

Criminal History Screening Legislation Amendment Bill 2010

Amendments agreed to during Consideration

1 **Clause 2 (Commencement)**

Page 34, line 10—

omit, insert—

‘(b) part 12.’.

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

Page 75, line 2, ‘notice.’—

omit, insert—

‘notice;

(d) persons about whom the person is notified under section 339.’.

3 **Clause 103 (Replacement of s 90 (When person without current positive notice may be engaged))**

(1) Page 308, line 17, after ‘persons’—

insert—

‘**other than volunteers**’.

(2) Page 309, line 2, ‘engagement.’—

omit, insert—

‘engagement; and

(d) under the proposed engagement, the person is to be engaged by the service provider other than as a volunteer.’.

- (3) Page 309, line 24, after ‘persons’—
insert—
‘other than volunteers’.
- (4) Page 310, line 5, ‘engagement.’—
omit, insert—
‘engagement; and
(d) under the proposed engagement, the person is to be engaged by the service provider other than as a volunteer.’.
- (5) Page 310, line 27, after ‘persons’—
insert—
‘other than volunteers’.
- (6) Page 310, line 31, after ‘provider’—
insert—
‘other than as a volunteer’.
- (7) Page 311, line 20, ‘units.’—
omit, insert—
‘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
- (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.’.’.

4 Clause 104 (Amendment of s 90 (Starting engagement of certain regular engaged persons))

- (1) Page 311, line 22, after ‘persons’—
insert—
‘other than volunteers’.
- (2) Page 311, lines 23 to 28—
omit.

5 Clause 105 (Amendment of s 90A (Starting engagement of new engaged persons))

- (1) Page 312, line 5, after ‘persons’—
insert—
‘other than volunteers’.
- (2) Page 312, lines 6 to 11—
omit.

6 Clause 106 (Amendment of s 90B (Continuing engagement of persons))

(1) Page 312, line 19, after ‘persons’—

insert—

‘other than volunteers’.

(2) Page 312, lines 20 to 25—

omit.

7 Clause 107 (Insertion of new ss 90C and 90D)

(1) Page 313, lines 6 to 8—

omit, insert—

‘107 Replacement of s 90C (Starting engagement of volunteers)

Section 90C—

omit, insert—’.

(2) Page 314, lines 6 to 24—

omit, insert—

‘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.’.’.

8 Clause 156 (Insertion of new pt 16, div 5)

- (1) Page 393, line 5, ‘Subject to subsection (3), this’—
omit, insert—
‘This’.
- (2) Page 393, lines 10 to 17—
omit.
- (3) Page 399, line 8, ‘subdivision 3 commenced’—
omit, insert—
‘the commencement’.
- (4) Page 400, line 6, ‘subdivision 3 commenced’—
omit, insert—
‘the commencement’.
- (5) Page 402, after line 25—
insert—

‘278A 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).’.
- (6) Page 406, lines 8 to 21—
omit, insert—
- ‘(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.’.

9 Clause 175 (Amendment of s 15 (Criminal history check etc.))

Page 438, lines 28 to 31—

omit, insert—

- ‘(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’.

10 Clause 182 (Amendment of s 57 (Effect of appeal on cancellation))

Page 446, line 6—

omit, insert—

- ‘(2) Section 57(3), from ‘or an order’ to ‘(iii)’—’.

11 Clause 200 (Insertion of new ch 12, pt 11)

Page 463, lines 22 to 24—

omit, insert—

‘from the commencement applies in relation to the request.’.

12 Clause 203 (Amendment of s 93AA (Unauthorised possession of, or dealing in, s 93A criminal statements))

(1) Page 468, lines 23 to 27—

omit, insert—

‘(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.’.

(2) Page 469, lines 1 to 6—

omit, insert—

‘(b) the copying is done for the purpose of making a CCYPCG employment-screening decision.

‘(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*.'