCYPCG applicant, for a section 93A transcript, means a person—

- (a) who allegedly committed the alleged offence to which the transcript relates; and
- (b) about whom the CCYPCG commissioner has made or is about to make a CCYPCG employment-screening decision.

section 93A transcript means a transcript of a section 93A criminal statement.'.

208 Insertion of new s 28A

After section 28—

insert—

‘28A Confidentiality of information obtained under previous pt 4

- ‘(1) This section applies to a person who—
- (a) is, or has been, a public service employee in the department or a selection panel member; and
 - (b) in that capacity acquired information, or gained access to a document, under previous part 4 about someone else’s criminal history or about an investigation relating to the possible commission of a serious offence by someone else.

- ‘(2) The person must not disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

- ‘(3) Subsection (2) does not apply to the disclosure of information, or giving of access to a document, about a person—

- (a) to a public service employee in the department, or a selection panel member, for the purpose of assessing the person’s suitability to be, or continue to be, engaged by the department; or
- (b) with the person’s consent; or
- (c) if the disclosure or giving of access is otherwise required under an Act.

- ‘(4) In this section—

commencement means the commencement of this section.

conviction includes a finding of guilt by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

criminal history, of a person, means—

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- (a) every conviction of the person for an offence, in Queensland or elsewhere; and
- (b) every charge made against the person for an offence, in Queensland or elsewhere.

engaged by the department means engaged by the department within the meaning of section 14(2) of this Act as in force from time to time before the commencement.

previous part 4 means part 4 of this Act as in force from time to time before the commencement.

selection panel member means a member of a panel formed to make a recommendation to the chief executive about a person's engagement by the department.

serious offence means serious offence as defined under section 2 of this Act as in force from time to time before the commencement.'.

209 Insertion of new pt 6, div 1, hdg

Part 6, before section 33—

insert—

'Division 1 Transitional provision for repeal of Family and Youth Services Act 1987'.

210 Insertion of new pt 6, div 2, hdg

Part 6, after section 33—

insert—

'Division 2 Transitional provision for Criminal Code and Other Acts Amendment Act 2008'.

211 Insertion of new pt 6, div 3

Part 6—

insert—

**‘Division 3 Transitional provisions for Criminal
History Screening Legislation
Amendment Act 2010**

‘35 Definitions for div 3

‘In this division—

commencement means the commencement of this section.

engaged by the department means engaged by the department within the meaning of section 14 of the unamended Act.

police commissioner means the commissioner of the police service.

police information means a report or other information mentioned in section 22(2) of the unamended Act.

unamended Act means this Act as in force from time to time before the commencement.

‘36 Notice about change in criminal history not given at the commencement

‘(1) This section applies if—

- (a) before the commencement, there is a change in the criminal history of a person engaged by the department; and
- (b) at the commencement, the person has not disclosed the details of the change to the chief executive as required by section 19 of the unamended Act.

‘(2) Despite section 19 of the unamended Act, the person is no longer required to give the details to the chief executive under this Act.

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Note—

See, however, the *Public Service Act 2008*, sections 155B and 257.

‘37 Request for police information not complied with at the commencement

- ‘(1) This section applies if—
- (a) the chief executive has, under section 22 of the unamended Act, asked the police commissioner for police information about a person; and
 - (b) at the commencement, the police commissioner has not given the police information to the chief executive.
- ‘(2) Despite section 22(3) of the unamended Act, the police commissioner is no longer required to comply with the chief executive’s request.

‘38 Particular police information obtained before commencement

- ‘(1) This section applies if—
- (a) before the commencement, the police commissioner gave the chief executive a person’s police information under section 22 of the unamended Act; and
 - (b) at the commencement, the chief executive has not, in relation to the police information, made an assessment about the person’s suitability for engagement, or continued engagement, by the department under section 24 of the unamended Act.
- ‘(2) The chief executive must immediately—
- (a) destroy the police information; and
 - (b) stop making the assessment.

Note—

Now see the following for assessing the person’s suitability for engagement, or continued engagement, by the department—

- (a) the *Public Service Act 2008*, chapter 5, part 6;

(b) the *Commission for Children and Young People and Child Guardian Act 2000*, chapter 8.

'39 Notice not given by prosecuting authority at the commencement

- '(1) This section applies if—
- (a) before the commencement, a person engaged by the department is charged with an indictable offence; and
 - (b) at the commencement, the police commissioner or director of public prosecutions has not given information about the charge to the chief executive as required by section 23 of the unamended Act.
- '(2) Despite section 23 of the unamended Act, the police commissioner or director of public prosecutions is no longer required to give the information to the chief executive.

'40 Use of particular information obtained before commencement

'Section 24(2) of the unamended Act continues to apply in relation to information about a person received by the chief executive under part 4 of the unamended Act as if the *Criminal History Screening Legislation Amendment Act 2010* had not been enacted.'

212 Omission of schedule (Other serious offence provisions of the criminal code)

Schedule—

omit.

Part 13 Amendment of Health Practitioners (Professional Standards) Act 1999

216 Act amended

This part amends the *Health Practitioners (Professional Standards) Act 1999*.

217 Amendment of s 384A (Board may notify Commissioner for Children and Young People and Child Guardian about particular information)

- (1) Section 384A, heading, ‘may’—
omit, insert—
‘**must**’.
- (2) Section 384A(3), from ‘part 6’ to ‘may give’—
omit, insert—
‘chapter 8 of the commissioner’s Act, the board must give’.
- (3) Section 384A(7)—
renumber as section 384A(9).
- (4) Section 384A(4) to (6)—
omit, insert—
- ‘(4) A notice under subsection (3) must state the following—
 - (a) the person’s name and address;
 - (b) the person’s date and place of birth;
 - (c) that the disciplinary action, immediate suspension or section 311 action has been taken against the person, without stating anything further about the disciplinary action, immediate suspension or section 311 action.
- ‘(5) Subsection (6) applies if the children’s commissioner—

[s 217]

- (a) requests further information about the disciplinary action, immediate suspension or section 311 action; and
 - (b) notifies the board that the person is an applicant for, or holder of, a prescribed notice or exemption notice under the commissioner's Act.
- ‘(6) The board must give the children's commissioner a written notice stating the following—
- (a) for a notice about disciplinary action—the form of disciplinary action taken;
 - (b) when the conduct happened that constituted a ground for the disciplinary action, immediate suspension or section 311 action;
 - (c) the nature of the conduct that constituted a ground for the disciplinary action, immediate suspension or section 311 action;
 - (d) any other information about the disciplinary action, immediate suspension or section 311 action the board considers may be relevant to employment screening under the commissioner's Act, chapter 8, including, for example, details about the nature of the disciplinary action, immediate suspension or section 311 action.
- ‘(7) If a written notice is given under subsection (3) or (6) about a disciplinary matter, ground for the immediate suspension or section 311 action relating to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.
- ‘(8) If the board gives the children's commissioner information under subsection (6) about disciplinary action, immediate suspension or section 311 action, and the action or suspension is set aside on review or appeal, the board must notify the commissioner of the following—
- (a) that the action or suspension has been set aside;
 - (b) the reasons given by the entity that set the action or suspension aside for setting it aside.’.

218 Insertion of new pt 13, div 5

Part 13—

insert—

**‘Division 5 Transitional provision for Criminal
History Screening Legislation
Amendment Act 2010**

**‘405L Giving particular information to Commissioner for
Children and Young People and Child Guardian**

‘(1) This section applies if—

(a) before the commencement—

(i) a disciplinary body took disciplinary action against a person as mentioned in section 384A(1)(b) (*disciplinary action*); or

(ii) the board decided to suspend a person’s registration as mentioned in section 384A(2)(a) (*immediate suspension*), or to suspend, cancel, or impose a condition on a person’s registration under section 311 (*section 311 action*) as mentioned in section 384A(2)(b); and

(b) at the commencement, the board has neither given nor decided not to give the children’s commissioner written notice about the disciplinary action, immediate suspension or section 311 action as provided under previous section 384A.

