Queensland

Working with Children (Risk Management and Screening) Act 2000

Current as at [Not applicable]

Indicative reprint note

This is an ***unofficial*** version of a reprint of this Act that incorporates all proposed amendments to the Act included in the Disability Services and Other Legislation (NDIS) Amendment Bill 2019. This indicative reprint has been prepared for information only—***it is not an authorised reprint of the Act***.

Amendments to this Act are also included in the Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2018, the Working with Children Legislation (Indigenous Communities) Amendment Bill 2018* and the Criminal Code and Other Legislation (Mason Jett Lee) Amendment Bill 2019*. These proposed amendments are not included in this indicative reprint.

The point-in-time date for this indicative reprint is the introduction date for the Disability Services and Other Legislation (NDIS) Amendment Bill 2019—28 March 2019.

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Working with Children (Risk Management and Screening) Act 2000

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Not authorised—indicative only

Working with Children (Risk Management and Screening) Act 2000

An Act to establish a scheme requiring the development and implementation of risk management strategies, and the screening of persons employed in particular employment or carrying on particular businesses, to promote and protect the rights, interests and wellbeing of children in Queensland

Chapter 1 Preliminary

1 Short title

This Act may be cited as the *Working with Children (Risk Management and Screening) Act 2000*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Dictionary

The dictionary in schedule 7 defines particular words used in this Act.

4 Act binds all persons

(1) This Act binds all persons including the State and, as far as the legislative power of the Parliament permits, the Commonwealth and all the other States.

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(2) Subsection (1) does not make the State, the Commonwealth or another State liable for an offence.

5 Object of Act

The object of this Act is to promote and protect the rights, interests and wellbeing of children and young people in Queensland through a scheme requiring—

(a) the development and implementation of risk management strategies; and

(b) the screening of persons employed in particular employment or carrying on particular businesses.

6 Principles for administering this Act

This Act is to be administered under the following principles—

(a) the welfare and best interests of a child are paramount;

(b) every child is entitled to be cared for in a way that protects the child from harm and promotes the child's wellbeing.

8 Chief executive's main functions

The chief executive's main functions under this Act are—

(a) to administer the scheme under chapter 8 for screening—

(i) persons employed, or proposed to be employed, in certain child-related employment; and

(ii) persons carrying on, or proposing to carry on, certain child-related businesses; and

(b) to audit or monitor compliance with that chapter.

Chapter 8 Screening for regulated employment and regulated businesses

Part 1 Preliminary

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, or the carrying on of a business, 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.

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Not authorised—indicative only

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.

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Not authorised—indicative only

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.

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—

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Not authorised—indicative only

(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 reportable 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).

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Not authorised—indicative only

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 chief executive 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;

Not authorised—indicative only

Not authorised—indicative only

(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 Chief executive to give notice if person signing or making prescribed notice application is disqualified person

(1) This section applies if the chief executive is satisfied a person who has signed or made a prescribed notice application is a disqualified person.

(2) The chief executive must give the person a written notice 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 start or continue in regulated employment or carry on a regulated business.

(3) Also, the chief executive must give each notifiable person for the person a written notice stating that the chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

(4) Further, the chief executive must consider whether notice must be given under section 342(3).

Note—

Under section 342, the chief executive 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 chief executive 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 the alternative certifications relating to the employee.

(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 that the employer has sighted the employee's proof of identity documents.

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 chief executive 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 chief executive 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 applicant; and

(c) accompanied by the prescribed fee.

(4) 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 applicant's proof of identity documents.

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 chief executive decides the application.

(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.

Not authorised—indicative only

Not authorised—indicative only

180 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 a prescribed notice application and, for that purpose, sections 222 to 229 apply 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 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 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 chief executive considers the person has not been convicted of a disqualifying offence, the chief executive must give written 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) 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 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.

181 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.

182 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 180 to the person.

Not authorised—indicative only

Not authorised—indicative only

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 chief executive gives the person a written 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 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 chief executive 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 chief executive 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 chief executive 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 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 180 that the chief executive may issue the eligibility declaration.

Not authorised—indicative only

Not authorised—indicative only

(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.

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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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—

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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 chief executive 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 (Chief executive 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 (Chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

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—

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

(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)—be accompanied by the alternative certifications relating to the employee; 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 that the applicant has sighted the employee's proof of identity documents; 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 Chief executive may obtain further information

On receiving an application under this division, the chief executive 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 chief executive reasonably needs to establish the employee's identity; or

(ii) stated information, including by way of a submission, about a stated matter that the chief executive reasonably believes is relevant to the application; or

(b) ask the person making the application about why the person did not sight 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 2016*; 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).

Not authorised—indicative only

Not authorised—indicative only

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 chief executive 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 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 chief executive 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 chief executive, 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 chief executive 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 chief executive gives the person a written 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 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 chief executive can not establish with certainty the person's identity; and

(d) the chief executive 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 chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

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 chief executive 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 chief executive written notice that the person is no longer employed by the employer stated in the application, or the chief executive 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 chief executive 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 chief executive 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 chief executive 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 chief executive, or the chief executive 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 chief executive 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 chief executive issues a prescribed notice to the person.

(2) The application is taken to have been withdrawn and the chief executive must not issue the prescribed notice.

Not authorised—indicative only

Not authorised—indicative only

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 chief executive 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 chief executive 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 applicant's proof of identity documents; 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 Chief executive may obtain further information

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

(a) stated information that the chief executive reasonably needs to establish the applicant's identity; or

(b) stated information, including by way of a submission, about a stated matter that the chief executive 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—

Not authorised—indicative only

Not authorised—indicative only

(a) the chief executive gives the person a written 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 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 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 chief executive 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 chief executive 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 chief executive 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 chief executive, or the chief executive 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 chief executive 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 chief executive must—

(a) if the application is withdrawn—give written notice of the withdrawal to each notifiable person for the person; or

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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 chief executive must issue a positive notice to the person if—

(a) the chief executive is not aware of any police information or disciplinary information about the person; or

(b) the chief executive 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 chief executive 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 chief executive is satisfied it is an exceptional case in which it would not be in the best interests of children for the chief executive to issue a positive notice, the chief executive 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 chief executive must issue a positive notice to the person if—

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive is satisfied it is an exceptional case in which it would not be in the best interests of children for the chief executive to issue a positive notice, the chief executive 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 chief executive 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 chief executive has issued an eligibility declaration to the person, and the eligibility declaration has not expired.

(2) If the chief executive is not aware of any police information or disciplinary information about the person, other than information known to the chief executive at the time of taking the action mentioned in subsection (1)(a) or (b), the chief executive must issue a positive notice to the person.

(3) Subject to subsection (4), if the chief executive is aware of police information or disciplinary information about the person, other than information known to the chief executive at the time of taking the action mentioned in subsection (1)(a) or (b), the chief executive must issue a negative notice to the person.

(4) If subsection (3) applies to the person and the chief executive is satisfied it is an exceptional case in which it would not harm the best interests of children for the chief executive to issue a positive notice, the chief executive 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 chief executive must issue a negative notice to the person if the chief executive 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 chief executive must issue a negative notice to the 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

Not authorised—indicative only

Not authorised—indicative only

(c) has been convicted of a serious offence.

(2) If subsection (1)(a), (b) or (c) applies to the person and the chief executive is satisfied it is an exceptional case in which it would not harm the best interests of children for the chief executive to issue a positive notice, the chief executive must issue a positive notice to the person.

226 Deciding exceptional case if conviction or charge

(1) This section applies if the chief executive—

(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 chief executive 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 chief executive under section 318 or 319;

(c) any report about the person's mental health given to the chief executive under section 335;

(d) any information about the person given to the chief executive under section 337 or 338;

(e) anything else relating to the commission, or alleged commission, of the offence that the chief executive 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 chief executive—

(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 chief executive 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 chief executive reasonably considers relevant to the assessment of the person.

228 Deciding exceptional case if disciplinary information exists

(1) This section applies if the chief executive—

(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 chief executive 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;

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive reasonably considers to be relevant to the assessment of the person.

229 Chief executive to invite submissions from person about particular information

(1) This section applies if the chief executive—

(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 chief executive must give the person a written notice—

(a) stating the following—

(i) the police information about the person that the chief executive is aware of;

(ii) any disciplinary information about the person that the chief executive is aware of; and

(b) inviting the person to give the chief executive, within a stated time, a submission about—

(i) whether or not there is an exceptional case for the person; or

(ii) why the chief executive 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 chief executive gives the notice to the person.

(4) Before deciding the application, the chief executive 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 chief executive considers a submission in that form is reasonable in the circumstances.

230 Chief executive to be notified of change of particular information

(1) This section applies if any of the following (each a ***relevant change***) happens before the chief executive 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 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 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.

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive decides a prescribed notice application about a person.

233 Additional information to be given if negative notice issued

If the chief executive 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 chief executive'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 chief executive issues a prescribed notice to the person, the chief executive 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 another department (the ***other executive***) has made an application under division 7; and

(b) the chief executive issues a positive notice to the person; and

(c) the other executive asks the chief executive for advice under this section.

(2) The chief executive may advise the other executive that the other 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 other 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 chief executive may give the advice mentioned in subsection (2) only if the chief executive is aware that the person has a criminal history.

(4) If the chief executive 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

Not authorised—indicative only

Not authorised—indicative only

other 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 chief executive 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 chief executive 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 chief executive'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 chief executive grants the application, the chief executive must cancel the negative notice to which the application relates.

(8) If the chief executive refuses the application, the chief executive 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 chief executive'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 chief executive may cancel a person's positive notice (the ***cancelled notice***) and substitute a negative 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 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 chief executive at the time the positive notice was issued; or

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive decides whether to issue a further positive notice or a negative notice to the person.

(2) In making a decision under subsection (1), the chief executive 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 chief executive 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 chief executive 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 chief executive cancels a person's positive notice and issues a negative notice to the person, the chief executive must—

(a) give the person a written notice stating—

(i) the reasons for the chief executive'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.

(5) Also, the chief executive must consider whether notice must be given under section 342(2)(a), 343 or 344.

(6) If the chief executive's decision under subsection (2) is that the person should be issued a positive notice—

(a) the chief executive 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 chief executive may cancel a person's negative notice (the ***cancelled notice***) and, subject to subsection (3), 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

(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 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.

(2) In making a decision under subsection (1), the chief executive 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 chief executive's decision under subsection (2) is that the person should be issued a positive notice, the chief

Not authorised—indicative only

Not authorised—indicative only

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—

(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 chief executive 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 chief executive's decision under subsection (2) is that the person should be issued a negative notice—

(a) the chief executive 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 chief executive may—

(a) act under subsection (1) on the chief executive'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 chief executive must cancel the person's positive notice and substitute a negative notice.

(3) At the time the chief executive gives the person the negative notice, the chief executive 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 chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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 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 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 chief executive—

(a) the positive notice;

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

Maximum penalty—100 penalty units.

(6) The chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

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 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) 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 chief executive 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 chief executive 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 chief executive 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.

(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 employed in regulated employment or to carry on a regulated business.

(6) If the chief executive cancels the suspended notice and issues a negative notice under subsection (2)(b) to the person, the chief executive must give the person a written notice stating—

(a) the reasons for the chief executive'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 chief executive cancels the suspended notice under this section, the chief executive 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 chief executive issues a further positive notice to the person—give the advice mentioned in that section to the relevant chief executive.

(8) Also, the chief executive 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 chief executive is not required to decide the application—

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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;

(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 chief executive 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 chief executive—

(a) the positive notice;

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

Maximum penalty—100 penalty units.

(6) The chief executive 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;

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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 chief executive's own initiative or on application by the person—

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

(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 chief executive cancels the suspended notice as mentioned in subsection (6).

(3) If the person is not a registered teacher when the chief executive 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 chief executive 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 chief executive 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 chief executive 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 chief executive 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 chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

(6) The chief executive may cancel the suspended positive notice without issuing a further prescribed notice or an exemption notice to the person if the chief executive 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 chief executive cancels the suspended notice and issues a negative notice or negative exemption notice to the person, the chief executive must give the person a written notice stating—

(a) the reasons for the chief executive'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 chief executive cancels the suspended notice under this section, the chief executive 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 chief executive 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 chief executive 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 chief executive 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 chief executive to cancel the person's positive notice.

(2) After receiving the written notice, the chief executive 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 chief executive issues a further positive notice to the person; or

(b) if the person is a police officer or registered teacher—

(i) the chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

(4) The chief executive must give written notice about the cancellation of the person's positive notice to each notifiable person for the person.

(5) Also, the chief executive 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 chief executive—

(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 chief executive 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 chief executive, 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 chief executive is required or permitted to issue a positive notice to the person and the chief executive is aware the person is a police officer or registered teacher, the chief executive must instead issue a positive exemption notice to the person.

(5) If, under a provision of division 11 or part 7, division 1, the chief executive is required or permitted to issue a negative notice to the person and the chief executive is aware the person is a police officer or registered teacher, the chief executive must instead issue a negative exemption notice to the person.

(6) This section applies despite section 173.

Not authorised—indicative only

Not authorised—indicative only

Part 5 Exemption notices

Division 1 Preliminary

248 Part applies to police officers or registered teachers

This part applies only 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.

249 Giving notification under pt 5

(1) This section applies in relation to a provision of this part that provides that a person (the ***employer***) must notify the chief executive 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 the alternative certifications relating to the employee.

(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 that the employer has sighted the employee's proof of identity documents.

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 chief executive 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 chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

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 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 chief executive 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 chief executive 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—

Not authorised—indicative only

Not authorised—indicative only

(a) the employee has a current positive exemption notice and the employer has notified the chief executive 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 chief executive 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 chief executive 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 (Chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

(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—

(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 chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

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)—be accompanied by the alternative certifications relating to the employee.

(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 that the applicant has sighted the employee's proof of identity documents; 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 Chief executive may obtain further information

On receiving an application under this division, the chief executive 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 chief executive reasonably needs to establish the employee's identity; or

(ii) stated information, including by way of a submission, about a stated matter that the chief executive reasonably believes is relevant to the application; or

(b) ask the person making the application about why the person did not sight 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 chief executive 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 chief executive gives the person a notice of deemed withdrawal.

Not authorised—indicative only

Not authorised—indicative only

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 chief executive, 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 chief executive 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 chief executive, or the chief executive 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 chief executive 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 chief executive gives the person a written 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 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 chief executive can not establish with certainty the person's identity; and

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

Not authorised—indicative only

Not authorised—indicative only

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 chief executive written notice that the person is no longer employed by the employer stated in the application, or the chief executive 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 chief executive 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 chief executive gives the person, and the person who made the application, a notice of deemed withdrawal.

(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 chief executive 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 chief executive, or the chief executive 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 chief executive 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 chief executive issues an exemption notice to the person.