‘(2) Section 384A as in force immediately after the commencement applies in relation to the disciplinary action, immediate suspension or section 311 action.

‘(3) In this section—

commencement means the commencement of this section.

previous section 384A means section 384A as in force from time to time before the commencement.’

[s 219]

Part 14 Amendment of Nursing Act 1992

219 Act amended

This part amends the *Nursing Act 1992*.

220 Amendment of s 139A (Executive officer or council may notify Commissioner for Children and Young People and Child Guardian about particular information)

- (1) Section 139A, heading, ‘may’—
omit, insert—
‘**must**’.
- (2) Section 139A(1)(b), ‘(*immediate suspension*)’—
omit.
- (3) Section 139A(1)(c), ‘(also *immediate suspension*)’—
omit.
- (4) Section 139A(6)—
renumber as section 139A(8).
- (5) Section 139A(2) to (5)—
omit, insert—
‘(2) If the council or executive officer reasonably believes the action mentioned in subsection (1) (the **action**) may be relevant to the children’s commissioner’s functions or powers under chapter 8 of the commissioner’s Act, the council or executive officer must give written notice about the action to the children’s commissioner.
‘(3) A notice under subsection (2) must state the following—
 - (a) the relevant person’s name and address;
 - (b) the relevant person’s date and place of birth;

-
- (c) that the action has been taken against the person, without stating anything further about the action.
- ‘(4) Subsection (5) applies if the children’s commissioner—
- (a) requests further information about the action; and
 - (b) notifies the council or executive officer that the person is an applicant for, or holder of, a prescribed notice or exemption notice under the commissioner’s Act.
- ‘(5) The council or executive officer must give the children’s commissioner a written notice stating the following—
- (a) for a notice about action taken under section 117—the form of action taken;
 - (b) when the matter that was the reason for the action happened;
 - (c) the nature of the matter mentioned in paragraph (b);
 - (d) any other information about the action the council or executive officer considers may be relevant to employment screening under the commissioner’s Act, chapter 8, including, for example, details about the nature of the action.
- ‘(6) If a notice is given under subsection (2) or (5) about action and the matter that was the reason for taking the action relates to a particular child, the notice must not contain information that identifies, or is likely to identify, the child.
- ‘(7) If the council or executive officer gives the children’s commissioner information under subsection (5) about action, and the action is set aside on review or appeal, the council or executive officer must notify the commissioner of the following—
- (a) that the action has been set aside;
 - (b) the reasons given by the entity that set the action aside for setting it aside.’.

[s 221]

221 Insertion of new pt 9, div 7

Part 9—

insert—

‘Division 7 Transitional provision for Criminal History Screening Legislation Amendment Act 2010

‘160 Giving particular information to children’s commissioner

‘(1) This section applies if—

- (a) before the commencement, the council or executive officer took action of a kind mentioned in section 139A(1)(a) to (e) (the *disciplinary action*); and
- (b) at the commencement, the council or executive officer has neither given nor decided not to give the children’s commissioner written notice about the disciplinary action as provided under previous section 139A.

‘(2) Section 139A as in force immediately after the commencement applies in relation to the disciplinary action.

‘(3) In this section—

commencement means the commencement of this section.

previous section 139A means section 139A as in force from time to time before the commencement.’

Part 15 Amendment of Police Powers and Responsibilities Act 2000

222 Act amended

This part amends the *Police Powers and Responsibilities Act 2000*.

223 Amendment of s 789A (Power to demand production of CCYPCG document)

- (1) Section 789A(8), definition *CCYPCG document*—
insert—
'(c) a positive exemption notice within the meaning of the CCYPCG Act.'
- (2) Section 789A(8), definition *disqualifying offence*—
omit, insert—
'*disqualifying offence* means a disqualifying offence within the meaning of the CCYPCG Act.'

Part 16 Amendment of Public Service Act 2008

224 Act amended

This part amends the *Public Service Act 2008*.

225 Amendment of s 150 (Definitions for pt 6)

- (1) Section 150, definitions *CCYPCG disqualification order, CPOPOA disqualification order, disqualification order, investigative information, offender prohibition order, police information, police information report, relevant disqualified person, serious offence* and *temporary offender prohibition order*—
omit.
- (2) Section 150—
insert—
'*CCYPCG Act* means the *Commission for Children and Young People and Child Guardian Act 2000*.

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CCYPCG commissioner means the Commissioner for Children and Young People and Child Guardian under the CCYPCG Act.

positive exemption notice means a positive exemption notice under the CCYPCG Act.

positive prescribed notice means a positive notice under the CCYPCG Act.

regulated employment see the CCYPCG Act, section 156.’.

226 Insertion of new ch 5, pt 6, div 2, sdiv 1, hdg

Chapter 5, part 6, division 2, before section 151—

insert—

‘Subdivision 1 General’.

227 Amendment of s 151 (Application of div 2)

Section 151(1)(b)—

omit, insert—

‘(b) the particular duties are not likely to involve—

(i) regulated employment; or

(ii) child-related duties.

Note—

See—

(a) the CCYPCG Act, chapter 8, and division 3A, for assessing the suitability of persons to be engaged in duties that are regulated employment; and

(b) divisions 3 and 3A for assessing the suitability of persons to be engaged in child-related duties.’.

228 Insertion of new ch 5, pt 6, div 2, sdiv 2

Chapter 5, part 6, division 2—

insert—

**‘Subdivision 2 Changes in criminal history of
persons engaged by department of
communities**

‘155A Definitions for sdiv 2

‘In this subdivision—

approved form means a form approved by the commission chief executive for use under section 155B.

chief executive (communities) means the chief executive of the department of communities.

department of communities means the department in which the following Acts are administered—

- (a) the *Community Services Act 2007*;
- (b) the *Disability Services Act 2006*;
- (c) the *Family Services Act 1987*.

‘155B Engaged person to disclose change in criminal history

- ‘(1) This section applies if there is a change in the criminal history of a person engaged by the department of communities to perform relevant duties.
- ‘(2) The person must immediately disclose the details of the change to the chief executive (communities).
- ‘(3) The disclosure under subsection (2) must be in the approved form.
- ‘(4) Information disclosed in the approved form by the person about a conviction or charge for an offence in the person’s criminal history must include—
 - (a) the existence of the conviction or charge; and
 - (b) when the offence was committed or alleged to have been committed; and

[s 228]

- (c) the details of the offence or alleged offence; and
 - (d) for a conviction—whether or not a conviction was recorded and the sentence imposed on the person.
- ‘(5) For a person who does not have a criminal history, there is taken to be a change in the person’s criminal history if the person acquires a criminal history.

‘155C Failing to make disclosure or making false, misleading or incomplete disclosure

- ‘(1) A person must not—
- (a) fail to give the chief executive (communities) a disclosure as required under section 155B, unless the person has a reasonable excuse; or
 - (b) give the chief executive (communities) an approved form under section 155B that is false, misleading or incomplete in a material particular.

Maximum penalty—100 penalty units or 2 years imprisonment.

- ‘(2) Subsection (1)(b) does not apply to a person in relation to particular information that the person is unable to provide if the person—
- (a) indicates in the approved form the information that the person is unable to provide; and
 - (b) otherwise gives the information in the approved form to the best of the person’s ability.
- ‘(3) It is enough for a complaint for an offence against subsection (1)(b) to state that the disclosure was ‘false or misleading’ to the person’s knowledge, without specifying which.

‘155D Chief executive (communities) may obtain report from police commissioner

- ‘(1) This section applies to a person who is engaged by the department of communities.

- '(2) The chief executive (communities) may ask the police commissioner to give the chief executive a written report about the person's criminal history.
- '(3) The police commissioner must comply with the request.

'155E Use of information obtained under this subdivision

- '(1) This section applies to the chief executive (communities) in considering information about a person received under this subdivision.
- '(2) The information must not be used for any purpose other than assessing the person's suitability to continue to be engaged by the department of communities to perform relevant duties.
- '(3) When making the assessment, the chief executive (communities) must have regard to the following matters relating to information about the commission, or alleged or possible commission, of an offence by the person—
 - (a) when the offence was committed, is alleged to have been committed or may possibly have been committed;
 - (b) the nature of the offence and its relevance to the person's proposed duties or duties under the engagement;
 - (c) anything else the chief executive considers relevant to the assessment of the person.

'155F Person to be advised of information obtained from police commissioner

- '(1) This section applies to information obtained by the chief executive (communities) about a person under section 155D from the police commissioner.
- '(2) Before using the information to assess the person's suitability to continue to be engaged by the department, the chief executive (communities) must—
 - (a) disclose the information to the person; and

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- (b) allow the person a reasonable opportunity to make representations to the chief executive about the information.

‘155G Guidelines for dealing with information obtained under this subdivision

- ‘(1) The chief executive (communities) must make guidelines, consistent with this Act, for dealing with information obtained by the chief executive under this subdivision.
- ‘(2) The purpose of the guidelines is to ensure—
 - (a) natural justice is afforded to the persons about whom the information is obtained; and
 - (b) only relevant information is used in assessing the persons’ suitability to continue to be engaged by the department of communities; and
 - (c) decisions about the suitability of persons, based on the information, are made consistently.
- ‘(3) The chief executive (communities) must give a copy of the guidelines, on request, to a person engaged by the department of communities.’.

229 Amendment of s 156 (Application of div 3)

- (1) Section 156(1)—
omit, insert—
- ‘(1) This division applies to duties to be performed in a department if, under a part 6 directive, the department’s chief executive decides—
 - (a) the duties—
 - (i) are to be performed at a place at which services are provided only or mainly to a child or children; or
 - (ii) are to be performed in a role involving providing services only or mainly to a child or children; or

- (iii) involve contact with a child or children that is of a kind, or happens in a context, that may create an unacceptable level of risk for the child or children; and
- (b) it is necessary to conduct child-related employment screening of a person engaged to perform the particular duties to ensure the person is suitable to perform them; and
- (c) the particular duties are not likely to involve regulated employment.

Note—

See the CCYPCG Act, chapter 8, and division 3A, for assessing the suitability of persons to be engaged in duties that are regulated employment.’.

- (2) Section 156(3)—
omit.

230 Replacement of ss 157–165

Sections 157 to 165—

omit, insert—

‘157 Definitions for div 3

‘In this division—

CCYPCG commission means the Commission for Children and Young People and Child Guardian.

child-related employment screening means employment screening under the CCYPCG Act, chapter 8.

current, for a positive prescribed notice or positive exemption notice, means current within the meaning of the CCYPCG Act.

engage, a person, includes—

- (a) engage the person under a contract for services; and
- (b) engage the person on a voluntary basis; and

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- (c) if the person is a student, engage the person under an arrangement to provide the person with practical experience in the person's field of study.

exemption notice means an exemption notice under the CCYPCG Act.

negative exemption notice means a negative exemption notice under the CCYPCG Act.

negative prescribed notice means a negative notice under the CCYPCG Act.

prescribed notice means a prescribed notice under the CCYPCG Act.

'158 Prescribed notice or exemption notice required for child-related duties

- '(1) The chief executive of a department other than the CCYPCG commissioner must ensure a person does not perform child-related duties in the department unless—
- (a) if the person is engaged by the department as a volunteer and is not a police officer or registered teacher—the person has a current positive prescribed notice; or
 - (b) otherwise—
 - (i) the person has a current positive prescribed notice or current positive exemption notice; or
 - (ii) the chief executive has applied for a prescribed notice or exemption notice about the person as provided under section 159.
- '(2) The CCYPCG commissioner must ensure a person does not perform child-related duties in the CCYPCG commission unless—
- (a) if the person is engaged by the CCYPCG commission as a volunteer and is not a police officer or registered teacher—the person has a current positive prescribed notice or current positive exemption notice; or
 - (b) otherwise—

- (i) the person has a current positive prescribed notice or current positive exemption notice; or
 - (ii) the CCYPCG commissioner has started to undertake child-related employment screening of the person as provided under section 160.
- ‘(3) Subsection (1) or (2) applies even if the person is a public service employee at the time the chief executive proposes to engage the person to perform the child-related duties.
- ‘(4) In this section—
- registered teacher* see the CCYPCG Act, schedule 7.
- volunteer* see the CCYPCG Act, section 165.

‘159 Chief executive to apply for prescribed notice or exemption notice

- ‘(1) This section applies if—
- (a) the chief executive of a department other than the CCYPCG commissioner proposes to engage a person in the department to perform child-related duties; and
 - (b) the person does not have a prescribed notice or exemption notice.
- ‘(2) The chief executive must apply to the CCYPCG commissioner for the prescribed notice or exemption notice.
- ‘(3) The application must be made, and dealt with, under the CCYPCG Act as if the chief executive were proposing to start employing, or continue employing, the person in regulated employment.

Notes—

- 1 Under the CCYPCG Act, section 199(3), a person who asks someone else to sign an application for a prescribed notice about the other person must warn the other person that it is an offence for a disqualified person within the meaning of the CCYPCG Act to sign the application.
- 2 An application for a prescribed notice or exemption notice must include the person’s consent to child-related employment

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screening. See the CCYPCG Act, section 200 (for applications for prescribed notices) or 261 (for applications for exemption notices).

- 3 A person's consent to child-related employment screening may be withdrawn by the person or may be taken to be withdrawn in particular circumstances. See the CCYPCG Act, sections 204 to 210 (for applications for prescribed notices) or sections 264 to 271 (for applications for exemption notices).

'160 CCYPCG commissioner to undertake child-related employment screening

- '(1) This section applies if—
- (a) the CCYPCG commissioner proposes to engage a person to perform child-related duties in the CCYPCG commission; and
 - (b) the person does not have a prescribed notice or exemption notice.
- '(2) The CCYPCG commissioner must undertake child-related employment screening of the person.
- '(3) For subsection (1), the CCYPCG Act, section 36 applies in relation to the person in the same way as it applies to a person who is to start, or continue in, regulated employment in the person's capacity as a member of the CCYPCG commission's staff.

Note—

The CCYPCG Act, section 36 provides for child-related employment screening, and the issue of a prescribed notice or exemption notice, for persons who are to start, or continue in, regulated employment as members of the staff of the CCYPCG commission.

'161 Engaging public service employee before prescribed notice or exemption notice issued

- '(1) This section applies if—
- (a) the chief executive of a department engages a person to perform child-related duties on the basis the chief executive has—

-
- (i) for a chief executive of a department other than the CCYPCG commissioner—applied for a prescribed notice or exemption notice about the person as mentioned in section 158(1)(b)(ii); or
 - (ii) for the CCYPCG commissioner—started to undertake child-related employment screening of the person as mentioned in section 158(2)(b)(ii); and
- (b) the person is a public service employee at the time the chief executive engages the person; and
- (c) either of the following happens—
- (i) the person’s consent to child-related employment screening is withdrawn, or taken to be withdrawn, under the CCYPCG Act;
 - (ii) the person is issued a negative prescribed notice or negative exemption notice.
- ‘(2) The chief executive must ensure the person does not continue to perform child-related duties.