(2) The application is taken to have been withdrawn and the chief executive 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

Not authorised—indicative only

Not authorised—indicative only

(b) the application is withdrawn or the person already has a current negative exemption notice or current negative notice.

(2) The chief executive 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 chief executive 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 applicant's proof of identity documents; 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 Chief executive may obtain further information

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

(a) stated information that the chief executive reasonably needs to establish the applicant's identity; or

(b) stated information, including by way of a submission, about a stated matter that the chief executive 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 chief executive, or the chief executive gives the person, written notice that the person is no longer a police officer or registered teacher; and

(b) the chief executive gives the person a notice of deemed withdrawal.

Not authorised—indicative only

Not authorised—indicative only

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 chief executive gives the person a written 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 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 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 chief executive 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 chief executive 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 chief executive 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 chief executive, or the chief executive 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 chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

(2) The chief executive 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 chief executive 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 chief executive must issue a positive exemption notice to the person if—

(a) the chief executive is not aware of any police information about the person; and

(b) the chief executive—

(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 chief executive 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 chief executive must issue a positive exemption notice to the person if—

(a) the chief executive is not aware of any police information or disciplinary information about the person; and

(b) the chief executive—

(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 chief executive may need to undertake further employment screening of the person under this chapter.

Not authorised—indicative only

Not authorised—indicative only

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 chief executive must decide the exemption notice application in the way the chief executive 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 chief executive may ask the police commissioner to advise the chief executive—

(a) whether or not the person is a police officer; and

(b) if the person is a police officer—whether the chief executive may need to undertake further employment screening of the person under this chapter.

(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, 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 chief executive 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 chief executive may ask the college of teachers to advise the chief executive—

(a) whether or not the person is a registered teacher; and

(b) if the person is a registered teacher—whether the chief executive may need to undertake further employment screening of the person under this chapter.

(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;

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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—

(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 Chief executive to be notified of change of particular information

(1) This section applies if any of the following (each a ***relevant change***) happens before the chief executive 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 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 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.

(2) A positive exemption notice issued to a police officer remains current while its holder is a police officer, unless it is earlier cancelled under division 10.

(3) A positive exemption notice issued to a registered teacher remains current while its holder is a registered teacher, unless it is earlier cancelled under division 10.

Division 9 Steps after exemption notice application decided

290 Application of div 9

This division applies if the chief executive decides an exemption notice application about a person.

Not authorised—indicative only

Not authorised—indicative only

291 Additional information to be given if negative exemption notice issued

If the chief executive issues a negative exemption notice to the person, the negative exemption notice must be accompanied by a written notice stating the following—

(a) the reasons for the chief executive's decision to issue a negative exemption 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 exemption notice to—

(i) sign an application about the person made by someone else under division 6; or

(ii) make an application under division 7; or

(iii) apply for, or start or continue in, regulated employment; or

(iv) carry on a regulated business.

292 Notifiable person to be notified of decision

(1) After the chief executive issues an exemption notice to the person, the chief executive 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 another department (the ***other executive***) has made an application under division 6; and

(b) the chief executive issues a positive exemption notice to the person; and

(c) the other executive asks the chief executive for advice under this section.

(2) The chief executive may advise the other executive that the other 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 other 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 chief executive may give the advice mentioned in subsection (2) only if the chief executive is aware that the person has a criminal history.

(4) If the chief executive 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 other 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—

Not authorised—indicative only

Not authorised—indicative only

(a) the chief executive 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 chief executive 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—

(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 chief executive'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 chief executive grants the application, the chief executive must cancel the negative exemption notice to which the application relates.

(8) If the chief executive refuses the application, the chief executive 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 chief executive'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 chief executive may cancel a person's positive exemption notice (the ***cancelled notice***) 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) 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 chief executive 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 chief executive decides whether to issue a further positive exemption notice or a negative exemption notice to the person.

Not authorised—indicative only

Not authorised—indicative only

(2) In making a decision under subsection (1), the chief executive 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 chief executive 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 chief executive 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 chief executive cancels a person's positive exemption notice and issues a negative exemption notice to the person, the chief executive must—

(a) give the person a written notice stating—

(i) the reasons for the chief executive'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 chief executive must consider whether notice must be given under section 342(2)(a).

(6) If the chief executive's decision under subsection (2) is that the person should be issued a positive exemption notice—

(a) the chief executive 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 chief executive 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 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

(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 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.

(2) In making a decision under subsection (1), the chief executive 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 chief executive's decision under subsection (2) 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—

(a) to be employed in regulated employment; or

Not authorised—indicative only

Not authorised—indicative only

(b) to carry on a regulated business.

Note—

See, however, sections 257(1)(c) and 259.

(4) The chief executive 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 chief executive's decision under subsection (2) is that the person should be issued a negative exemption notice—

(a) the chief executive 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 chief executive may—

(a) act under subsection (1) on the chief executive'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 chief executive must cancel the person's positive exemption notice and substitute a negative exemption notice.

(3) At the time the chief executive gives the person the negative exemption notice, the chief executive 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 chief executive 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 chief executive 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;

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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 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 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 chief executive.

Maximum penalty—100 penalty units.

(6) The chief executive 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 chief executive 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—

Not authorised—indicative only

Not authorised—indicative only

(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 exemption notice or a negative exemption notice to the person; or

(ii) the chief executive 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 chief executive 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 chief executive 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 chief executive 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 chief executive may cancel the suspended notice without issuing a further exemption notice to the person if the chief

executive 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 chief executive cancels the suspended notice and issues a negative exemption notice to the person under subsection (2)(b), the chief executive must give the person a written notice stating—

(a) the reasons for the chief executive'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 chief executive cancels the suspended notice under this section, the chief executive 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 chief executive issues a further positive exemption notice to the person—give the advice mentioned in that section to the relevant chief executive.

(8) Also, the chief executive 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 chief executive is not required to decide the application—

(a) while a charge against the person for a disqualifying offence is pending; or

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive 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 chief executive about the cancellation, suspension, surrender or ending of a person's registration under that Act.

(2) The chief executive 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 chief executive; 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 chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

Note—

See section 326 for the requirement that the police commissioner notify the chief executive 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 chief executive 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.

(3) Subsection (4) applies if—

(a) the negative exemption notice is cancelled under section 294 or 296; and

(b) the chief executive is required or permitted to issue a positive exemption notice to the person; and

(c) the chief executive is aware the person is not a police officer or registered teacher.

(4) The chief executive 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 chief executive to cancel the person's positive exemption notice.

(2) After receiving the written notice, the chief executive 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 chief executive issues a further positive exemption notice to the person; or

(ii) an exemption notice application is made about the person; or

(b) otherwise—the chief executive 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 chief executive must give written notice about the cancellation of the person's positive exemption notice to each notifiable person for the person.

(5) Also, the chief executive 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).

Not authorised—indicative only

Not authorised—indicative only

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 chief executive—

(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 chief executive 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 chief executive, 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 or 6A 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;

Not authorised—indicative only

Not authorised—indicative only

(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 or 6A offence*** is—

(a) an offence against a provision of an Act mentioned in schedule 6 or 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 paragraph (a), (b), (c), (d) or (e).

Note—

Column 2 in schedules 6 and 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 6 or 6A, 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 chief executive; and

(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 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 chief executive and police commissioner must be given a copy of the notice of appeal.

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive.

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 chief executive 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.

(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 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 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 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 308(4) and as otherwise provided under the QCAT Act, to QCAT 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 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.

Not authorised—indicative only

Not authorised—indicative only

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 chief executive 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 chief executive to cancel a negative notice or negative exemption about the person; or

(d) the person has applied, under section 241, to the chief executive 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 chief executive 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 chief executive to cancel the person's positive exemption notice that is suspended and issue a further positive exemption notice to the person; or

(g) the chief executive has received an eligibility application about the person and the application has not been withdrawn; or

(h) the chief executive has issued an eligibility declaration to the person and the eligibility declaration has not expired; or

(i) the chief executive 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 Chief executive may ask police commissioner for information

(1) The chief executive may ask the police commissioner for information, or for access to the police commissioner's records, to enable the chief executive to learn what, if any, police information exists in relation to the person.

(2) For subsection (1), 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) 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 chief executive 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 chief executive may ask the police commissioner for—

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive decides that information requested under subsection (1) or (3) about the person is no longer required, the chief executive 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.

(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 chief executive 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 chief executive 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 chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

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 an offender prohibition disqualification order for the person—the reasons why the offender prohibition 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 chief executive 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 chief executive.

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 chief executive 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 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—

Not authorised—indicative only

Not authorised—indicative only

(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 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 313;

(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 chief executive may confirm the police commissioner's suspicions under subsection (1).

(6) However, 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.

(7) If the person is a person mentioned in section 323(1), 324(1) or 325(1), the chief executive, 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 chief executive 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 chief executive becomes aware that the person has been charged with or convicted of an offence, the chief executive 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 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

Not authorised—indicative only

Not authorised—indicative only

executive in making an employment-screening decision about the person.

(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 evidentiary 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) 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 chief executive 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 chief executive to perform a function or exercise a power under this chapter.

(3) The chief executive (corrective services) and the chief executive 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

Not authorised—indicative only

Not authorised—indicative only

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 chief executive may ask an interstate police commissioner for a brief description of the circumstances of the conviction or charge.

(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) 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.

Not authorised—indicative only

Not authorised—indicative only

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 chief executive'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 chief executive'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 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 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 chief executive under subsection (2), and the chief executive 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 chief executive, 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.

Not authorised—indicative only

Not authorised—indicative only

324 Person carrying on a regulated business to notify chief executive 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.

(2) The person must immediately notify the chief executive, 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 chief executive 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 chief executive, 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 chief executive, in the approved form, of the change in police information.

Maximum penalty—100 penalty units.

326 Police commissioner to advise chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

(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 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 child; and

(b) the chief executive 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 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 state 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 chapter, been given a report about the person's mental health prepared by a registered health practitioner.

330 Chief executive may request person to undergo examination by registered health practitioner etc.

(1) The chief executive may, by written 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 division; and

Not authorised—indicative only

Not authorised—indicative only

(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;

(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 chief executive 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 chief executive giving the person written notice of the withdrawal; 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 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 chief executive may nominate a registered health practitioner to conduct an examination under this division only if the chief executive 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 state 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 division to have regard to information mentioned in subsection (2) for preparing a report about the person's mental health.

Not authorised—indicative only

Not authorised—indicative only

(2) The chief executive 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;

(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 chief executive'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 chief executive 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 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 2016*, section 163, 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 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.

Not authorised—indicative only

Not authorised—indicative only

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 2016*, section 696; and

(b) this section applies in relation to an expert's report despite the *Mental Health Act 2016*, section 160.

(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 2016*, section 160(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 a forensic order to which the person is subject, or the person's fitness for trial, under the *Mental Health Act 2016*, chapter 12, part 3, 4 or 6; and

(c) the chief executive 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 chief executive 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 or other person mentioned in the *Mental Health Act 2016*, section 454;

(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 chief executive'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 chief executive 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 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 tribunal under the *Mental Health Act 2016*, section 155 or 742, 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

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive is given information under this section to give to a 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 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 2016*, section 722.

334 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 chief executive—

(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 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 330(1)(b) in relation to an examination of the person conducted under this division.

Not authorised—indicative only

Not authorised—indicative only

(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.

Note—

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

336 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 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 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 child; and

(b) the matter of the charged person's mental state 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 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 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 2016*, section 163, 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

Not authorised—indicative only

Not authorised—indicative only

(c) information that can not be disclosed to the charged person under a confidentiality order under the *Mental Health Act 2016*, section 696; 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 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 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 2016*, section 160.

(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 2016*, section 160(2) for leave of the court to give the report to the chief executive.

338 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 child; and

(b) the Mental Health Review Tribunal has reviewed a forensic order to which the person is subject, or the person's fitness for trial, under the *Mental Health Act 2016*, chapter 12, part 3, 4 or 6; 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 (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

Not authorised—indicative only

Not authorised—indicative only

proceeding for the review, including, for example, a report about an examination of the person by a psychiatrist or other person mentioned in the *Mental Health Act 2016*, section 454;

(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 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 tribunal under the *Mental Health Act 2016*, section 155 or 742, 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 2016*, section 722; 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 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 Chief executive to give notice to particular entities about a change in police information

(1) This section applies if the chief executive 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—

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive considers the change in police information may be relevant to child-related employment, the chief executive must give each notifiable person for the person a written notice stating the following—

(a) the relevant person's name and identifying details;

(b) that the chief executive has received police information about the relevant person that the chief executive considers relevant to child-related employment;

(c) that the chief executive 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 chief executive 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 Chief executive must give police commissioner a person's current address

(1) The chief executive must, on written application of the police commissioner, give the police commissioner information about an address for a person if—

(a) the chief executive 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 chief executive reasonably believes the giving of the information will help the police commissioner to verify the person's identity for giving police information to the chief executive under this chapter.

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive may give the police commissioner confidential information about a person if the chief executive reasonably believes the giving of the information is necessary for the effective administration of any of the following—

(a) this chapter;

(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 Chief executive must give information about particular persons to accreditation board

(1) The chief executive must, if asked in writing by the chairperson of the accreditation board, give the accreditation board the following information about a prescribed person—

(a) whether the prescribed person is the holder of a positive notice, negative notice, positive exemption notice or negative exemption notice;

(b) whether the prescribed person is an applicant under part 4, division 8 or part 5, division 7.

(2) For subsection (1), the chairperson's request must include the following information—

(a) the prescribed person's name and any other name that the college believes the person may use or may have used;

(b) the prescribed person's gender and date and place of birth;

(c) the prescribed person's address;

(d) any number or date given by the prescribed person about a positive notice the person holds or claims to hold;

(e) if the prescribed person is a director of a school's governing body—the name of the school's governing body of which the person is a director.

(3) The chief executive must give the accreditation board notice of the following—

(a) the issue of a negative notice or negative exemption notice to a prescribed person;

(b) the suspension of the positive notice of a prescribed person under section 240 or 242;

(c) the cancellation of a suspended positive notice of a prescribed person, 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 prescribed person under section 244;

(e) the positive exemption notice of a prescribed person ceasing to have effect under section 289;

(f) the suspension of the positive exemption notice of a prescribed person under section 298;

(g) the cancellation of a suspended positive exemption notice of a prescribed person, 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 prescribed person under section 302;

(i) the withdrawal of an application under part 4, division 8 or part 5, division 7 of a prescribed person.

Not authorised—indicative only

Not authorised—indicative only

(4) Also, if a prescribed notice application is made about a prescribed person whom the chief executive is satisfied is a disqualified person, the chief executive must give the accreditation board notice about the chief executive's decision and that the application is invalid.