‘162 Engaging other person before prescribed notice or exemption notice issued

- ‘(1) This section applies if—
- (a) the chief executive of a department engages a person to perform child-related duties on the basis the chief executive has—
 - (i) for a chief executive of a department other than the CCYPCG commissioner—applied for a prescribed notice or exemption notice about the person as mentioned in section 158(1)(b)(ii); or
 - (ii) for the CCYPCG commissioner—started to undertake child-related employment screening of the person as mentioned in section 158(2)(b)(ii); and

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- (b) the person is not a public service employee at the time the chief executive engages the person.
- ‘(2) The chief executive—
- (a) may only appoint the person on probation under section 126 for a period not ending before the prescribed notice or exemption notice is issued to the person; and
 - (b) may confirm the person’s appointment under section 126 only if the person is issued a positive prescribed notice or positive exemption notice; and
 - (c) must not confirm the person’s appointment under section 126 if either of the following happens—
 - (i) the person’s consent to child-related employment screening is withdrawn, or taken to be withdrawn, under the CCYPCG Act;
 - (ii) the person is issued a negative prescribed notice or negative exemption notice.
- ‘(3) Subsection (2) does not limit section 126.

‘163 Effect of suspension or cancellation of positive prescribed notice or positive exemption notice

- ‘(1) If the chief executive of a department engages a person to perform child-related duties in the department and the person’s positive prescribed notice or positive exemption notice is suspended under the CCYPCG Act, the chief executive must ensure the person does not perform child-related duties while the notice is suspended.
- ‘(2) If the chief executive of a department engages a person to perform child-related duties in the department and the person’s positive prescribed notice or positive exemption notice is cancelled under the CCYPCG Act, the chief executive must ensure the person does not perform child-related duties.

‘Division 3A Further assessment of person to whom prescribed notice or exemption notice is issued

‘164 This division does not apply to particular engagements

‘This division does not apply in relation to the following—

- (a) engaging a person under a contract for services;
- (b) engaging a person on a voluntary basis;
- (c) engaging a student under an arrangement to provide the student with practical experience in the student’s field of study.

‘165 Application of Criminal Law (Rehabilitation of Offenders) Act 1986

‘This division is subject to the *Criminal Law (Rehabilitation of Offenders) Act 1986* but does not limit any other law, or other provision of this Act, under which a person’s criminal history may be obtained.

‘165A Chief executive may decide to obtain criminal history

‘(1) This section applies if the CCYPCG commissioner—

- (a) issues a positive prescribed notice or positive exemption notice to a person to be engaged by a department to perform either or both of the following (*prescribed duties*)—
 - (i) child-related duties;
 - (ii) regulated employment; and
- (b) under the CCYPCG Act, section 235 or 293 (including as applied for section 159), gives the chief executive of the department a notice stating that the chief executive may need to undertake a further assessment of the

[s 230]

person under this division to decide whether or not the department should engage the person.

- ‘(2) If the chief executive proposes to engage the person to perform the prescribed duties, the chief executive may, under a part 6 directive, ask the person for written consent for the chief executive to obtain the person’s criminal history under this division.
- ‘(3) Subsection (2) applies even if the person is an employee of the department at the time the chief executive proposes to engage the person to perform the prescribed duties.

‘165B Failure to consent to obtaining criminal history

- ‘(1) This section applies if the person does not consent, or withdraws his or her consent, to the chief executive obtaining the person’s criminal history.
- ‘(2) If the person is an employee of the department who is engaged in performing prescribed duties, the chief executive must ensure the person does not perform prescribed duties.
- ‘(3) If the person is not an employee of the department who is engaged in performing prescribed duties, the chief executive is not required to consider the person for engagement to perform the prescribed duties.

‘165C Obtaining criminal history with consent

- ‘(1) If the person gives written consent to the chief executive obtaining the person’s criminal history, the chief executive may ask the police commissioner for a written report about the person’s criminal history.
- ‘(2) The request may include the following—
 - (a) the person’s name and any other name the chief executive believes the person may use or may have used;
 - (b) the person’s date and place of birth, gender and address.
- ‘(3) The police commissioner must give the requested report to the chief executive.

Note—

See sections 166 and 167 for when the police commissioner need not or must not give the requested report.

‘165D Assessment of suitability using criminal history report

‘After the person’s criminal history report is given to the chief executive, the chief executive must, under a part 6 directive, consider the person’s criminal history in making an assessment about the person’s suitability for engagement to perform the prescribed duties.’.

231 Amendment of ch 5, pt 6, div 4, hdg

Chapter 5, part 6, division 4, heading, ‘and 3’—

omit, insert—

‘and 3A and other information etc.’.

232 Amendment of s 166 (Duty of police commissioner relating to requests for criminal history or police information)

(1) Section 166, heading, ‘or police information’—

omit.

(2) Section 166, ‘or police information’—

omit.

233 Amendment of s 167 (Criminal history or police information no longer required to be obtained)

(1) Section 167, heading, ‘or police information’—

omit.

(2) Section 167(1)(a) and (b)—

omit, insert—

[s 234]

- ‘(a) the chief executive has, under section 154 or 165C, requested the police commissioner to give the chief executive a written report about a person’s criminal history; and
- (b) the chief executive decides the criminal history is no longer required.’.

234 Amendment of s 168 (Police commissioner not to use information given as part of request except for particular circumstances)

Section 168(1), ‘or 159(2)’—

omit, insert—

‘or 165C(2)’.

235 Amendment of s 169 (Destruction of reports and notices)

- (1) Section 169(1)(a), ‘or police information report’—

omit.

- (2) Section 169(1)(a), ‘or 3’—

omit, insert—

‘or 3A’.

236 Amendment of s 170 (Prosecuting authority to notify chief executive about committal, conviction etc.)

- (1) Section 170(1), from ‘any of the following’—

omit, insert—

‘the person is charged with a relevant offence.’.

- (2) Section 170(4)—

omit.

- (3) Section 170(5), from ‘or an order’ to ‘making of the order’—

omit, insert—

‘and the person has appealed against the conviction’.

(4) Section 170(5)(b), ‘or order’—

omit.

(5) Section 170(6), after ‘notice to the’—

insert—

‘department’s’.

(6) Section 170(7), ‘subsection (5)’—

omit, insert—

‘subsection (4)’.

(7) Section 170(8)—

omit.

(8) Section 170(9)—

insert—

‘*disqualifying offence* see the CCYPCG Act, schedule 7.’.

(9) Section 170(5) to (9)—

renumber as section 170(4) to (7).

237 Amendment of s 171 (False or misleading statements in consent)

Section 171(1), ‘or 157’—

omit, insert—

‘or 165A’.

238 Amendment of s 172 (Confidentiality)

Section 172(4)—

insert—

‘*child-related duties* includes duties that are regulated employment.’

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police information means police information as defined under section 150 of this Act as in force from time to time before the commencement of this definition.

police information report means a report and other information given under previous section 160.

previous section 160 means section 160 of this Act as in force from time to time before the commencement of this definition.’.

239 Amendment of s 173 (Commission chief executive may make rulings for this part)

(1) Section 173(2)(b) and (c)—

omit, insert—

‘(b) the following—

- (i) the kinds of places a chief executive may decide are places at which services are provided only or mainly to a child or children;
- (ii) the kinds of roles a chief executive may decide involve providing services only or mainly to a child or children;
- (iii) the duties that involve contact with a child or children that is of a kind, or happens in a context, that may create an unacceptable level of risk for the child or children; and

(c) a reasonable opportunity to be given to a person to make written representations about a criminal history report before an adverse decision relating to the person is made.’.

(2) Section 173(3), definition *adverse decision*—

insert—

‘(c) duties that are regulated employment, other than a decision that the person is suitable to perform the duties.’.

240 Insertion of new ch 9, pt 5

Chapter 9—

insert—

**‘Part 5 Transitional provisions for
Criminal History Screening
Legislation Amendment Act
2010**

‘256 Definitions for pt 5

‘In this part—

amending Act means the *Criminal History Screening Legislation Amendment Act 2010*.

commencement means the commencement of this part.

regulated employment see the CCYPCG Act, section 156.

unamended Act means this Act as in force from time to time before the commencement.

‘257 Application of s 155B

‘(1) This section applies if—

(a) before the commencement, a person engaged by the department of communities was required, under a relevant provision, to disclose a change in the person’s criminal history to the chief executive of that department; and

(b) at the commencement, the person has not made the disclosure.

‘(2) Section 155B applies in relation to the change as if it happened immediately after the commencement.

‘(3) In this section—

department of communities see section 155A.

[s 240]

relevant provision means—

- (a) the *Community Services Act 2007*, section 105 as in force before its repeal by the amending Act; or
- (b) the *Disability Services Act 2006*, section 67 as in force before its repeal by the amending Act; or
- (c) the *Family Services Act 1987*, section 19 as in force before its repeal by the amending Act.

‘258 Persons being considered for engagement, or engaged, in child-related duties or regulated employment at the commencement

- ‘(1) Chapter 5, part 6, divisions 3 and 3A apply in relation to a person who, at the commencement, is—
 - (a) being considered for engagement by a department in child-related duties; or
 - (b) engaged by a department in child-related duties.
- ‘(2) Chapter 5, part 6, division 3A applies in relation to a person who, at the commencement, is—
 - (a) being considered for engagement by a department in regulated employment; or
 - (b) engaged by a department in regulated employment.
- ‘(3) For subsections (1) and (2), a person is being considered for engagement by a department at the commencement if—
 - (a) the person applied or otherwise expressed an interest in being engaged by the department before the commencement; and
 - (b) at the commencement, the chief executive of the department has not finished making an assessment of the person’s suitability for the engagement.
- ‘(4) In this section—
child-related duties see section 156.

‘259 Request for police information not complied with at the commencement

- ‘(1) This section applies if—
- (a) the chief executive of a department has, under section 159 of the unamended Act, asked the police commissioner for a written report about a person’s police information; and
 - (b) at the commencement, the police commissioner has not given the written report to the chief executive.
- ‘(2) Despite section 160 of the unamended Act, the police commissioner is no longer required to comply with the chief executive’s request.

‘260 Particular police information obtained before commencement

- ‘(1) This section applies if—
- (a) before the commencement, the police commissioner gave the chief executive of a department a written report about a person’s police information under section 160 of the unamended Act; and
 - (b) at the commencement, the chief executive has not, in relation to the written report, made an assessment about the person’s suitability for engagement, or continued engagement, to perform child-related duties under section 162 of the unamended Act.
- ‘(2) The chief executive must immediately—
- (a) destroy the written report; and
 - (b) stop making the assessment.

Note—

The person’s suitability for engagement, or continued engagement, to perform child-related duties is now dealt with under chapter 5, part 6, divisions 3 or 3A as in force from the commencement. See section 258.

- ‘(3) In this section—

[s 240]

child-related duties means child-related duties within the meaning of section 156 of the unamended Act.

‘261 Particular appeals and appeal rights continue

- ‘(1) Subsection (2) applies if, at the commencement, a person has appealed to a Magistrates Court under section 161 of the unamended Act and the appeal has not been decided.
- ‘(2) The Magistrates Court must hear, or continue to hear, and decide the appeal under section 161 of the unamended Act.
- ‘(3) Subsection (4) applies if, at the commencement, a person could have but has not appealed to a Magistrates Court under section 161 of the unamended Act.
- ‘(4) The person may appeal to a Magistrates Court under section 161 of the unamended Act within the period stated in section 161(3) of the unamended Act, and the court must hear and decide the appeal under section 161 of the unamended Act.
- ‘(5) For subsections (2) and (4), subject to subsection (6), section 161 of the unamended Act continues to apply in relation to the appeal as if the amending Act had not been enacted.
- ‘(6) If, on appeal, a Magistrates Court sets aside the police commissioner’s decision that information given to the chief executive about a person is investigative information, the chief executive must—
 - (a) if the person is to be engaged or continue to be engaged to perform relevant duties—assess the person’s suitability to be engaged or to continue to be engaged to perform relevant duties under chapter 5, part 6, division 2; or
 - (b) if the person is to be engaged or continue to be engaged to perform child-related duties—apply for a prescribed notice or exemption notice about the person under the CCYPCG Act as provided in chapter 5, part 6, division 3; or

- (c) if the person is to be engaged in regulated employment—apply for a prescribed notice or exemption notice under the CCYPCG Act.

Note—

A person about whom an application for a prescribed notice or exemption notice is made under the CCYPCG Act may withdraw the person's consent to employment screening under that Act. See section 204 (for applications for a prescribed notice) or 263 (for applications for an exemption notice).

- '(7) In this section—

CCYPCG Act see section 150.

child-related duties see section 156.

relevant duties see section 151.

'262 Particular information etc. obtained before commencement

- '(1) Section 168 of the unamended Act continues to apply in relation to information given to the police commissioner under section 159(2) of the unamended Act before the commencement as if the amending Act had not been enacted.
- '(2) Subsection (3) applies to any of the following if, under a part 6 directive, it is no longer required to be kept—
- (a) a report and other information about a person given to a chief executive under section 160 of the unamended Act;
 - (b) a notice given to a chief executive under section 170 of the unamended Act.
- '(3) The chief executive must destroy the report, the information, the notice and any other document required by the directive to be destroyed.

'263 Notice not given by prosecuting authority at the commencement

- '(1) This section applies if—

[s 241]

- (a) before the commencement, something (the *relevant event*) mentioned in section 170(1)(b) to (e) of the unamended Act happened in relation to a person who is a public service employee in a department; and
 - (b) at the commencement, the police commissioner or director of public prosecutions has not given notice of the relevant event to the department's chief executive as required by section 170 of the unamended Act.
- ‘(2) Despite section 170 of the unamended Act, the police commissioner or director of public prosecutions is no longer required to give notice of the relevant event to the chief executive.’.

241 Amendment of sch 4 (Dictionary)

- (1) Schedule 4, definitions *CCYPCG disqualification order*, *CPOPOA disqualification order*, *disqualification order*, *disqualifying offence*, *engage*, *investigative information*, *offender prohibition order*, *police information*, *police information report*, *relevant disqualified person*, *serious offence* and *temporary offender prohibition order*—
omit.
- (2) Schedule 4—
insert—
‘amending Act, for chapter 9, part 5, see section 256.
approved form, for chapter 5, part 6, division 2, subdivision 2, see section 155A.
CCYPCG Act, for chapter 5, part 6, see section 150.
CCYPCG commission, for chapter 5, part 6, division 3, see section 157.
CCYPCG commissioner, for chapter 5, part 6, see section 150.
child-related employment screening, for chapter 5, part 6, division 3, see section 157.

chief executive (communities), for chapter 5, part 6, division 2, subdivision 2, see section 155A.

commencement, for chapter 9, part 5, see section 256.

current, for chapter 5, part 6, division 3, see section 157.

department of communities, for chapter 5, part 6, division 2, subdivision 2, see section 155A.

engage—

(a) for chapter 5, part 6 generally—see section 150; and

(b) for chapter 5, part 6, division 3—see also section 157.

exemption notice, for chapter 5, part 6, division 3, see section 157.

negative exemption notice, for chapter 5, part 6, division 3, see section 157.

negative prescribed notice, for chapter 5, part 6, division 3, see section 157.

positive exemption notice, for chapter 5, part 6, see section 150.

positive prescribed notice, for chapter 5, part 6, see section 150.

prescribed notice, for chapter 5, part 6, division 3, see section 157.

regulated employment—

(a) for chapter 5, part 6—see section 150; or

(b) for chapter 9, part 5—see section 256.

unamended Act, for chapter 9, part 5, see section 256.’.

[s 242]

Part 17 **Amendment of Youth Justice Act 1992**

242 Act amended

This part amends the *Youth Justice Act 1992*.

243 Amendment of s 252I (Issue of warrant for child in particular circumstances)

Section 252I(7), ‘subsection (2)’—

omit, insert—

‘subsection (1) or (2)’.