(5) In this section—

chairperson see the *Education (Accreditation of Non-State Schools) Act 2017*, schedule 1.

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 person means—

(a) a director of a school's governing body; or

(b) an authorised person under the *Education (Accreditation of Non-State Schools) Act 2017*.

343 Chief executive must give information about particular persons to college of teachers

(1) This section applies if the chief executive—

(a) has, under the *Education (Queensland College of Teachers) Act 2005*, section 15D, advised the college of teachers that an applicant for registration or permission to teach under that Act holds a positive notice; and

(b) the chief executive reasonably believes the person is still an applicant for registration or permission to teach under that Act.

(2) If the person's positive notice is suspended or cancelled under part 4, division 11 or expires under section 231, the chief executive must give the college written notice of the suspension, 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 chief executive becomes aware that police information about the person has changed, other than in a way mentioned in section 339(2), the chief executive must give the college a written notice stating the college may need to have regard to the matters mentioned in the *Education (Queensland College of Teachers) Act 2005*, section 11(1) for deciding whether the applicant is suitable to teach.

344 Chief executive 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 62; 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 chief executive 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 chief executive becomes aware that police information about the person has changed, other than in a way mentioned in section 339(2), the chief executive must give the chief executive (disability services) a written notice complying with section 339(3) about the change.

Not authorised—indicative only

Not authorised—indicative only

345 Use of information obtained under this chapter about a person

(1) The chief executive 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.

(2) However, the chief executive may use information about a person who is, or seeks to be, employed in the department for deciding whether to obtain information about the person under section 357P.

346 Guidelines for dealing with information

(1) The chief executive must make guidelines, consistent with this Act, for dealing with information obtained by the chief executive 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 chief executive 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 chief executive 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 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 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

(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 chief executive.

Maximum penalty—10 penalty units.

(5) The chief executive 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 chief executive;

(b) starts to use a different name to the name or names the holder has previously given to the chief executive;

(c) changes contact details previously given to the chief executive.

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

Maximum penalty—10 penalty units.

(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 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 chief executive 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 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 blue card or positive exemption notice if the chief executive 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;

Not authorised—indicative only

Not authorised—indicative only

(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—

(a) the holder of a positive notice is or was, during the term of the positive notice—

(i) employed in regulated employment as a volunteer; or

(ii) carrying on a regulated business other than for financial reward; and

(b) a relevant change within the meaning of section 350(7) happens for the holder.

Note—

See section 350 in relation to the holder of a positive notice to whom circumstances mentioned in this subsection apply.

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

Maximum penalty—10 penalty units.

(4) 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 blue card, a replacement positive notice blue card; or

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

(5) If the chief executive 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 chief executive within 14 days after receiving the replacement notice or card.

Maximum penalty—10 penalty units.

(6) The chief executive must cancel the previously held positive notice, positive notice blue card or positive exemption notice if the chief executive has issued a replacement notice or card.

350 New notice if relevant change happens for volunteer or person carrying on business other than for financial reward

(1) This section applies if—

(a) the holder of a positive notice that is not suspended is or was, during the term of the positive notice—

(i) employed in regulated employment as a volunteer; or

(ii) carrying on a regulated business other than for financial reward; and

(b) a relevant change happens for the holder.

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

Maximum penalty—10 penalty units.

(3) The chief executive must 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 if—

(a) under subsection (7), the notice under subsection (2) is accompanied by the prescribed application fee; and

(b) either—

(i) the chief executive is not aware of any change in disciplinary information or police information about the person since the chief executive last made an employment-screening decision about the person; or

(ii) the chief executive—

(A) is aware of a change in disciplinary information or police information about the

Not authorised—indicative only

Not authorised—indicative only

person since the chief executive last made an employment-screening decision about the person; and

(B) after considering the change, decides not to suspend or cancel the person's positive notice.

(4) Despite subsection (3), the chief executive is not required to issue the new positive notice or new positive notice blue card if the chief executive is deciding whether to cancel the positive notice under section 237(1)(a), unless the chief executive decides not to cancel the positive notice.

(5) If the chief executive 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 chief executive within 14 days after receiving the new notice or card.

Maximum penalty—10 penalty units.

(6) The chief executive must cancel the previously held positive notice or positive notice blue card if the chief executive has issued a new prescribed notice or an exemption notice.

(7) The notice under subsection (2) must be accompanied by the prescribed application fee if the application for the positive notice was made on the basis the holder was—

(a) employed, or to be employed, in regulated employment as a volunteer; or

(b) carrying on, or proposing to carry on, a business other than for financial reward.

(8) In this section—

prescribed application fee means—

(a) for a notice given under subsection (2) for a relevant change mentioned in the definition *relevant change*, paragraph (a)—the prescribed fee for a prescribed notice application about a person employed in regulated employment other than as a volunteer; or

(b) for a notice given under subsection (2) for a relevant change mentioned in the definition *relevant change*, paragraph (b)—the prescribed fee for a prescribed notice application about a person carrying on a regulated business for financial reward.

relevant change, for the holder of a positive notice, means the holder—

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

(b) starts carrying on a regulated business for financial reward.

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 chief executive 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 chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

(2) Subsection (1) does not apply to a person if the person, when giving the document—

(a) tells the chief executive, 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 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—

(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 chief executive 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 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 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.

Not authorised—indicative only

Not authorised—indicative only

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 chief executive 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 chief executive 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 chief executive 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 chief executive 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

Not authorised—indicative only

Not authorised—indicative only

(b) otherwise—by QCAT, even if the dismissal would be contrary to a direction of the Court of Appeal.

(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 chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

Chapter 8A Criminal history checks, and assessing suitability, of persons employed in the department

Part 1 Preliminary

357A Purposes of ch 8A

The purposes of this chapter are—

(a) to enable the chief executive to obtain a prescribed notice or exemption notice for persons who are to be employed, or to continue to be employed, in the department in regulated employment; and

(c) to enable the chief executive to obtain the criminal history of, and related information about, a person who proposes to be, or is, employed in the department, so that the chief executive can assess the person's suitability to be, or continue to be, employed in the department.

357B 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*.

357C Chief executive to advise of duties of disclosure etc.

Before a person is employed in the department, the chief executive must tell the person—

(a) of the person's duties of disclosure under this chapter; and

(b) that the chief executive may obtain the information about the person mentioned in section 357P; and

(c) that guidelines for dealing with information obtained by the chief executive under this chapter are available from the chief executive on request.

Part 2 Disclosure of criminal history

357D Person seeking to be employed in the department must disclose criminal history

A person seeking to be employed in the department must disclose to the chief executive, before being so employed—

(a) whether or not the person has a criminal history; and

(b) if the person has a criminal history—the person's complete criminal history.

357E Person employed in the department must disclose changes in criminal history

(1) If there is a change in the criminal history of a person employed in the department, the person must immediately disclose to the chief executive the details of the change.

(2) 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.

357F Requirements for disclosure

(1) To comply with section 357D or 357E, a person must give the chief executive a disclosure in the approved form.

(2) The information disclosed by a person about a conviction or charge of an offence in the person's criminal history must include—

(a) the existence of the conviction or charge; and

Not authorised—indicative only

Not authorised—indicative only

(b) when the offence was committed or alleged to have been committed; and

(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.

357G False or misleading disclosure or failure to disclose

(1) A person must not—

(a) give the chief executive a disclosure for this part that is false, misleading or incomplete in a material particular; or

(b) fail to give the chief executive a disclosure as required under section 357E, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) Subsection (1)(a) does not apply to a person if the person, when making the disclosure—

(a) tells the chief executive, to the best of the person's ability, how it is false, misleading or incomplete; and

(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

Part 3 Employment screening of persons to start or continue in regulated employment

357H Undertaking employment screening with consent

(1) This section applies in relation to a person who—

(a) proposes to be, or is, employed in the department; and

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

(2) The chief executive may ask the person for written consent for the chief executive 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 chief executive must ensure the person does not start, or continue in, the regulated employment.

(5) If the person gives the consent, the chief executive 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 chief executive 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 chief executive 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.

Not authorised—indicative only

Not authorised—indicative only

Part 5 Chief executive may obtain information from other entities about criminal history and certain investigations

Division 1 Obtaining information from police commissioner on request

357O Application of div 1

(1) This division applies in relation to a person who—

(a) is employed in the department; or

(b) seeks to be employed in the department and has given the chief executive a disclosure for the purposes of part 2.

(2) However, this division applies in relation to a person who is to start, or continue in, regulated employment only if—

(a) the person has been issued with a positive notice or positive exemption notice; and

(b) the chief executive is aware the person has a criminal history or is aware of investigative information about the person.

357P Chief executive may obtain information from police commissioner

(1) The chief executive may ask the police commissioner to give the chief executive the following information about the person—

(a) a written report about the person's criminal history;

(b) a brief description of the circumstances of a conviction or charge mentioned in the person's criminal history;

(c) information about an investigation relating to the possible commission of a serious offence by the person.

(2) Subject to subsections (3) and (4), the police commissioner must comply with the request.

(3) The duty imposed on the police commissioner to comply with the request—

(a) applies only to information in the police commissioner's possession or to which the police commissioner has access; and

(b) in relation to information mentioned in subsection (1)(c)—applies only to information recorded on a central electronic database kept by the police commissioner.

(4) The police commissioner must not give information about an investigation relating to the possible commission of a serious offence by the person if—

(a) the police commissioner is reasonably satisfied that giving the information—

(i) may prejudice or otherwise hinder an investigation to which the information may be relevant; or

(ii) may lead to the identification of an informant; or

(iii) may affect the safety of a police officer, complainant or other person; or

(b) for an investigation that has been completed—the investigation has not led, and the police commissioner is reasonably satisfied it is unlikely to lead, to a reasonable suspicion that the person committed a serious offence; or

(c) for an investigation that has not been completed—the police commissioner is reasonably satisfied the investigation is unlikely to lead to a reasonable suspicion that the person committed a serious offence.

Not authorised—indicative only

Not authorised—indicative only

Division 2 Obtaining information about charges etc.

357Q Prosecuting authority to notify chief executive about committal, conviction etc.

(1) This section applies if a person is charged with a relevant offence and the police commissioner or the director of public prosecutions (a ***prosecuting authority***) is aware that the person is employed in the department.

(2) If the person is committed by a court for trial for a relevant offence, the prosecuting authority must, within 7 days after the committal, give written notice to the chief executive of the following—

(a) the person's name;

(b) the court;

(c) particulars of the offence;

(d) the date of the committal;

(e) the court to which the person was committed.

(3) If the person is convicted before a court of a relevant offence, the prosecuting authority must, within 7 days after the conviction, give written notice to the chief executive of the following—

(a) the person's name;

(b) the court;

(c) particulars of the offence;

(d) the date of the conviction;

(e) the sentence imposed by the court.

(4) If the person is convicted of a relevant offence, and has appealed the conviction, and the appeal is finally decided or has otherwise ended, the prosecuting authority must, within 7 days after the decision or the day the appeal otherwise ends, give written notice to the chief executive of the following—

(a) the person's name;

(b) particulars of the offence;

(c) the date of the decision or other ending of the appeal;

(d) if the appeal was decided—

(i) the court in which it was decided; and

(ii) particulars of the decision.

(5) If the prosecution process ends without the person being convicted of a relevant offence, the prosecuting authority must, within 7 days after the process ends, give written notice to the chief executive about the following—

(a) the person's name;

(b) if relevant, the court in which the process ended;

(c) particulars of the alleged offence;

(d) the date the process ended.

(6) For subsection (5), a prosecution process ends if—

(a) an indictment is presented against the person and—

(i) a nolle prosequi is entered on the indictment; or

(ii) the person is acquitted; or

(b) the process has otherwise ended.

(7) A reference in this section to a conviction of a relevant offence includes a summary conviction of an indictable offence.

(8) In this section—

relevant offence means—

(a) an indictable offence; or

(b) a disqualifying offence that is not an indictable offence.

Not authorised—indicative only

Not authorised—indicative only

Part 6 Controls on use of information about criminal history and certain investigations

357R Use of information obtained under this chapter

(1) This section applies to the chief executive in considering information about a person received under this chapter.

(2) The information must not be used for any purpose other than assessing the person's suitability to be, or continue to be, employed in the department.

(3) When making the assessment, the chief executive 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 in the department;

(c) anything else the chief executive considers relevant to the assessment of the person.

357S Person to be advised of information obtained from police commissioner

(1) This section applies to information obtained by the chief executive about a person, under this chapter, from the police commissioner.

(2) Before using the information to assess the person's suitability to be, or continue to be, employed in the department, the chief executive must—

(a) disclose the information to the person; and

(b) allow the person a reasonable opportunity to make representations to the chief executive about the information.

357T Guidelines for dealing with information

(1) The chief executive must make guidelines, consistent with this Act, for dealing with information obtained by the chief executive 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 assessing the persons' suitability to be, or continue to be, employed in the department; and

(c) decisions about the suitability of persons, based on the information, are made consistently.

(3) The chief executive must give a copy of the guidelines, on request, to a person who is seeking to be employed, or who is employed, by the department.

Chapter 9 Provisions about QCAT proceedings

Part 1 QCAT proceedings about child-related employment review

358 Definitions for pt 1

In this part—

child-related employment decision means a chapter 8 reviewable decision

constituting members means the member or members of QCAT constituting it for the proceeding concerned.

Not authorised—indicative only

Not authorised—indicative only

QCAT child-related employment review means a review by QCAT of a child-related employment decision.

QCAT president means the president of QCAT.

359 Application of pt 1

This part applies for a child-related employment review.

Note—

The QCAT Act also applies for the review.

360 Principle for reviewing child-related employment decision

A child-related employment decision is to be reviewed under the principle that the welfare and best interests of a child are paramount.

361 Proceeding must always be held in private

(1) A hearing of a proceeding for a QCAT child-related employment review must be held in private.

(2) However, the following are entitled to be present at the proceeding—

(a) each party to the proceeding;

(b) if, under an Act, a party is entitled to be represented by someone else at the proceeding, the party's representative;

(c) a witness while giving evidence;

(d) a person allowed to be present to support a party;

(e) a person allowed to be present to support a witness, while the witness is giving evidence;

(f) a person allowed to be present by QCAT.

(3) This section is subject to the QCAT Act, section 220.

Editor's note—

QCAT Act, section 220 (Tribunal may exclude person)

362 Applications on behalf of children

(1) An application for a child-related employment review may be made on behalf of a child only with the permission of the QCAT president.

(2) The QCAT president may give permission only if the president considers—

(a) the person is not, on the person's own behalf, entitled to apply for the child-related employment review; and

(b) it is in the child's best interests that the application be made; and

(c) it would be inappropriate for, or unreasonable to require, the child to make the application himself or herself.

363 Withdrawal of application for review

(1) An applicant may withdraw an application made on behalf of a child under section 362 only with leave of the QCAT president or QCAT.