244 Amendment of s 348 (Cancellation of supervised release order)

Section 348—

insert—

‘(2A) Old section 231(12) continues to apply (and is declared to have always continued to apply despite its repeal) in relation to a warrant issued for a child’s arrest under old section 231(4) or (5) for the period spent by the child out of custody.’.

245 Insertion of new pt 11, div 7

Part 11—

insert—

**‘Division 7 Transitional provision for Criminal
History Screening Legislation
Amendment Act 2010**

‘351 Effect of s 252I on particular warrants

- ‘(1) This section applies in relation to a warrant issued for a child’s arrest under section 252I(1) before the commencement of the amendment of the section by the amending Act.
- ‘(2) Section 252I(7) as amended by the amending Act—
- (a) does not apply in relation to the period of time spent by the child out of custody before the commencement of the amendment; but
 - (b) does apply in relation to the period of time spent by the child out of custody after the commencement of the amendment.
- ‘(3) In this section—
- amending Act* means the *Criminal History Screening Legislation Amendment Act 2010*.’.

**Part 18 Amendment of Juvenile Justice
and Other Acts Amendment Act
2009**

246 Act amended

- (1) This part amends the *Juvenile Justice and Other Acts Amendment Act 2009*.
- (2) However, this part applies only if schedule 2 of this Act commences before the JJA short title amendment commences.
- (3) In this section—

[s 247]

JJA short title amendment means the *Juvenile Justice and Other Acts Amendment Act 2009*, section 9.

247 Amendment of schedule (Consequential amendments)

Schedule, section 9—

omit, insert—

‘9 Commission for Children and Young People and Child Guardian Act 2000

- section 54(b), (c) and (d)
- section 66(1)
- section 106(1)
- schedule 7, definition *detention centre*.’.

Part 19 Amendment of other Acts

248 Acts amended in sch 3

Schedule 3 amends the Acts mentioned in it.

Schedule 1 **Minor amendments of the Commission for Children and Young People and Child Guardian Act 2000**

section 56

1 Section 4A—

omit.

2 Section 31D(2), examples—

omit, insert—

‘Examples of stated ways—

- sending the commissioner an electronic copy of a document
- allowing the commissioner to enter the department’s premises and access information or documents’.

3 Section 31DA(2), examples—

omit, insert—

‘Examples of stated ways—

- sending the commissioner an electronic copy of a document
- allowing the commissioner to enter the service provider’s premises and access information or documents’.

4 Section 31EA(2), examples, second dot point, ‘section 63’—

omit, insert—

‘section 62A’.

5 Section 40(1)(b)(iv)—

omit, insert—

‘(iv) is the subject of an investigation under the
Coroner’s Act 2003; or’.

6 Section 89T(4)(a), ‘2000’—

omit, insert—

‘2001’.

7 Section 89ZG(6), ‘section 63’—

omit, insert—

‘section 62A’.

Schedule 2 Other amendments of the Commission for Children and Young People and Child Guardian Act 2000

section 56

1 Particular headings—

A heading mentioned in column 1 of the following table is omitted and replaced with the heading mentioned in column 2 of the table opposite the heading—

Column 1	Column 2
Heading	Heading after amendment
Part 1, heading	Chapter 1 Preliminary
Part 1, division 1, heading	Part 1 Introduction
Part 1, division 2, heading	Part 2 Object, underlying principles and scope of Act
Part 1, division 3, heading	Part 3 Service providers
Part 1, division 4, heading	Part 4 Children in the child safety system
Part 2, heading	Chapter 2 Commissioner, assistant commissioner and commission
Part 2, division 1, heading	Part 1 Establishment
Part 2, division 2, heading	Part 2 Functions and powers
Part 2, division 3, heading	Part 3 Appointment of commissioner and related provisions
Part 2, division 3A, heading	Part 4 Appointment of assistant commissioner
Part 2, division 4, heading	Part 5 Commission's staff
Part 2A, heading	Chapter 3 Powers and obligations relating to the commissioner's monitoring functions
Part 2A, division 1, heading	Part 1 Operation of ch 3

Column 1	Column 2
Section 31B, heading	31B Services to which this chapter applies
Part 2A, division 2, heading	Part 2 Powers and obligations
Section 31EB, heading	31EB Restricted use of confidential information accessed under this chapter
Part 3, heading	Chapter 4 Complaints and investigations
Part 3, division 1AA, heading	Part 1 Preliminary
Section 31K, heading	31K Operation of ch 4
Part 3, division 1, heading	Part 2 Making complaints
Part 3, division 2, heading	Part 3 Assessing complaints and deciding further action
Part 3, division 3, heading	Part 4 Investigations
Part 3, division 3, subdivision 1, heading	Division 1 Starting an investigation
Part 3, division 3, subdivision 2, heading	Division 2 Access to child and information for investigation
Part 3, division 3, subdivision 3, heading	Division 3 Defences for failing to comply with notice for information
Section 47, heading	47 Application of div 3
Part 3, division 3, subdivision 4, heading	Division 4 Other offences
Part 3, division 3, subdivision 5, heading	Division 5 Matters at end of investigation
Part 3, division 3, subdivision 6, heading	Division 6 Reports and tabling them
Section 60, heading	60 Application of div 6
Part 4, heading	Chapter 5 Community visitors
Part 4, division 1, heading	Part 1 Preliminary
Section 64, heading	64 Purpose of ch 5
Part 4, division 2, heading	Part 2 Visits to visitable sites and homes
Part 4, division 3, heading	Part 3 Functions and powers
Part 4, division 3, subdivision 1, heading	Division 1 Functions

Column 1	Column 2
Part 4, division 3, subdivision 2, heading	Division 2 Power of entry to visitable sites and visitable homes
Part 4, division 3, subdivision 3, heading	Division 3 Other powers
Part 4, division 3, subdivision 4, heading	Division 4 Exercise of powers
Part 4, division 4, heading	Part 4 Appointment of community visitors
Part 4, division 5, heading	Part 5 Identity cards
Part 4, division 6, heading	Part 6 Miscellaneous
Part 4A, heading	Chapter 6 Child deaths
Part 4A, division 1, heading	Part 1 Child Death Case Review Committee
Part 4A, division 1, subdivision 1, heading	Division 1 Preliminary
Section 89A, heading	89A Definitions for pt 1
Part 4A, division 1, subdivision 2, heading	Division 2 Establishment and functions
Part 4A, division 1, subdivision 3, heading	Division 3 Membership
Part 4A, division 1, subdivision 4, heading	Division 4 Chairperson
Part 4A, division 1, subdivision 5, heading	Division 5 Conduct of business
Part 4A, division 1, subdivision 6, heading	Division 6 Reviews and reports
Part 4A, division 1, subdivision 7, heading	Division 7 Recommendations
Part 4A, division 1, subdivision 8, heading	Division 8 Other provisions
Part 4A, division 2, heading	Part 2 Commissioner's functions relating to child deaths
Part 5, heading	Chapter 7 Advisory committees
Part 6A, heading	Chapter 9 Provisions about QCAT proceedings
	Part 1 QCAT proceedings about child-related employment review
Section 128A, heading	128A Definitions for pt 1
Section 128B, heading	128B Application of pt 1
Part 6B, heading	Part 2 QCAT to give statistical information to commissioner