(2) The QCAT president or QCAT may give leave under subsection (1) only if the president or QCAT considers that, having regard to the child's views or wishes, if any, it is in the child's best interests that the application be withdrawn.

364 Children must not be compelled to give evidence

(1) A child must not be compelled to give evidence in a proceeding for a QCAT child-related employment review.

(2) Without limiting subsection (1), QCAT may not require a child to do the either of the following under the QCAT Act, section 97(1)—

(a) attend a hearing of a proceeding to give evidence;

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Not authorised—indicative only

(b) produce a stated document or other thing to QCAT.

(3) Before a child gives evidence in a proceeding, QCAT must satisfy itself that the child is willing to give the evidence.

365 Children giving evidence

(1) This section applies if, in a proceeding for a QCAT child-related employment review—

(a) a child is giving evidence; and

(b) section 367 does not apply.

(2) Only the following persons may be present while the child gives evidence—

(a) the constituting members;

(b) the child's support person if the child has a support person and agrees to that person's presence.

366 Questioning of children

(1) This section applies if, in a proceeding for a QCAT child-related employment review—

(a) a child is giving evidence; and

(b) section 367 does not apply.

(2) The child must not be cross-examined.

(3) Also, only the constituting members may ask questions of the child.

367 Provisions for QCAT child-related employment reviews

(1) This section applies if—

(a) a child applies to QCAT for review of a child-related employment decision or a person makes the application on the child's behalf; and

(b) in a proceeding for the review, the child elects to give evidence.

(2) Before the child gives evidence, QCAT must tell the child that—

(a) he or she may be cross-examined by QCAT or a party to the proceeding; and

(b) he or she may, at any time while the cross-examination is continuing, refuse to be further cross-examined; and

(c) if he or she acts under paragraph (b), the application is taken to have been withdrawn and the review stops.

(3) If the child acts under subsection (2)(b), the application is taken to have been withdrawn and the review stops.

Part 2 QCAT to give statistical information to chief executive

368 QCAT's principal registrar to give statistical information to chief executive

(1) QCAT's principal registrar must, from time to time, give the chief executive statistical information about—

(a) the number and types of child-related employment decisions for which applications were made to QCAT for review; and

(b) QCAT's decisions on the applications.

(2) The information must not identify the parties (other than the decision-maker) to, or other persons taking part in, a review by QCAT.

Not authorised—indicative only

Not authorised—indicative only

Chapter 10 General

Part 2 When chief executive may give notice other than in writing

371 Application of pt 2

This part applies if, under this Act, the chief executive is required to give written notice to a person about a decision made or action taken by the chief executive.

372 Person asks for notice other than in writing

(1) This section applies if the person asks the chief executive not to notify the person by written notice but to use another way of communication.

(2) The chief executive must communicate with the person in the requested way, to the extent it is reasonable for the chief executive to do so, instead of giving the written notice.

373 Written notice inappropriate

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

(a) if the written notice is given—

(i) the rights, interests or wellbeing of a child may be adversely affected; or

(ii) the health or safety of the person, or of someone else, may be put at risk; or

(iii) an investigation by the chief executive will be prejudiced; or

(b) for another reason, it would not be appropriate to give the written notice in the circumstances.

(2) The chief executive may communicate with the person in a way the chief executive considers appropriate instead of giving the written notice.

(3) If the person asks the chief executive to give the written notice to the person's lawyer or other nominated representative, the chief executive must do so.

374 Chief executive must keep record

If, under this part, the chief executive does not give the written notice, the chief executive must keep a written record of—

(a) the reasons for not giving the written notice; and

(b) the way the chief executive told the person about the decision or action; and

(c) when the chief executive told the person about the decision or action; and

(d) the substance of the communication.

Part 3 Evidence and legal proceedings

375 Positive notice blue card is evidence of holding positive notice

If a person holds a current positive notice blue card, the card is evidence of the person holding a current positive notice.

376 Evidentiary provisions

(1) This section applies to a proceeding under or in relation to this Act.

(2) A signature purporting to be the signature of the chief executive is evidence of the signature it purports to be.

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Not authorised—indicative only

(3) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

(a) a stated document is a copy of a notice given or issued under this Act;

(b) on a stated day, a stated person was given a stated notice under this Act.

377 Indictable and summary offences

(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).

(3) Otherwise, an offence against this Act is a summary offence.

378 Proceedings for indictable offences

(1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

(a) by way of summary proceedings under the *Justices Act 1886*; or

(b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

(a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

(b) the magistrate considers the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceeding must be disregarded; and

(c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).

(4) The maximum penalty that may be summarily imposed for an indictable offence is 150 penalty units or 2 years imprisonment.

379 Limitation on who may summarily hear indictable offence proceedings

(1) A proceeding must be before a magistrate if it is a proceeding—

(a) for the summary conviction of a person on a charge for an indictable offence; or

(b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

380 Proceeding for offences

A proceeding for an offence against this Act, other than an indictable offence, must be taken in a summary way under the *Justices Act 1886*.

Not authorised—indicative only

Not authorised—indicative only

381 When proceeding may start

A proceeding for an offence against this Act may be started within—

(a) 1 year after the offence is committed; or

(b) 1 year after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

Part 4 Confidentiality

384 Confidentiality of information about criminal history or related information

(1) This section applies to a person who—

(a) is, or has been, a public service employee employed in the department, the commissioner, the assistant commissioner, a staff member or a selection panel member; and

(b) in that capacity, under chapter 8 (including as applied by previous 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.

(2) This section also applies to a person who—

(a) is, or has been, a public service employee employed in the department, the commissioner, the assistant commissioner, a staff member or a selection panel member; and

(b) in that capacity acquired information, or gained access to a document, under previous part 7 or chapter 8A about someone else's criminal history or about an investigation relating to the possible commission of a serious offence by someone else.

(3) This section also applies to a person who is or has been—

(a) the Minister and in that capacity received a verbal report, or a written report (a ***document***), under section 395 that included information mentioned in subsection (1)(b); or

(b) a person mentioned in subsection (5)(c) or (d) and in that capacity acquired the information, or gained access to the document in so far as it relates to the information.

(4) 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.

(5) Subsection (4) does not apply to the disclosure of information, or giving of access to a document, about a person—

(a) if subsection (1) applies—

(i) to a public service employee employed in the department for the purpose of an employment-screening decision; or

(ii) for a document about a staff member—to a public service employee employed in the department or selection panel member for the purpose of assessing the person's suitability to be, or continue to be, a staff member; or

(b) if subsection (2) applies—to a public service employee employed in the department or selection panel member for the purpose of assessing the person's suitability to be, or continue to be, a staff member; or

(c) if subsection (3)(a) applies—to a public service employee employed in the department or a member of

Not authorised—indicative only

Not authorised—indicative only

the Minister's staff for the purpose of obtaining advice relating to the information; or

(d) if subsection (3)(b) applies—to the Minister, a public service employee employed in the department or a member of the Minister's staff for the purpose of providing advice to the Minister relating to the information; or

(e) if the person is an adult—with the person's consent; or

(f) if the disclosure or giving of access is otherwise required under an Act or is authorised under section 395.

(6) In this section—

assistant commissioner means the assistant commissioner under this Act before the commencement of this definition.

commission means the Commission for Children and Young People and Child Guardian under this Act before the commencement of this definition.

commissioner means the Commissioner for Children and Young People and Child Guardian under this Act before the commencement of this definition.

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. Now see chapter 8A.

previous section 36 means section 36 as in force from time to time before the commencement of this definition.

selection panel member means a member of a panel formed to make a recommendation to the chief executive or the commissioner about a person's engagement as a staff member.

staff member means a public service employee employed in the department or a member of the commission's staff.

385 Confidentiality of other information

(1) This section applies to confidential information other than information mentioned in section 384(1)(b) or (2)(b).

(2) If a person gains confidential information through involvement in this Act's administration, the person must not—

(a) make a record of the information or intentionally disclose the information to anyone, other than under subsection (4); or

(b) recklessly disclose the information to anyone.

Maximum penalty—100 penalty units.

(3) A person gains information through involvement in this Act's administration if the person gains the information because of being, or an opportunity given by being—

(a) the Minister or a member of the Minister's staff; or

(b) the commissioner or assistant commissioner; or

(c) a member of the commission's staff; or

(d) a public service employee employed in the department; or

(e) a person consulted or employed by the commissioner or assistant commissioner for an investigation of a complaint; or

(f) a member of an advisory committee.

(4) A person may make a record of confidential information or disclose it to someone else—

(a) for this Act; or

(b) to discharge a function under another law; or

(c) for a proceeding in a court or tribunal; or

(d) if authorised under a regulation or another law; or

(e) if—

Not authorised—indicative only

Not authorised—indicative only

(i) the person is authorised in writing by the person to whom the information relates; and

(ii) the person to whom the information relates is an adult when the authorisation is given; and

(iii) the information does not identify, and is unlikely to lead to the identification of, a person as a child who has been the subject of a complaint under this Act; or

(f) for a purpose directly related to a child's protection or welfare.

(5) Without limiting subsection (4)(a), a person makes a record of confidential information or discloses it to someone else for this Act in the following circumstances—

(a) if the person is the Minister—the Minister makes the record, or discloses the information to a public service employee employed in the department or a member of the Minister's staff, (the ***relevant person***) for the purpose of obtaining advice relating to a report given to the Minister under section 395;

(b) if the person is a relevant person—the person makes the record, or discloses the information to the Minister or another relevant person, for the purpose of providing advice to the Minister relating to the report.

(6) In this section—

advisory committee means an advisory committee established under this Act before the commencement of this definition.

assistant commissioner means the assistant commissioner under this Act before the commencement of this definition.

commission means the Commission for Children and Young People and Child Guardian under this Act before the commencement of this definition.

commissioner means the Commissioner for Children and Young People and Child Guardian under this Act before the commencement of this definition.

Part 6 Miscellaneous

390 Meaning of *parent*

(1) A ***parent*** of a child is the child's mother, father or someone else, other than the chief executive (child safety), having or exercising parental responsibility for the child.

(2) However, a person standing in the place of a parent of a child on a temporary basis is not a parent of the child.

(3) A parent of an Aboriginal child includes a person who, under Aboriginal tradition, is regarded as a parent of the child.

(4) A parent of a Torres Strait Islander child includes a person who, under Island custom, is regarded as a parent of the child.

393 Protection from liability

(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

(3) In this section—

official means—

(a) the Minister or a member of the Minister's staff; or

(b) a public service employee employed in the department.

395 Reports by chief executive

(1) The chief executive may provide the Minister with a report relating to the administration of this Act, including the performance and exercise of the chief executive's functions and powers under this Act.

(2) The chief executive must provide the Minister with a report of a type mentioned in subsection (1) if the Minister asks for it.

Not authorised—indicative only

Not authorised—indicative only

(3) A report under this section—

(a) may relate to matters generally or to a particular matter; or

(b) may include confidential information about a person obtained under chapter 8 including confidential information to which section 345 or 385 applies or that is mentioned in section 384(1)(b).

(4) The chief executive must ensure the department's annual report under the *Financial Accountability Act 2009* for a financial year includes information about the number of times the Minister asked the chief executive for a report under this section during the year.

397 Chief executive may enter into arrangement about giving and receiving information with police commissioner

(1) This section applies only to the extent that another provision under this Act allows the chief executive to give information to the police commissioner or the police commissioner to give information to the chief executive.

(2) The chief executive and the police 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, including on a daily basis.

(4) However, if information is to be electronically transferred and, under this 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.

398 Chief executive may enter into arrangement with chief executive (child safety)

(1) The chief executive and the chief executive (child safety) may enter into a written arrangement about the administration of 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.

(2) Without limiting subsection (1), the arrangement may provide for the electronic transfer of information, including on a daily basis, held by the chief executive about the person or business.

(3) However, if information is to be electronically transferred and, under this 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.

399 Delegation by chief executive

(1) The chief executive may delegate the chief executive's functions under this or another Act to—

(a) an appropriately qualified public service employee employed in the department; or

(b) another individual who the chief executive considers is an appropriately qualified person to exercise the functions delegated to the person.

(2) In this section—

functions includes powers.

400 Approved forms

The chief executive may approve forms for use under this Act.

401 Regulation-making power

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made about fees, including refunding or waiving fees, for this Act.

Not authorised—indicative only

Not authorised—indicative only

(3) Without limiting subsection (2), a regulation may prescribe a fee for the chief executive giving information under the *Education (Queensland College of Teachers) Act 2005*, section 15D.

(4) A regulation made under this Act may—

(a) delay the application of a provision of chapter 8 in relation to a new NDIS non-government service provider, or the employment of a person by a new NDIS non-government service provider, for a period of not more than 1 year after the day the provider becomes a new NDIS non-government service provider; or

(b) delay the application of a provision of chapter 8 in relation to a new employee for a period of not more than 1 year after the day the person becomes a new employee; or

(c) make provision about a matter for which it is necessary, desirable or convenient to make provision in relation to—

(i) a service provider becoming a former NDIS non-government service provider; or

(ii) a person becoming a former employee.

(5) In this section—

former employee means a person whose employment stops being regulated employment because of the making or amendment of a regulation under schedule 1, section 6(4).

former NDIS non-government service provider means a service provider that stops being an NDIS non-government service provider because of the making or amendment of a regulation under the *Disability Services Act 2006*, section 16A or 41A.

new employee means a person whose employment becomes regulated employment because of the making or amendment of a regulation under schedule 1, section 6(4).

new NDIS non-government service provider means a service provider that becomes an NDIS non-government service

provider because of the making or amendment of a regulation under the *Disability Services Act 2006*, section 16A or 41A.

service provider see the *Disability Services Act 2006*, section 13.

Chapter 11 Transitional and other provisions

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.

Part 1 Repeal

402 Repeal of Children's Commissioner and Children's Services Appeals Tribunals Act 1996

The Children's Commissioner and Children's Services Appeals Tribunals Act 1996 is repealed.

Not authorised—indicative only

Not authorised—indicative only

Part 2 Transitional provisions on repeal of Children's Commissioner and Children's Services Appeals Tribunals Act 1996

403 Meaning of *commencing day*

In this part—

commencing day means the day section 168 commences.

404 Commissioner

(1) This section applies to the person who, immediately before the commencing day, was the Children's Commissioner under the repealed Act.

(2) Subject to sections 26 and 27, the person continues in office as the commissioner under this Act until the end of the term stated in the person's appointment under the repealed Act.

(3) The remuneration, allowances and terms of appointment decided for the person under section 12 of the repealed Act are taken to have been decided under section 23.

405 Continuation of commission and staff

(1) The Children's Commission established under the repealed Act is continued in existence as the commission under this Act.