Column 1	Column 2
Part 7A, heading	Chapter 10 General Part 1 Review of particular decisions
Section 140A, heading	140A Meaning of reviewable decision for pt 1
Part 8, heading and part 8, division 1, heading	Part 2 When commissioner may give notice other than in writing
Section 141, heading	141 Application of pt 2
Part 8, division 2, heading	Part 3 Evidence and legal proceedings
Part 8, division 3, heading	Part 4 Confidentiality
Part 8, division 4, heading	Part 5 Reprisals
Part 8, division 5, heading	Part 6 Miscellaneous
Part 9, heading	Chapter 11 Transitional and other provisions
Part 9, division 1, heading	Part 1 Repeal
Part 9, division 2, heading	Part 2 Transitional provisions on repeal of Children’s Commissioner and Children’s Services Appeals Tribunals Act 1996
Part 9, division 3, heading	Part 3 Transitional provisions for amendment of Juvenile Justice Act 1992
Part 9, division 4, heading	Part 4 Transitional provisions for Child Care Act 2002
Part 9, division 5, heading	Part 5 Transitional provisions for Education and Other Legislation (Student Protection) Amendment Act 2003
Section 179, heading	179 Definitions for pt 5
Part 9, division 6, heading	Part 6 Transitional provisions for Child Safety Legislation Amendment Act 2004
Part 9, division 7, heading	Part 7 Transitional provisions for the Commission for Children and Young People and Child Guardian Amendment Act 2004
Part 9, division 8, heading	Part 8 Further transitional provisions for the Commission for Children and Young People and Child Guardian Amendment Act 2004
Section 196, heading	196 Definitions for pt 8

Column 1	Column 2
Section 197, heading	197 Main purpose of pt 8
Part 9, division 9, heading	Part 9 Transitional provisions for Child Safety (Carers) Amendment Act 2006
Section 207, heading	207 Definition for pt 9
Part 9, division 10, heading	Part 10 Transitional and validation provisions for Commission for Children and Young People and Child Guardian Amendment Act 2007
Section 213, heading	213 Definitions for pt 10
Part 9, division 11, heading	Part 11 Transitional provisions for Commission for Children and Young People and Child Guardian and Another Act Amendment Act 2008
Section 217, heading	217 Definition for pt 11
Section 225, heading	225 Notice by commissioner of withdrawal of application under this part
Section 226, heading	226 Notice by commissioner of cancellation of positive notice under this part
Part 9, division 12, heading	Part 12 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

2 Section 3, ‘schedule 4’—

omit, insert—

‘schedule 7’.

3 Section 7A, example 1, ‘section 15AA(1)(b)’—

omit, insert—

‘section 18(1)(b)’.

4 Section 7A, example 2, ‘section 32(a)’—

omit, insert—

‘section 54(a)’.

5 Section 15(1)(a), editor’s note—

omit, insert—

‘Note—

See section 54 for the complaints that the commissioner deals with under this Act.’.

6 Section 15(1)(c), ‘section 15AA’—

omit, insert—

‘section 18’.

7 Section 15(1)(e), ‘part 7A’—

omit, insert—

‘chapter 10, part 1’.

8 Section 15(1)(j), 21(2)(b) and 81(3)(b), editor’s note—

omit, insert—

‘Note—

See section 6 for the principles underlying this Act.’.

9 Section 15(1)(ra), ‘part 6’—

omit, insert—

‘chapter 8’.

10 Section 15(2)(a), ‘section 15AA’—

omit, insert—

‘section 18’.

-
- 11 Section 15AA(1), note—**
omit, insert—
Note—
Chapter 3 includes powers of the commissioner that may be exercised to perform the monitoring functions, but only in relation to the service providers mentioned in section 39.’.
- 12 Section 15AA(2), ‘part 2A’—**
omit, insert—
‘chapter 3’.
- 13 Section 16, ‘parts 2A and 3’—**
omit, insert—
‘chapters 3 and 4’.
- 14 Section 17(2), ‘section 18, 19 or 20’—**
omit, insert—
‘section 23, 24 or 25’.
- 15 Section 22(1), ‘sections 26 and 27’—**
omit, insert—
‘sections 31 and 32’.
- 16 Section 28(2), ‘section 21’—**
omit, insert—
‘section 26’.
- 17 Section 28A(2), ‘Division 3’—**
omit, insert—
‘Part 3’.

- 18 Section 28A(3), ‘section 21(2)’—**
omit, insert—
‘section 26(2)’.
- 19 Section 29(1), editor’s note—**
omit, insert—
‘Note—
For the appointment of community visitors, see section 107.’.
- 20 Section 31A, 31B, 31K(1), 32, 42(4) and (5)(c), 64, 89C(d), 89D and 89Y, ‘part’—**
omit, insert—
‘chapter’.
- 21 Section 31D(1), 31DA(1), 31DB(2) and 31E(1), ‘section 31C’—**
omit, insert—
‘section 40’.
- 22 Section 31D(3)(b), 31E(4) and 31G(1)(b), ‘section 18(2)’—**
omit, insert—
‘section 23(2)’.
- 23 Section 31DA(5), ‘section 31DB’—**
omit, insert—
‘section 43’.
- 24 Section 31EB(2)(b), ‘section 20’—**
omit, insert—
‘section 25’.

-
- 25 Section 31EB(2)(c), ‘part 3’—**
omit, insert—
‘chapter 4’.
- 26 Section 31H(4), ‘section 31B(b)’—**
omit, insert—
‘section 39(b)’.
- 27 Section 31I(1)(a), 31J, 37(1)(b), 70(4)(c), 72(2)(a)(ii), 89A, 89R, 89ZE(d), 89ZG(1)(a), 89ZH, 141, 144, 169, 175, 179, 196, 197, 205(2)(a) and (b), 207, 213 and 217, ‘division’—**
omit, insert—
‘part’.
- 28 Section 31I(1)(b), ‘section 31H’—**
omit, insert—
‘section 50’.
- 29 Section 31I(2), note, ‘Sections 60 to 63’—**
omit, insert—
‘Sections 82 to 85’.
- 30 Section 39(1), ‘division 1’—**
omit, insert—
‘part 2’.
- 31 Section 39(1)(e), ‘section 40’—**
omit, insert—
‘section 62’.

- 32 Section 41(1)(a) and (b)—**
omit, insert—
‘(a) making it under section 59; or
(b) assessing it under section 60.’.
- 33 Section 43(5), ‘section 32’—**
omit, insert—
‘section 54’.
- 34 Section 44(3), ‘section 43’—**
omit, insert—
‘section 65’.
- 35 Section 47, 51(5), 60 and 73(1), ‘subdivision’—**
omit, insert—
‘division’.
- 36 Section 51(1)(a), ‘section 48’—**
omit, insert—
‘section 70’.
- 37 Section 51(1)(b), ‘section 50’—**
omit, insert—
‘section 72’.
- 38 Sections 57 and 58(1) and (2), ‘section 56’—**
omit, insert—
‘section 78’.

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- 39 Section 62(1), ‘section 61’—**
omit, insert—
‘section 83’.
- 40 Section 63(3), ‘section 62(2)(a) to (c)’—**
omit, insert—
‘section 84(2)(a) to (c)’.
- 41 Section 64A, ‘section 64(a)’—**
omit, insert—
‘section 86(a)’.
- 42 Section 64B, ‘section 64(b) or (c)’—**
omit, insert—
‘section 86(b) or (c)’.
- 43 Section 70(1), ‘section 69(1)(a)’—**
omit, insert—
‘section 94(1)(a)’.
- 44 Section 75(1)(d), ‘section 74’—**
omit, insert—
‘section 99’.
- 45 Section 76A(5), definition *relevant child*, ‘section 64(b) or (c)’—**
omit, insert—
‘section 86(b) or (c)’.

- 46 Section 77(1)(c) and (2)(b), ‘section 67(1)’—**
omit, insert—
‘section 92(1)’.
- 47 Section 82(3), ‘section 81(5)’—**
omit, insert—
‘section 107(5)’.
- 48 Section 89A, definition *appointed members*, ‘section 89F(1)(c)’—**
omit, insert—
‘section 120(1)(c)’.
- 49 Section 89A, definition *CDCRC*, ‘section 89B’—**
omit, insert—
‘section 116’.
- 50 Section 89A, definition *CDCRC member*, ‘section 89F(1)(a) or (b)’—**
omit, insert—
‘section 120(1)(a) or (b)’.
- 51 Section 89A, definition *review criteria*, ‘section 89S’—**
omit, insert—
‘section 133(1)’.
- 52 Section 89G(1)(a), ‘section 89F(3)(a)’—**
omit, insert—
‘section 120(3)(a)’.