(2) The staff of the Children's Commission established under the repealed Act continue as the staff of the commission under this Act.

406 Continuation of certain complaints

(1) This section applies to a complaint made under part 3 of the repealed Act that—

(a) immediately before the commencing day, had not been finally dealt with under the repealed Act; and

(b) if this Act had commenced at the relevant time, could have been made under this Act.

(2) The commissioner must continue to deal with the complaint as if it had been made under this Act.

407 Official visitors

(1) A person who, immediately before the commencing day, held office as an official visitor under the repealed Act continues to hold office as a community visitor, on the conditions applying to the person immediately before the commencing day, until the end of the term stated in the person's appointment.

(2) Subsection (1) applies subject to section 82(2) and (3).

Part 3 Transitional provisions for amendment of Juvenile Justice Act 1992

408 Official visitors

(1) A person who, immediately before the commencement, held office as an official visitor under the *Juvenile Justice Act 1992*—

(a) continues to hold office as a community visitor until the end of the term stated in the person's appointment; and

(b) while the person continues to hold office under paragraph (a), continues to be entitled to the remuneration and allowances to which the person was entitled immediately before the commencement.

Not authorised—indicative only

Not authorised—indicative only

(2) Subsection (1) applies subject to section 82(2) and (3).

(3) In this section—

commencement means the commencement of schedule 3, amendments of the *Juvenile Justice Act 1992*.

Part 4 Transitional provisions for Child Care Act 2002

409 Meaning of *commencement day*

In this part—

commencement day means the day this section commences.

410 Carrying on licensed child care service

(1) This section applies to a person who, immediately before the commencement day, was carrying on a business mentioned in schedule 1, section 10, under a licence under the *Child Care Act 1991*.

(2) The person does not commit an offence against section 109 by continuing to carry on the business without a current positive notice—

(a) until the day the licence is next due to expire; and

(b) if the person applies for a suitability notice before the licence is next due to expire and does not withdraw the application, until the application is decided.

411 Carrying on other regulated child care business

(1) This section applies to a person who, immediately before the commencement day, was carrying on a business mentioned in schedule 1, section 10, other than under a licence under the *Child Care Act 1991*.

(2) The person does not commit an offence against section 109 by continuing to carry on the business without a current positive notice—

(a) until the day that is 6 months after the commencement day; and

(b) if the person applies for a suitability notice within 6 months after the commencement day and does not withdraw the application, until the application is decided.

412 Employment in child care

(1) This section applies to a person who, immediately before the commencement day, was employed in employment mentioned in schedule 1, section 3A.

(2) Section 127 does not apply to the employment of the person.

(3) If the employment is in a licensed child care service, sections 105 and 106 do not apply to the employment until the day the licence is renewed or the day that is 6 months after the commencement day, whichever is later.

(4) If the employment is not in a licensed child care service, sections 105 and 106 do not apply to the employment until the day that is 6 months after the commencement day.

Part 5 Transitional provisions for Education and Other Legislation (Student Protection) Amendment Act 2003

413 Definitions for pt 5

In this part—

Not authorised—indicative only

amending Act means the *Education and Other Legislation (Student Protection) Amendment Act 2003*.

commencement means commencement of this section.

414 Outstanding applications for suitability notice

If an application for a suitability notice was made, but not decided, before the commencement, the application must be decided as if the application had been made after the commencement.

415 Employment mentioned in sch 1, s 6A

(1) This section applies if a person (the ***employee***), immediately before the commencement, was employed by another person (the ***employer***) in employment mentioned in schedule 1, section 6A.

(2) Section 127(1) does not apply to the employment of the employee.

(3) Subject to subsections (4) and (5), section 105 does not apply to the continued employment of the employee by the employer during the period ending 3 months after the commencement (the ***3 months period***).

(4) Subsection (5) applies if the employer, while continuing to employ the employee, applies for a suitability notice about the employee during the 3 months period.

(5) Section 105 does not apply to the continued employment of the employee by the employer until—

(a) if the application is withdrawn—the day of the withdrawal; or

(b) the day the employer receives a suitability notice about the employee, after the application is decided.

Not authorised—indicative only

416 Carrying on business mentioned in sch 1, s 11

(1) This section applies to a person who, immediately before the commencement, was carrying on a business mentioned in schedule 1, section 11.

(2) Subject to subsections (3) and (4), the person does not commit an offence against section 109 by continuing to carry on the business without a current positive notice during the period ending 3 months after the commencement (the ***3 months period***).

(3) Subsection (4) applies if the person, while continuing to carry on the business, applies for a suitability notice about the person during the 3 months period.

(4) The person does not commit an offence against section 109 by continuing to carry on the business without a current positive notice until—

(a) if the application is withdrawn—the day of the withdrawal; or

(b) the day the person receives a suitability notice, after the application is decided.

Part 6 Transitional provisions for Child Safety Legislation Amendment Act 2004

417 Commissioner

(1) Subject to this Act, the current commissioner continues in office under this Act as the Commissioner for Children and Young People and Child Guardian until the end of the term stated in the person's appointment.

(2) Unless the context otherwise requires, a reference in a document to the Commissioner for Children and Young People is taken to be a reference to the Commissioner for Children and Young People and Child Guardian.

Not authorised—indicative only

Not authorised—indicative only

(3) In this section—

commencement day means the day the *Child Safety Legislation Amendment Act 2004*, section 39 commences.

current commissioner means the person who, immediately before the commencement day, was the Commissioner for Children and Young People.

418 Commission

(1) The current commission continues as the Commission for Children and Young People and Child Guardian.

(2) Unless the context otherwise requires, a reference in a document to the Commission for Children and Young People is taken to be a reference to the Commission for Children and Young People and Child Guardian.

(3) In this section—

commencement day means the day the *Child Safety Legislation Amendment Act 2004*, section 39 commences.

current commission means the office that, immediately before the commencement day, was the Commission for Children and Young People.

419 Child deaths

(1) As far as is practicable, the commissioner must include, in the register under section 89ZC, a record of the child deaths that happened before the commencement day and on or after 1 January 2001.

(2) The first report prepared under section 89ZF(1) is due by 31 October 2005 and must include the matters stated in section 89ZF(1) for the period from the commencement day to 1 July 2005.

(3) In this section—

commencement day means the day the *Child Safety Legislation Amendment Act 2004*, section 80 commences.

420 References to child safety department

If the *Child Protection Act 1999* is administered only in a part of a department, a reference in this Act to the child safety department is a reference only to that part.

421 First report under s 89ZA

The first report prepared under section 89ZA is due by 31 October 2005 and must relate to the period starting on the day that section commences and ending on 30 June 2005.

Part 7 Transitional provisions for the Commission for Children and Young People and Child Guardian Amendment Act 2004

422 Volunteers

(1) This section applies to a person to whom section 104B applies.

(2) Section 104B applies to the person even though the agreement about carrying out work, that is regulated employment, was entered into before the commencement of this section.

(3) However if, before the commencement, the employee under section 104B started carrying out work and the relevant employer under the section applied for a prescribed notice about the employee—

(a) the employee may continue to be employed by the relevant employer until the earlier of the following—

(i) 1 year after the commencement;

(ii) the employee is issued with a negative notice by the commissioner or the application is withdrawn; and

Not authorised—indicative only

Not authorised—indicative only

(b) the employer may continue to employ the employee until the earlier of the following—

(i) 1 year after the commencement;

(ii) the employer is given notice by the commissioner that a negative notice has been issued to the employee or the application is withdrawn.

423 Application of amendment of sch 1 to particular employment

(1) This section applies to a person who, immediately before the commencement of this section, was employed or was continuing to be employed in employment that, after the commencement, is regulated employment mentioned in schedule 1, part 1, section 3, 6C, 6E or 6F.

(2) To the extent that, under section 127(1), part 6 does not apply to the employment of a person mentioned in subsection (1), section 127(1) no longer applies, or does not apply, to the employment of the person and part 6 applies to the employment of the person.

(3) However, despite part 6 applying to the employment, sections 105 and 106 do not apply to the employment of the person until the earliest of the following—

(a) 1 year after the commencement;

(b) if an application for a prescribed notice about the person is made within that year and is not withdrawn—the day a prescribed notice is issued to the person;

(c) if an application for a prescribed notice about the person is made within that year and is withdrawn—the day of the withdrawal.

(4) In this section—

employment includes continuing employment.

424 Employment that becomes regulated employment other than employment mentioned in s 189(1)

(1) This section applies to employment of a person that—

(a) was not regulated employment immediately before the commencement of section 189; and

(b) is regulated employment after that commencement.

(2) Section 127(1) applies to the employment of the person unless the employment is regulated employment under schedule 1, part 1, section 3, 6C, 6E or 6F.

(3) In this section—

employment includes continuing employment.

425 Carrying on regulated business

(1) This section applies to a person who, immediately before the commencement of this section, was carrying on a business mentioned in schedule 1, part 2, section 12, 13, 14 or 15.

(2) Sections 109 and 113 do not apply to the carrying on of the business until the earliest of the following—

(a) 1 year after the commencement of the section;

(b) if the person applies for a prescribed notice within that year and does not withdraw the application—the day a prescribed notice is issued to the person;

(c) if the person applies for a prescribed notice within that year but withdraws the application—the day of the withdrawal.

426 Provision because of the definition *serious offence*

(1) This section applies to a decision made under this Act before the commencement of this section that involved a serious offence as that term was defined before the commencement.

(2) It is declared that the change to the definition does not affect the decision made under this Act before the commencement.

Not authorised—indicative only

Not authorised—indicative only

(3) To remove any doubt, it is declared that a person to whom a negative notice was issued because of the decision can not make an application to cancel the notice, as mentioned in section 118(3) or 119(3), before the end of 2 years after the issue of the notice.

427 Issue of positive notice blue card before commencement

(1) This section applies if, before the commencement of this section, the commissioner issued—

(a) a document (however described) that, immediately before the commencement, was a current suitability notice; and

(b) a document purporting to be a positive notice blue card (the ***purported blue card***) and the date stated on the document as its expiry date has not happened.

(2) The purported blue card is a positive notice blue card for this Act.

(3) If the expiry date stated on the purported blue card was a day later than the expiry day for the relevant suitability notice, the purported blue card and suitability notice remain current until the date stated in the purported blue card.

(4) Subsection (3) applies despite section 104.

428 Charge for excluding offence not to apply to particular holders of positive notices

(1) This section applies to a person who, immediately before the commencement of this section—

(a) was the holder of a current positive notice; and

(b) had been charged with an offence that has not been dealt with.

(2) If, immediately after the commencement, the offence is an excluding offence, section 119C does not apply to the person.

(3) However if, after the commencement, the person is convicted of the excluding offence with which the person was charged before the commencement, or another excluding offence, a court may make a disqualification order under section 126C and section 119A or 119B may apply to the person.

429 References to suitability notice

In an Act or document, a reference to a suitability notice may, if the context permits, be taken to be a reference to a prescribed notice.

Part 8 Further transitional provisions for the Commission for Children and Young People and Child Guardian Amendment Act 2004

430 Definitions for pt 8

In this part—

commencement means commencement of this section.

post-amended Act means the *Commission for Children and Young People and Child Guardian Act 2000* as in force from time to time on and after 17 January 2005 and before the commencement.

pre-amended Act means the *Commission for Children and Young People and Child Guardian Act 2000* as in force immediately before 17 January 2005.

relevant applicant, in relation to a relevant application, means the person in relation to whom the relevant application is made.

relevant application means an application under section 100 or 101 of the pre-amended Act that was received by the commissioner before 17 January 2005.

Not authorised—indicative only

Not authorised—indicative only

suitability notice means a suitability notice under the pre-amended Act.

431 Main purpose of pt 8

The main purpose of this part is to clarify and declare the law applying, in particular circumstances, to relevant applications and to suitability notices.

432 Circumstances, after commencement, in which pre-amended Act applies to outstanding relevant application

(1) This section applies to a relevant application and the relevant applicant if—

(a) a decision under section 102(1) of the pre-amended Act about the relevant application had not been made before 17 January 2005; and

(b) before the commencement, the commissioner had not issued a prescribed notice to the relevant applicant; and

(c) on or after 17 January 2005, no police information and no disciplinary information about the relevant applicant was received by the commissioner.

(2) The pre-amended Act applies to the relevant application and the relevant applicant for the purpose of making a decision about the relevant application.

(3) If the decision, by application of the pre-amended Act, involves declaring the relevant applicant to be a suitable person for child-related employment, the relevant applicant is to be issued, under section 102(2)(a) of this Act, with a positive notice.

(4) If the decision, by application of the pre-amended Act, involves declaring the relevant applicant to be an unsuitable person for child-related employment, the relevant applicant is to be issued, under section 102(2)(b) of this Act, with a negative notice.

(5) On the issuing of a positive notice as mentioned in subsection (3), or a negative notice as mentioned in subsection (4), this Act, and not the pre-amended Act, applies.

(6) Despite subsection (5), if a negative notice is issued—

(a) the relevant applicant may only apply under section 121 of the pre-amended Act for a review of the decision under section 102 of the pre-amended Act; and

(b) the pre-amended Act applies to the application for review, the review and any appeal relating to the decision on review.

433 Circumstances, after commencement, in which this Act applies to outstanding relevant application

This Act, and not the pre-amended Act, applies to all matters relating to a relevant application, and any decision relating to the relevant application, if—

(a) a decision under section 102(1) of the pre-amended Act about the relevant application had not been made before 17 January 2005; and

(b) before the commencement, the commissioner had not issued a prescribed notice to the relevant applicant; and

(c) on or after 17 January 2005, police information or disciplinary information about the relevant applicant was received by the commissioner.

434 Relevant applications dealt with before commencement

(1) This section applies to a relevant application if a decision in relation to the relevant application was made on or after 17 January 2005 and before the commencement.

(2) If the commissioner dealt with the relevant application by applying the pre-amended Act, it is declared that—

(a) the relevant application has been validly dealt with by applying the pre-amended Act; and

Not authorised—indicative only

Not authorised—indicative only

(b) a decision of the commissioner in relation to the relevant application is not invalid only because the decision involved the application of the pre-amended Act; and

(c) this Act, and not the pre-amended Act, applies to all matters relating to the decision after the decision is made.

(3) Despite subsection (2)(c), if the decision is to issue a negative notice—

(a) the relevant applicant may only apply under section 121 of the pre-amended Act for a review of the decision under section 102 of the pre-amended Act; and

(b) the pre-amended Act applies to the application for review, the review and any appeal relating to the decision on review.

(4) If the commissioner dealt with the relevant application by applying the post-amended Act, it is declared that—

(a) the relevant application has been validly dealt with by applying the post-amended Act; and

(b) a decision of the commissioner in relation to the relevant application is not invalid only because the decision involved the application of the post-amended Act; and

(c) this Act, and not the pre-amended Act, applies to all matters relating to the decision.