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- 53 Section 89G(1)(b), ‘section 89F(3)(b)’—**
omit, insert—
‘section 120(3)(b)’.
- 54 Section 89H(1)(a)(ii), ‘section 89F’—**
omit, insert—
‘section 120’.
- 55 Section 89I, ‘Sections 89F(3) and 89H’—**
omit, insert—
‘Sections 120(3) and 122’.
- 56 Section 89K(b), ‘section 89L’—**
omit, insert—
‘section 126’.
- 57 Section 89Q(7)(b), ‘section 89T’—**
omit, insert—
‘section 134’.
- 58 Section 89Q(8), ‘section 89U(2)’—**
omit, insert—
‘section 135(2)’.
- 59 Section 89T(2), ‘section 89U(1)’—**
omit, insert—
‘section 135(1)’.

- 60 Section 89W(1) and (3)(b), ‘section 89V’—**
omit, insert—
‘section 136’.
- 61 Section 89X(1)(b), ‘section 89E’—**
omit, insert—
‘section 119’.
- 62 Section 89X(1)(c), ‘section 89ZB’—**
omit, insert—
‘section 142’.
- 63 Section 89X(2)(a)(iii), ‘section 89G’—**
omit, insert—
‘section 121’.
- 64 Section 89Z(3), definition *relevant person*, paragraph (b), ‘section 89E’—**
omit, insert—
‘section 119’.
- 65 Section 89Z(3), definition *relevant person*, paragraph (c), ‘section 89ZB’—**
omit, insert—
‘section 142’.
- 66 Section 89ZA(2), ‘section 89T(2)’—**
omit, insert—
‘section 134(2)’.

-
- 67 Section 89ZF(2), ‘section 89ZE’—**
omit, insert—
‘section 145’.
- 68 Sections 7A–94—**
renumber as sections 8 to 153.
- 69 Section 128A, definition *child-related employment decision*, from ‘decision’—**
omit, insert—
‘chapter 8 reviewable decision’.
- 70 Section 128F(1), ‘section 128E’—**
omit, insert—
‘section 362’.
- 71 Section 128H(1)(b) and 128I(1)(b), ‘section 128J’—**
omit, insert—
‘section 367’.
- 72 Section 140A(1), editor’s note—**
omit, insert—
‘*Note—*
Reviewable decisions under the *Child Protection Act 1999* are in schedule 2 of that Act. See schedule 3, definition *reviewable decision* of that Act.’.
- 73 Section 140A(5), ‘section 140B’—**
omit, insert—
‘section 370’.

- 74 Section 153(1), ‘section 152(1)(b) or (2)(b)’—**
omit, insert—
‘section 384(1)(b) or (2)(b)’.
- 75 Section 153(5)(a) and 163A(c), ‘section 163’—**
omit, insert—
‘section 395’.
- 76 Section 154(1), ‘Section 153’—**
omit, insert—
‘Section 385’.
- 77 Section 163(3)(b), from ‘part 6’—**
omit, insert—
‘chapter 8 including confidential information to which section 345 or 385 applies or that is mentioned in section 384(1)(b).’.
- 78 Section 164A(1), from ‘part 6’—**
omit, insert—
‘chapter 8 in relation to—
(a) a person who is or is likely to be engaged in regulated employment mentioned in schedule 1, section 14; or
(b) a regulated business mentioned in schedule 1, section 24.’.
- 79 Section 231, ‘and 2B’—**
omit, insert—
‘and 4’.

80 Sections 128A–231—

renumber as sections 358 to 464.

81 Schedule 7 (as renumbered), definitions *appointed members, CDCRC, CDCRC member, child-related employment decision, commencement, constituting members, government service provider, in the child safety system, licensee, notice for information, original reviews, parent, policies, private service provider, QCAT child-related employment review, QCAT president, relevant provider, relevant service providers, reviewable decision, review criteria, service provider, visitable home and visitable site—*

omit.

82 Schedule 7 (as renumbered)—

insert—

‘appointed members, for chapter 6, part 1, see section 115.

CDCRC, for chapter 6, part 1, see section 115.

CDCRC member, for chapter 6, part 1, see section 115.

child-related employment decision see section 358.

commencement—

(a) for chapter 11, part 5—see section 413; or

(b) for chapter 11, part 9—see section 441; or

(c) for chapter 11, part 11—see section 451; or

(d) for chapter 11, part 13—see section 465.

constituting members, for chapter 9, part 1, see section 358.

government service provider see section 10.

in the child safety system see section 13.

licensee, for chapter 3, see section 39(b).

notice for information see section 67(1).

original reviews, for chapter 6, part 1, see section 115.

parent see section 390.

policies, for chapter 6, part 1, see section 115.

private service provider see section 11.

QCAT child-related employment review, for chapter 9, part 1, see section 358.

QCAT president, for chapter 9, part 1, see section 358.

relevant provider, for chapter 4, see section 61(1)(a).

relevant service providers, for chapter 3, see section 39.

reviewable decision, for chapter 10, part 1, see section 369.

review criteria, for chapter 6, part 1, see section 115.

service provider see section 9.

visitable home see section 88.

visitable site see section 87'.

83 Schedule 7 (as renumbered), definition *advisory committee*, 'part 5'—

omit, insert—

'chapter 7'.

84 Schedule 7 (as renumbered), definition *approved form*, 'section 166'—

omit, insert—

'section 400'.

85 Schedule 7 (as renumbered), definition *assistant commissioner*, 'section 28A'—

omit, insert—

'section 34'.

- 86** **Schedule 7 (as renumbered), definition *child guardian functions*, ‘section 15(2)’—**
omit, insert—
‘section 17(2)’.
- 87** **Schedule 7 (as renumbered), definition *monitoring functions*, ‘section 15AA’—**
omit, insert—
‘section 18’.
- 88** **Schedule 7 (as renumbered), definition *work*, ‘part 6’—**
omit, insert—
‘chapter 8’.

Schedule 3 Minor amendments of other Acts

section 248

Adoption Act 2009

- 1 Section 235(3)(d), ‘section 11A’—**
omit, insert—
‘section 13’.

- 2 Schedule 3, definition *disqualification order*, paragraph (a), ‘section 126C’—**
omit, insert—
‘section 357’.

- 3 Schedule 3, definition *disqualifying offence*, ‘section 120B’—**
omit, insert—
‘section 168’.

Births, Deaths and Marriages Registration Act 2003

- 4 Section 48B(6), definition *child death research functions*, ‘part 4A, division 2’—**
omit, insert—
‘chapter 6, part 2’.

Coroners Act 2003

- 5** **Schedule 2, definition *child death research functions*, ‘part 4A, division 2’—**

omit, insert—

‘chapter 6, part 2’.

Education (General Provisions) Act 2006

- 6** **Schedule 4, definition *serious offence*, ‘schedule 4’—**

omit, insert—

‘schedule 7’.

Grammar Schools Act 1975

- 7** **Section 46G(5), ‘part 6’—**

omit, insert—

‘chapter 8’.

Ombudsman Act 2001

- 8** **Section 57B(1)(b) and (4), definition *CDCRC*, ‘part 4A, division 1’—**

omit, insert—

‘chapter 6, part 1’.

Public Health Act 2005

- 9** **Section 196(3), ‘section 46’—**
omit, insert—
‘section 68’.

Transport Operations (Passenger Transport) Act 1994

- 10** **Schedule 3, definition *category B driver disqualification offence*, paragraph (a)(i), ‘or 2A’—**
omit, insert—
‘or 3’.