435 Application of ss 122 and 122A in particular circumstances

(1) For the application of sections 122 and 122A to a relevant application and the relevant applicant, the relevant application is taken to be an application for a prescribed notice that has not been withdrawn and the relevant applicant is taken not to have withdrawn his or her consent to employment screening under part 6.

(2) Subsection (1) does not prevent a relevant application from being withdrawn before the commissioner decides the relevant application.

436 Circumstances, after commencement, relating to ss 118 and 119 of pre-amended Act

(1) This section applies if—

(a) before 17 January 2005, the commissioner—

(i) had received an application under section 118(2) of the pre-amended Act to cancel a negative notice (a ***previous section 118 application***); or

(ii) had received or otherwise become aware of information that may have allowed the commissioner to exercise a power as mentioned in section 119(1) or (1A) of the pre-amended Act (the ***previous section 119 power***) in relation to a suitability notice; and

(b) before the commencement, the commissioner had not decided whether or not to grant the previous section 118 application or to exercise the previous section 119 power.

(2) The pre-amended Act applies in relation to the previous section 118 application or the exercise of the previous section 119 power and, subject to subsection (6), the commissioner may grant or refuse the previous section 118 application or exercise or not exercise the previous section 119 power.

(3) After a decision is made about whether or not to grant the previous section 118 application, or to exercise the previous section 119 power, this Act, and not the pre-amended Act, applies.

(4) However, if the decision under subsection (2) is a decision to issue a negative notice to a person, or a decision refusing a person's application to cancel a negative notice—

Not authorised—indicative only

Not authorised—indicative only

(a) the person may only apply under section 121 of the pre-amended Act for a review of the decision; and

(b) the pre-amended Act applies to the application for review, the review and any appeal relating to the decision on review.

(5) Despite subsections (1) to (4), subsection (6) applies if, on or after 17 January 2005, the commissioner received or receives information that allowed or allows the commissioner to exercise a power as mentioned in section 119(1) or (2) of this Act in relation to a suitability notice—

(a) that is the subject of a previous section 118 application; or

(b) to which a previous section 119 power may be exercised.

(6) This Act, and not the pre-amended Act, applies to all matters relating to the suitability notice mentioned in subsection (5).

437 Circumstances, before commencement, relating to ss 118 and 119 of pre-amended Act

(1) If, on or after 17 January 2005 and before the commencement, the commissioner cancelled or refused to cancel a suitability notice, whether under section 118 or 119 of the pre-amended Act or post-amended Act, the cancellation or refusal is declared to have been validly dealt with by applying the pre-amended Act or post-amended Act.

(2) If the cancellation or refusal has been dealt with by applying the pre-amended Act, the cancellation or refusal may only be reviewed on an application for review under section 121 of the pre-amended Act and the pre-amended Act applies to the application for review, the review and any appeal relating to the decision on review.

(3) Subject to subsection (2), this Act, and not the pre-amended Act, applies to all matters relating to the cancellation or refusal.

438 Circumstances where pre-amended Act applies to application for review made before commencement

(1) If, before the commencement, there was no final decision in relation to a previous application for review, the pre-amended Act applies to the previous application for review, the review and any appeal relating to the decision on review.

(2) If, before the commencement, the tribunal had started to hear a previous application for review but had not made a final decision, the tribunal may, for the purposes of subsection (1), exercise its powers under the *Children Services Tribunal Act 2000* and issue directions in relation to the previous application for review and the hearing.

(3) If, before the commencement, a final decision in relation to a previous application for review had been made, the pre-amended Act applies to the following—

(a) if, under the *Children Services Tribunal Act 2000*, section 38(1)(c), the tribunal had set aside the commissioner's decision that was the subject of the previous application for review and returned it to the commissioner for reconsideration—the reconsideration;

(b) otherwise—any appeal relating to the final decision.

(4) In this section—

final decision means a decision of the tribunal under the *Children Services Tribunal Act 2000*, section 38.

previous application for review means an application to the tribunal for a review of a decision made before 17 January 2005 to issue a negative notice or to refuse to cancel a negative notice.

tribunal means the Children Services Tribunal.

439 Circumstances where this Act applies to notices issued before the commencement

(1) This section applies to each of the following notices—

Not authorised—indicative only

Not authorised—indicative only

(a) a suitability notice issued under the pre-amended Act and in force immediately before 17 January 2005;

(b) a prescribed notice issued on or after 17 January 2005 and before the commencement.

(2) It is declared that this Act applies in relation to the notice unless—

(a) a provision of this part provides that the pre-amended Act applies; or

(b) part 7 otherwise provides.

440 References to prescribed notice

It is declared that in an Act or document, a reference to a prescribed notice may, if the context permits, be taken to include a reference to a suitability notice.

Part 9 Transitional provisions for Child Safety (Carers) Amendment Act 2006

441 Definition for pt 9

In this part—

commencement means the day on which the provision in which the term is used commences.

442 Regulated employment—volunteers

(1) This section applies if, immediately before the commencement—

(a) a person (the ***employee***) was employed or was continuing to be employed by another person (the ***employer***) in employment that, after the commencement, is regulated employment mentioned in schedule 1, section 6G(1) or (2); and

(b) the person does not have a positive notice.

(2) Section 127(2) does not apply to the employment of the employee.

(3) Despite subsection (2), the employee may continue in the regulated employment and the employer may continue to employ the employee in the regulated employment until—

(a) if an application for a prescribed notice about the person is made within 6 months after the commencement and is not withdrawn—the day a prescribed notice is issued to the person; or

(b) if an application for a prescribed notice about the person is made within 6 months after the commencement and is withdrawn—the day the application is withdrawn; or

(c) if an application for a prescribed notice about the person is not made within 6 months after the commencement—6 months after the commencement.

(4) Also, despite subsection (2), section 112 does not apply to the person until the first application for a prescribed notice about the person is made after the commencement.

443 Regulated employment—other persons

(1) This section applies if, immediately before the commencement—

(a) a person (the ***employee***) was employed or was continuing to be employed by another person (the ***employer***) in employment that, after the commencement, is regulated employment mentioned in schedule 1, section 6G(3); and

(b) the person does not have a positive notice.

(2) Section 127(2) does not apply to the employment of the employee.

(3) Despite subsection (2), the employee may continue in the regulated employment, and the employer may continue to employ the employee in the regulated employment until—

Not authorised—indicative only

Not authorised—indicative only

(a) if an application for a prescribed notice about the person is made within 6 months after the commencement and is not withdrawn—the day a prescribed notice is issued to the person; or

(b) if an application for a prescribed notice about the person is made within 6 months after the commencement and is withdrawn—the day the application is withdrawn; or

(c) if an application for a prescribed notice about the person is not made within 6 months after the commencement—6 months after the commencement.

(4) Also, despite subsection (2), section 112 does not apply to the person until the first application for a prescribed notice about the person is made after the commencement.

444 Carrying on regulated business

(1) This section applies if, immediately before the commencement—

(a) a person was carrying on a business that, after the commencement, is a regulated business mentioned in schedule 1, section 16; and

(b) the person does not have a positive notice.

(2) Section 109 does not apply to the carrying on of the business until—

(a) if the person applies for a prescribed notice within 6 months after the commencement 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 within 6 months after the commencement and withdraws the application—the day of the withdrawal; or

(c) if the person does not apply for a prescribed notice within 6 months after the commencement—6 months after the commencement.

(3) Section 113 does not apply to the person until the person first applies for a prescribed notice after the commencement.

445 Particular certificates of approval under Child Protection Act 1999

(1) This section applies if—

(a) before the commencement, a person has applied for a certificate of approval and the application has not been decided; and

(b) after the commencement, the person is issued with the certificate of approval.

(2) Despite section 104B, a relevant person may be employed in regulated employment mentioned in schedule 1, section 6G(1) or (2) until—

(a) if an application for a prescribed notice about the person is made within 6 months after the commencement and is not withdrawn—the day a prescribed notice is issued to the person; or

(b) if an application for a prescribed notice about the person is made within 6 months after the commencement and is withdrawn—the day the application is withdrawn; or

(c) if an application for a prescribed notice about the person is not made within 6 months after the commencement—6 months after the commencement.

(3) Also, section 112 does not apply to a relevant person until the first application for a prescribed notice about the person is made after the commencement.

(4) In this section—

certificate of approval means a certificate of approval under the *Child Protection Act 1999*.

relevant person means each of the following persons if the person does not have a positive notice—

(a) the applicant for the certificate of approval;

Not authorised—indicative only

Not authorised—indicative only

(b) a person who is an adult member of the applicant's household when the certificate of approval is issued.

446 Particular licences under Child Protection Act 1999

(1) This section applies if—

(a) before the commencement, a person has applied for a licence under the *Child Protection Act 1999* and the application has not been decided; and

(b) after the commencement, the person is issued with the licence.

(2) Section 109 does not apply to a relevant person until—

(a) if the person applies for a prescribed notice within 6 months after the commencement 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 within 6 months after the commencement and withdraws the application—the day of the withdrawal; or

(c) if the person does not apply for a prescribed notice within 6 months after the commencement—6 months after the commencement.

(3) Section 113 does not apply to a relevant person until the person first applies for a prescribed notice after the commencement.

(4) In this section—

relevant person means each of the following persons if, immediately before the commencement, the person does not have a positive notice—

(a) the nominee for the licence under the *Child Protection Act 1999*;

(b) an executive officer of the licensee.

Part 10 Transitional and validation provisions for Commission for Children and Young People and Child Guardian Amendment Act 2007

447 Definitions for pt 10

In this part—

commencing day means the day this section commences.

revised regulated business, in relation to a person, means a business carried on by the person that—

(a) was not a regulated business under schedule 1, part 2, section 8, as in force immediately before the commencing day; and

(b) is a regulated business under schedule 1, part 2, section 8, as in force on the commencing day.

revised regulated employment, in relation to a person, means employment of the person that—

(a) was not regulated employment under schedule 1, part 1, section 5, as in force immediately before the commencing day; and

(b) is regulated employment under schedule 1, part 1, section 5, as in force on the commencing day.

transition period means the period, including a period before the commencing day, ending 3 months after the commencing day.

448 Continuing employment in health, counselling or support services

(1) This section applies if a person whose employment is revised regulated employment does not hold a positive notice.

Not authorised—indicative only

Not authorised—indicative only

(2) An employer of the person does not commit an offence against a penalty provision by continuing to employ the person—

(a) if an application for a prescribed notice about the person has been made within the transition period, and the application is not withdrawn before the commencing day—until the day a prescribed notice is issued to the person; or

(b) if an application for a prescribed notice about the person has been made within the transition period, and the application is withdrawn on or after the commencing day—until the day the application is withdrawn; or

(c) if an application for a prescribed notice about the person is not made within 3 months after the commencing day and paragraphs (a) and (b) do not apply—until 3 months after the commencing day.

(3) Subsection (2) does not apply to an employer who—

(a) is aware, or becomes aware, that a negative notice has been issued to the person and is current; or

(b) receives notice under section 119C(5) or 126B(2)(b) that the person's positive notice is suspended.

(4) In this section—

penalty provision means section 104B or 105(2).

449 Carrying on regulated business providing health, counselling or support services

(1) This section applies to a person who—

(a) carries on a business that is a revised regulated business; and

(b) does not hold a prescribed notice.

(2) The person does not commit an offence against section 109 by continuing to carry on the business without a positive notice—

(a) if an application for a prescribed notice for the person has been made within the transition period, and the application is not withdrawn before the commencing day—until the day a prescribed notice is issued to the person; or

(b) if an application for a prescribed notice for the person has been made within the transition period, and the application is withdrawn on or after the commencing day—until the day the application is withdrawn; or

(c) if an application for a prescribed notice about the person is not made within 3 months after the commencing day and paragraphs (a) and (b) do not apply—until 3 months after the commencing day.

(3) This section does not limit section 119C(3).

450 Applications and decisions made before the commencing day relating to health, counselling or support services

(1) This section applies to the following—

(a) an application for a prescribed notice made under this Act before the commencing day relating to employment that is revised regulated employment, or carrying on a business that is a revised regulated business, in relation to a person;

(b) all matters relating to an application mentioned in paragraph (a), including, for example, decisions about an application made before the commencing day by the commissioner or the Children Services Tribunal.

(2) The application and matters are not invalid merely because the application and matters related to employment that is revised regulated employment, or carrying on a business that is a revised regulated business.

(3) To remove any doubt, it is declared that if, before the commencing day, an application was made to the Children Services Tribunal to review a reviewable decision in relation to an application mentioned in subsection (1)(a), the

Not authorised—indicative only

Not authorised—indicative only

application must continue to be dealt with on the basis that the decision is not invalid as mentioned in subsection (2).

Part 11 Transitional provisions for Commission for Children and Young People and Child Guardian and Another Act Amendment Act 2008

451 Definition for pt 11

In this part—

commencement means the commencement of this section.

452 Applications by disqualified persons who are not relevant disqualified persons

(1) This section applies in relation to a person who is a disqualified person but who is not a relevant disqualified person.

(2) If—

(a) an application for a prescribed notice about the person was made before the commencement; and

(b) the application had not been decided before the commencement; and

(c) at the time of the application, the person did not hold a positive notice, including a positive notice that is suspended under section 119C;

the application is taken to have been withdrawn.

(3) If—

(a) an application for a prescribed notice about the person was made before the commencement; and

(b) the application had not been decided before the commencement; and

(c) at the time of the application, the person held a positive notice that was not suspended under section 119C;

the person is taken to have been issued with an eligibility declaration and the commissioner must decide the application under this Act.

(4) For deciding the application mentioned in subsection (3), section 102(3)(e) does not apply.

(5) If, before the commencement—

(a) the person made an application for cancellation of a negative notice or for cancellation of a suspension of a positive notice; and

(b) the application had not been decided;

the commissioner must decide the application under this Act.

453 Applications by relevant disqualified persons

(1) This section applies in relation to a person who is a relevant disqualified person.

(2) If—

(a) an application for a prescribed notice about the person was made before the commencement; and

(b) the application had not been decided before the commencement; and

(c) at the time of the application, the person did not hold a positive notice, including a positive notice that is suspended under section 119C;

the application is taken to have been withdrawn.

(3) If—

(a) an application for a prescribed notice about the person was made before the commencement; and

Not authorised—indicative only

Not authorised—indicative only

(b) the application had not been decided before the commencement; and

(c) at the time of the application, the person held a positive notice including a positive notice that is suspended under section 119C;

the application is taken to have been withdrawn and the positive notice is taken to have been cancelled.

(4) If, before the commencement—

(a) the person made an application for cancellation of a negative notice; and

(b) the application had not been decided;

the application is taken to have been refused.

(5) If, before the commencement—

(a) the person made an application for cancellation of a suspension of a positive notice; and

(b) the application had not been decided;

the application is taken to have been withdrawn and the positive notice is taken to have been cancelled.

454 Applications by persons who are not disqualified persons

(1) This section applies in relation to a person—

(a) who is not a disqualified person; and

(b) for whom an application for a prescribed notice, for cancellation of a negative notice or for cancellation of a suspension of a positive notice, was made before the commencement.

Editor's note—

An application may have been made under section 100, 101, 118, 119 or 119D.

(2) This Act applies to the application and, if the application complied with this Act before the commencement, the

application is not invalid only because it does not comply with this Act on the commencement.

455 Existing applications for review or appeal

(1) This section applies to a person who, before the commencement, made—

(a) an application for a review under section 121; or

(b) in relation to a decision of the Children Services Tribunal—an appeal to a court.

(2) If the application or appeal has not been decided before the commencement, the tribunal or court must—

(a) if the person is a disqualified person—on its own initiative or on application by the commissioner, dismiss the application or appeal; or

(b) otherwise—apply this Act in relation to the matter of the application or appeal.

456 Positive notices held by disqualified persons who are not relevant disqualified persons

(1) This section applies in relation 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 commissioner started, before the commencement, to exercise a power under section 119; or

(c) a person who is taken to have been issued with an eligibility declaration under section 218(3).

(2) If, on the commencement, the person is the holder of a positive notice—

(a) that is not suspended under section 119C, the person is taken to have been issued with an eligibility declaration; or

Not authorised—indicative only

Not authorised—indicative only

(b) that is suspended under section 119C, this Act applies to the positive notice.

Note—

See section 119D(2).

(3) If—

(a) after the commencement, the commissioner is to make a decision about an application under section 100 or 101 for a prescribed notice about a person mentioned in subsection (2)(a); and

(b) it is the first time after the commencement that the commissioner is to make a decision under section 102 about the person;

section 102(3)(e) does not apply to the commissioner for deciding the application.

457 Positive notices held by relevant disqualified persons

(1) This section applies if, on the commencement, a person—

(a) is a relevant disqualified person; and

(b) is the holder of a positive notice, whether or not the positive notice is suspended under section 119C; and

(c) is not a person mentioned in section 219(3).

(2) The positive notice is cancelled.

458 Continuation if commissioner acting on own initiative

If, 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 the commissioner may, on the commencement, exercise the power under this Act, the commissioner may continue to exercise the power under this Act in relation to the person or prescribed notice.

459 Notice by commissioner of withdrawal of application under this part

(1) This section applies if an application for a prescribed notice about a person, for cancellation of a person's negative notice or for cancellation of a suspension of a person's positive notice is taken to have been withdrawn under section 218 or 219.

(2) The commissioner must give written notice to the person about the withdrawal of the application and must otherwise give notice as mentioned in section 123A(2).

(3) A notice under subsection (2) is taken to be a notice about a withdrawal as mentioned in section 123(3B).

460 Notice by commissioner of cancellation of positive notice under this part

(1) This section applies if a person's positive notice is taken to have been cancelled under section 219 or 223.

(2) The commissioner must give written notice to the person about the cancellation and must otherwise give notice as mentioned in section 123A(2) as if a negative notice had been issued to the person.

(3) A written notice mentioned in subsection (2) is taken, for sections 107 and 108, to be a notice that a negative notice has been issued.

Note—

A person whose positive notice is cancelled must comply with section 117.

461 Application of ss 120B, 120C and 120D

For sections 120B, 120C(1)(a) and 120D, 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.

Not authorised—indicative only

Not authorised—indicative only

Example—

An offence may have been committed, and the person convicted of the offence, before the commencement.

462 Application of s 120E

(1) This section applies in relation to a person who—

(a) is a disqualified person; and

(b) at the commencement, is employed in regulated employment; and

(c) is not a person in relation to whom section 218, 219 or 222 applies.

(2) To remove any doubt, it is declared that, on the commencement, section 120E(1)(c) applies to the person even if it is not an offence for a person to employ the disqualified person in regulated employment.

463 No retrospective criminal liability

(1) A provision of this Act as amended by the amending part is not effective to impose criminal liability on a person retrospectively.

(2) In this section—

amending part means the *Commission for Children and Young People and Child Guardian and Another Act Amendment Act 2008*, part 2.

Part 12 Transitional provision for Criminal Code and Other Acts Amendment Act 2008

464 References in schs 2 and 4 to Criminal Code offence

Schedules 2 and 4 apply as if a reference to the Criminal Code, section 208 included a reference to the Criminal Code,

section 209 as in force at any time before its repeal by the *Criminal Code and Other Acts Amendment Act 2008*.

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

Not authorised—indicative only

Not authorised—indicative only

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

Not authorised—indicative only

Not authorised—indicative only

(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

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Not authorised—indicative only

(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).

Not authorised—indicative only

Not authorised—indicative only

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.

Not authorised—indicative only

Not authorised—indicative only

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

Not authorised—indicative only

Not authorised—indicative only

(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

Not authorised—indicative only

Not authorised—indicative only

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

Not authorised—indicative only

Not authorised—indicative only

(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.

Not authorised—indicative only

Not authorised—indicative only

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.

Not authorised—indicative only

Not authorised—indicative only

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—

Not authorised—indicative only

Not authorised—indicative only

(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.

Not authorised—indicative only

Not authorised—indicative only

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.

Not authorised—indicative only

Not authorised—indicative only

(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.

Not authorised—indicative only

Not authorised—indicative only

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.

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.

Part 14 Transitional provisions for Child Protection and Other Acts Amendment Act 2010

505 Application of s 349

(1) This section applies if, before the commencement—

(a) a relevant change within the meaning of previous section 349 happened in relation to the holder of a positive notice or positive exemption notice that was not suspended; and

(b) the commissioner had not cancelled the previously held positive notice, positive notice blue card or positive exemption notice under previous section 349.

(2) Previous section 349 continues to apply in relation to the relevant change as if the *Child Protection and Other Acts Amendment Act 2010* had not been enacted.

Not authorised—indicative only

Not authorised—indicative only

(3) In this section—

commencement means the commencement of this section.

previous section 349 means section 349 as in force before the commencement.

506 Application of s 350

(1) This section applies if, before the commencement—

(a) a relevant change within the meaning of previous section 350 happened in relation to the holder of a positive notice that was not suspended; and

(b) the commissioner had not cancelled the previously held positive notice or positive notice blue card under previous section 350.

(2) Previous section 350 continues to apply in relation to the relevant change as if the *Child Protection and Other Acts Amendment Act 2010* had not been enacted.

(3) In this section—

commencement means the commencement of this section.

previous section 350 means section 350 as in force before the commencement.

507 Fee not payable under s 350 if a fee previously paid

Section 350(7) does not apply to the holder of a positive notice if the holder has paid a prescribed application fee in relation to the positive notice under section 350 as in force before the commencement.

508 Persons being considered for engagement by the commission at the commencement

(1) Chapter 8A applies in relation to a person who, at the commencement, is being considered for engagement by the commission or is engaged by the commission.

(2) For subsection (1), a person is being considered for engagement by the commission at the commencement if—

(a) the person applied or otherwise expressed an interest in being engaged by the commission before the commencement; and

(b) at the commencement, the commissioner has not finished making an assessment of the person's suitability for the engagement.

(3) In this section—

commencement means the commencement of this section.

Part 15 Provision for Health Practitioner Registration and Other Legislation Amendment Act 2013

509 Application of ch 8 to former registered health practitioners

(1) Schedule 1, part 3, section 28 continues to apply to the employment or the carrying on of a business of a former registered health practitioner to the extent mentioned in that section for a period of 3 months after the commencement of this section.

(2) In this section—

former registered health practitioner means a person who, immediately before the commencement of this section, was registered under the repealed *Speech Pathologists Registration Act 2001*.

Not authorised—indicative only

Not authorised—indicative only

Part 16 Transitional provisions for Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013

Division 1 Interpretation

510 Definitions for pt 16

In this part—

amended Act means this Act as amended by the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*.

commencement means the commencement of this section.

new disqualified person means a person who is a disqualified person only because the person has been convicted or is convicted of a new disqualifying offence.

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 relevant disqualified person means a person who is a relevant disqualified person only because the person has been convicted or is convicted of a new disqualifying offence for which an imprisonment order has been or is imposed.

new serious offence means an offence that is a serious offence under this Act but was not a serious offence under this Act immediately before the commencement.

Division 2 Eligibility applications and eligibility declarations

511 Existing eligibility application

(1) This section applies if—

(a) before the commencement a person had made an eligibility application to the commissioner under section 178; and

(b) immediately before the commencement the person's eligibility application had not been decided or withdrawn.

(2) At the commencement the commissioner must decide the application under the amended Act.

Note—

The commissioner may issue an eligibility declaration to a person if the person has been convicted of a disqualifying offence and is not a relevant disqualified person. See section 180(1).

512 Current eligibility declaration for new relevant disqualified person

(1) This section applies to a person if—

(a) before the commencement the commissioner had issued, or was taken to have issued, the person an eligibility declaration; and

(b) immediately before the commencement the person's eligibility declaration had not expired; and

(c) at the commencement the person is a new relevant disqualified person.

(2) At the commencement the person's eligibility declaration is taken to have expired.

Note—

If the person also holds a positive notice, see section 519.

Not authorised—indicative only

Not authorised—indicative only

513 Current eligibility declaration for person charged with new disqualifying offence or convicted of new serious offence

(1) This section applies to a person if—

(a) before the commencement the commissioner had issued, or was taken to have issued, the person an eligibility declaration; and

(b) immediately before the commencement the person's eligibility declaration had not expired; and

(c) the person—

(i) was convicted of a new serious offence before the commencement; or

(ii) is charged with a new disqualifying offence at the commencement.

(2) At the commencement—

(a) the amended Act applies to the person's eligibility declaration; and

(b) the person's eligibility declaration is taken to have been issued on the commencement.

(3) If, after the commencement the commissioner is to make a decision under chapter 8, part 4, division 9 about the person, and it is the first time the commissioner is to make a decision under that division after the commencement, section 223(1)(b) does not apply to the commissioner making the decision.

514 Other eligibility declarations

(1) This section applies to a person if—

(a) before the commencement the commissioner had issued, or was taken to have issued, the person an eligibility declaration; and

(b) immediately before the commencement the person's eligibility declaration had not expired; and

(c) at the commencement section 512 or 513 does not apply.

(2) At the commencement the amended Act applies to the person's eligibility declaration.

515 Existing application for reversal of decision refusing an eligibility declaration

(1) This section applies if—

(a) before the commencement a person had made an application under section 186(2) to the commissioner; and

(b) immediately before the commencement the application had not been decided.

(2) At the commencement the amended Act applies and the commissioner may decide the application under the amended Act.

Division 3 Prescribed notice applications and prescribed notices

516 Existing prescribed notice application by new relevant disqualified person

(1) This section applies if—

(a) before the commencement a prescribed notice application had been made about a person; and

(b) immediately before the commencement the application had not been decided or withdrawn; and

(c) at the commencement the person is a new relevant disqualified person.

(2) The person's application is taken to be withdrawn.

(3) The commissioner must give written notice about the withdrawal of the application to—

(a) the person; and

Not authorised—indicative only

Not authorised—indicative only

(b) each notifiable person for the person; and

(c) if the person is the director of a school's governing board—the accreditation board.

517 Existing prescribed notice application if person charged with new disqualifying offence or is new disqualified person but not new relevant disqualified person

(1) This section applies if—

(a) before the commencement a prescribed notice application had been made about a person; and

(b) immediately before the commencement the application had not been decided or withdrawn; and

(c) at the commencement the person—

(i) is charged with a new disqualifying offence; or

(ii) is a new disqualified person but not a new relevant disqualified person.

Note—

If a person holds a positive notice, see also sections 520 and 521.

(2) Subsection (3) applies if—

(a) at the commencement the person is charged with a new disqualifying offence; or

(b) at the commencement the person is a new disqualified person but not a new relevant disqualified person and, at the time of making the application—

(i) was not issued, or not taken to have been issued, an eligibility declaration; and

(ii) did not hold a positive notice.

(3) At the commencement—

(a) the application is taken to be withdrawn; and

(b) the commissioner must give written notice about the withdrawal of the application to—

(i) the person; and

(ii) each notifiable person for the person; and

(iii) if the person is the director of a school's governing board—the accreditation board.

Note—

If a person charged with a new disqualifying offence also holds a positive notice, see also sections 521 and 240.

(4) Subsection (5) applies if the person is a new disqualified person but not a new relevant disqualified person and at the time of making the application the person—

(a) was not issued, or not taken to have been issued, an eligibility declaration; and

(b) held a positive notice that was not suspended.

(5) At the commencement—

(a) the person is taken to have been issued an eligibility declaration other than for section 223(1)(b); and

(b) the commissioner must decide the application under the amended Act.

(6) If the person is a new disqualified person but not a new relevant disqualified person and, at the time of the application the person was issued an eligibility declaration, at the commencement the commissioner must decide the application under the amended Act but section 223(1)(b) does not apply to the commissioner making the decision.

(7) For subsections (3) and (6), if before the commencement the commissioner had under section 236 cancelled a negative notice issued to the person, on the commencement section 223(1)(a) does not apply to the commissioner making the decision.

518 Other existing prescribed notice applications

(1) This section applies if—

Not authorised—indicative only

Not authorised—indicative only

(a) before the commencement a prescribed notice application had been made about a person; and

(b) immediately before the commencement the application had not been decided or withdrawn; and

(c) section 516 or 517 does not apply.

(2) At the commencement the commissioner must decide the application under the amended Act.

519 Current positive notice for new relevant disqualified person

(1) This section applies if—

(a) before the commencement a person held a positive notice; and

(b) immediately before the commencement the notice was current; and

(c) at the commencement the person is a new relevant disqualified person.

(2) At the commencement the amended Act applies and the commissioner must cancel the person's positive notice and substitute a negative notice under section 239.

Note—

Under section 246, a person must return their cancelled positive notice and any positive notice blue card relating to the positive notice to the commissioner.

(3) Also, if the positive notice is suspended under section 240 or 242 at the commencement, any application for the cancellation of the suspension under section 241 or 243 that has not been decided or withdrawn at the commencement is taken to have been withdrawn.

520 Current positive notice for new disqualified person other than new relevant disqualified person

(1) This section applies if—

(a) before the commencement a person held a positive notice; and

(b) immediately before the commencement the notice was current; and

(c) at the commencement the person is a new disqualified person but not a new relevant disqualified person.

(2) If, at the commencement, the person's positive notice is suspended under section 240 or 242, the amended Act applies in relation to the positive notice.

(3) If, at the commencement, the person is not issued, or not taken to have been issued, an eligibility declaration and the person's positive notice is not suspended under section 240 or 242—

(a) the person is taken to have been issued an eligibility declaration under section 180; and

(b) the amended Act applies in relation to the positive notice.

(4) If, at the commencement, the person is issued, or taken to have been issued, an eligibility declaration and the person's positive notice is not suspended under section 240 or 242, the amended Act applies in relation to the person's positive notice.

(5) If, after the commencement the commissioner is to make a decision under chapter 8, part 4, division 9 about a person to whom this section applies, and it is the first time the commissioner is to make a decision under that division after the commencement, section 223(1)(b) does not apply to the commissioner making the decision.

521 Other current positive notices

(1) This section applies if—

(a) before the commencement a person held a positive notice; and

(b) immediately before the commencement the positive notice was current; and

Not authorised—indicative only

Not authorised—indicative only

(c) section 519 or 520 does not apply.

(2) The amended Act applies to the person's positive notice.

Division 4 Exemption notice applications and exemption notices

522 Existing exemption notice application by new relevant disqualified person

(1) This section applies if—

(a) before the commencement an exemption notice application was made about a person; and

(b) immediately before the commencement the application had not been decided or withdrawn; and

(c) at the commencement the person is a new relevant disqualified person.

(2) The commissioner must decide the application under the amended Act.

Note—

See sections 285 and 224.

523 Existing exemption notice application if person charged with new disqualifying offence or is new disqualified person but not new relevant disqualified person

(1) This section applies if—

(a) before the commencement an exemption notice application was made about a person; and

(b) immediately before the commencement the application had not been decided or withdrawn; and

(c) at the commencement the person—

(i) is charged with a new disqualifying offence; or

(ii) is a new disqualified person but not a new relevant disqualified person.

(2) At the commencement the commissioner must decide the application under the amended Act.

(3) However, if before the commencement the commissioner had under section 294 cancelled a negative exemption notice issued to the person, on the commencement section 223(1)(a) does not apply to the commissioner making the decision.

(4) Also, the commissioner may only act under section 283 or 284 if the commissioner has acted under section 286 or 287 after the commencement.

524 Other existing exemption notice applications

(1) This section applies if—

(a) before the commencement an exemption notice application was made about a person; and

(b) immediately before the commencement the application had not been decided or withdrawn; and

(c) section 522 or 523 does not apply.

(2) At the commencement the commissioner must decide the application under the amended Act.

(3) Also, the commissioner may only act under section 283 or 284 if the commissioner has acted under section 286 or 287 after the commencement.

525 Current positive exemption notice for new relevant disqualified person

(1) This section applies if—

(a) before the commencement a person held a positive exemption notice; and

(b) immediately before the commencement the notice was current; and

Not authorised—indicative only

Not authorised—indicative only

(c) at the commencement the person is a new relevant disqualified person.

(2) At the commencement the amended Act applies and the commissioner must cancel the person's positive exemption notice and substitute a negative exemption notice under section 297.

Note—

Under section 304, a person must return their cancelled positive exemption notice to the commissioner.

(3) Also, if the positive exemption notice is suspended under section 298 at the commencement, any application for the cancellation of the suspension under section 299 that has not been decided or withdrawn at the commencement is taken to have been withdrawn.

526 Current positive exemption notice for person other than new relevant disqualified person

(1) This section applies if—

(a) before the commencement a person held a positive exemption notice; and

(b) immediately before the commencement the notice was current; and

(c) at the commencement the person is not a new relevant disqualified person.

(2) At the commencement the amended Act applies to the positive exemption notice.

Division 5 Existing applications for cancellation or ending suspension of prescribed notices and exemption notices

527 Existing application to cancel negative notice

(1) This section applies if—

(a) before the commencement a person had applied to the commissioner to cancel the person's negative notice under section 236; and

(b) immediately before the commencement, the application had not been decided.

(2) At the commencement—

(a) if the person is a new relevant disqualified person—

(i) the application is taken to be withdrawn; and

(ii) the commissioner must give written notice about the withdrawal of the application to the person; or

(b) if the person is not a new relevant disqualified person—the commissioner must decide the application under the amended Act.

528 Existing application to cancel negative exemption notice

(1) This section applies if—

(a) before the commencement a person had applied to the commissioner to cancel the person's negative exemption notice under section 294; and

(b) immediately before the commencement, the application had not been decided.

(2) At the commencement—

(a) if the person is a new relevant disqualified person—

(i) the application is taken to be withdrawn; and

Not authorised—indicative only

Not authorised—indicative only

(ii) the commissioner must give written notice about the withdrawal of the application to the person; or

(b) if the person is not a new relevant disqualified person—the commissioner must decide the application under the amended Act.

529 Existing application to end suspension of positive notice for person other than new relevant disqualified person

(1) This section applies if—

(a) before the commencement a person had applied to the commissioner to cancel the person's suspended positive notice under section 241 or 243; and

(b) immediately before the commencement the application had not been decided; and

(c) at the commencement the person is not a new relevant disqualified person.

(2) At the commencement the commissioner must decide the application under the amended Act.

530 Existing application to end suspension of positive exemption notice for person other than new relevant disqualified person

(1) This section applies if—

(a) before the commencement a person had applied to the commissioner to cancel the person's suspended positive exemption notice under section 299; and

(b) immediately before the commencement the application had not been decided; and

(c) at the commencement the person is not a new relevant disqualified person.

(2) At the commencement the commissioner must decide the application under the amended Act.

Division 6 Reviews and appeals

531 Undecided reviews and appeals by new disqualified persons

(1) This section applies if—

(a) before the commencement, a person—

(i) applied, under section 354, for a review of a chapter 8 reviewable decision; or

(ii) appealed, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision; and

(b) at the commencement—

(i) the application or appeal has not been decided; and

(ii) the person is a new disqualified person.

(2) The application or appeal, and any proceeding in relation to the application or appeal, must be dismissed—

(a) if a proceeding in relation to the application or appeal is before a court—by the court; or

(b) otherwise—by QCAT, even if the dismissal would be contrary to a direction of the Court of Appeal.

532 Review of chapter 8 reviewable decision about new disqualified person

(1) This section applies if—

(a) before the commencement—

(i) the commissioner makes a chapter 8 reviewable decision about a person; and

(ii) the person has not applied for a review of the decision under section 354; and

(b) the person is a new disqualified person at the commencement.

Not authorised—indicative only

Not authorised—indicative only

(2) At the commencement, the amended Act applies.

Note—

Under section 354, only a person who is not a disqualified person may apply for a review of a chapter 8 reviewable decision.

533 Appeal by new disqualified person against decision of QCAT on review of chapter 8 reviewable decision

(1) This section applies if—

(a) before the commencement, a person may appeal under the QCAT Act against a decision of QCAT relating to a chapter 8 reviewable decision; and

(b) at the commencement—

(i) the time within which the person may appeal under the QCAT Act has not passed; and

(ii) the person is a new disqualified person.

(2) Any appeal by the person against the decision must be dismissed—

(a) if a proceeding in relation to the appeal is before a court—by the court; or

(b) otherwise—by QCAT, even if the dismissal would be contrary to a direction of the Court of Appeal.

534 Existing appeal by commissioner against decision of QCAT on review of chapter 8 reviewable decision

(1) This section applies if—

(a) before the commencement, the commissioner appealed, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision about a person; and

(b) at the commencement—

(i) the appeal has not been decided; and

(ii) the person is a new disqualified person.

(2) The entity hearing the appeal must apply the amended Act in relation to the matter the subject of the appeal.

535 Appeal by commissioner against decision of QCAT on review of chapter 8 reviewable decision

(1) This section applies if—

(a) before the commencement, the commissioner may appeal under the QCAT Act against a decision of QCAT relating to a chapter 8 reviewable decision about a person; and

(b) at the commencement—

(i) the time within which the commissioner may appeal under the QCAT Act (the ***appeal period***) has not passed; and

(ii) the person is a new disqualified person.

(2) The commissioner may appeal against the decision within the appeal period and the entity hearing the appeal must apply the amended Act in relation to the matter the subject of the appeal.

536 Existing reviews and appeals against chapter 8 reviewable decisions by persons other than new disqualified persons

(1) This section applies if—

(a) before the commencement—

(i) a person applied, under section 354, for a review of a chapter 8 reviewable decision; or

(ii) the commissioner or another person appealed, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision; and

(b) at the commencement—

(i) the review or appeal has not been decided; and

Not authorised—indicative only

Not authorised—indicative only

(ii) the person about whom the chapter 8 reviewable decision was made is not a new disqualified person.

(2) The entity hearing the review or appeal must apply the amended Act in relation to the matter the subject of the review or appeal.

(3) To remove any doubt, it is declared that section 355 applies in relation to the application for the review.

537 Review of chapter 8 reviewable decision about person other than new disqualified person

(1) This section applies if—

(a) before the commencement—

(i) the commissioner makes a chapter 8 reviewable decision about a person; and

(ii) the person has not applied for a review of the decision under section 354; and

(b) at the commencement—

(i) the period within which the person could have applied for a review of the decision under section 354 (the ***review period***) has not passed; and

(ii) the person is not a new disqualified person.

(2) The person may apply for a review of the decision under section 354 within the review period.

Division 7 Miscellaneous

538 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 the following—

(i) a person;

(ii) an eligibility application;

(iii) a prescribed notice;

(iv) an exemption notice; and

(b) on the commencement the commissioner may exercise the power under the amended Act in relation to the person, application or notice.

(2) The commissioner may exercise the power under the amended Act in relation to the person, application or notice.

539 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.

540 Effect of conviction or charge for new disqualifying offence or new serious 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 when the offence was committed or when the person was convicted of the offence.

(2) Section 240 applies in relation to a person holding 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.

(3) Section 298 applies in relation to a person holding a current positive exemption 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.

Not authorised—indicative only

Not authorised—indicative only

(4) Without limiting this division, in applying the amended Act on and from the commencement, it is immaterial—

(a) when a new disqualifying offence or new serious offence was committed; or

(b) when a person was convicted of a new disqualifying offence or new serious offence; or

(c) when a charge for a new disqualifying offence, or the acts or omissions constituting the alleged offence, happened.

Example—

An offence may have been committed, and the person convicted of the offence, before the commencement.

Part 17 Transitional provisions for Child Protection Reform Amendment Act 2014

541 Definitions for pt 17

In this part—

commencement means the time of commencement of the provision in which the term appears.

current see section 542.

former, in relation to a provision of this Act, means as in force before the commencement.

former assistant commissioner means the assistant commissioner under this Act before the commencement.

former commission means the Commission for Children and Young People and Child Guardian under this Act before the commencement.

former commissioner means the Commissioner for Children and Young People and Child Guardian under this Act before the commencement.

542 Meaning of *current*

For this part, a thing is ***current*** if, immediately before the commencement—

(a) for an application—it had not been finally dealt with; or

(b) for a notice or other document or a decision—it was in force or had effect; or

(c) for a requirement or request—it had not been complied with.

543 Office holders and entities under former provisions

(1) On the commencement—

(a) the former commission is abolished; and

(b) a person holding office as the former commissioner or former assistant commissioner goes out of office; and

(c) the Child Death Case Review Committee under former chapter 6 is abolished and its members go out of office; and

(d) each advisory committee under former chapter 7 is abolished.

(2) A legal proceeding that, immediately before the commencement, was being taken or may have been taken by or against a former entity may be continued or taken by or against the State.

(3) If, immediately before the commencement, a former entity was a party to a current contract, then the State is taken to be a party to the contract in place of the former entity.

(4) A regulation may prescribe an entity to be the party acting for the State for a legal proceeding or contract to which subsection (2) or (3) applies.

(5) In this section—

former entity means the former commission, former commissioner or former assistant commissioner.

Not authorised—indicative only

Not authorised—indicative only

544 Complaints under former ch 4

The *Ombudsman Act 2001*, part 12, division 3 includes provision about particular complaints made to the former commissioner under former chapter 4.

545 Child death case reviews under former ch 6

The *Child Protection Act 1999*, chapter 9, part 9 includes provision about particular child death case reviews under former chapter 6.

546 Screening under ch 8 or 8A

(1) Unless the context otherwise requires, anything done by or in relation to the former commissioner under former chapter 8 or 8A before the commencement is taken to have been done by or in relation to the chief executive.

(2) Without limiting subsection (1)—

(a) a current application made to the former commissioner under former chapter 8 or 8A is taken to have been made to the chief executive; and

(b) a current decision of the former commissioner under former chapter 8 or 8A is taken to be a decision of the chief executive; and

(c) a current notice or other document issued or given to a person by the former commissioner under former chapter 8 or 8A is taken to have been issued or given to the person by the chief executive; and

(d) a current notice or other document given by a person to the former commissioner under former chapter 8 or 8A is taken to have been given by the person to the chief executive; and

(e) a current requirement or request under former chapter 8 or 8A for a person to give information or a document or other thing to the former commissioner is taken to be a

requirement or request to give the information, document or thing to the chief executive; and

(f) a current requirement under former chapter 8 or 8A for the former commissioner to give a document or other thing to a person is taken to be a requirement for the chief executive to give the document or thing to the person.

547 Current proceedings relating to ch 8 or 8A

(1) This section applies to a legal proceeding about anything done under chapter 8 or 8A that, immediately before the commencement, was being taken or may have been taken by or against the former commissioner.

(2) On the commencement, the proceeding may be continued or taken by or against the chief executive.

Part 18 Transitional provision for Public Safety Business Agency and Other Legislation Amendment Act 2016

548 Applications and notices

(1) An application made to the PSBA chief executive officer before the commencement that is not decided or withdrawn before the commencement is taken to have been made to the chief executive.

(2) A notice issued by the PSBA chief executive officer before the commencement that is still in force on the commencement is taken to have been issued by the chief executive.

(3) In this section—

PSBA chief executive officer means the chief executive officer under the *Public Safety Business Agency Act 2014*, as in force immediately before the commencement.

Not authorised—indicative only

Not authorised—indicative only

Part 20 Transitional provision for Disability Services and Other Legislation (NDIS) Amendment Act 2019

590 Transitional regulation-making power

(1) A regulation (a ***transitional regulation***) may make provision about a matter for which—

(a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act as it was in force immediately before the commencement to the operation of the amended Act; and

(b) this Act does not make provision or sufficient provision.

(2) A transitional regulation may have retrospective operation to a day not earlier than the day of commencement.

(3) A transitional regulation must declare it is a transitional regulation.

(4) A transitional regulation may only be made within 2 years after the commencement.

(5) This part and any transitional regulation expire 3 years after the day of commencement.

(6) In this section—

amended Act means this Act as amended by the *Disability Services and Other Legislation (NDIS) Amendment Act 2019*.

Schedule 1 Regulated employment and businesses for employment screening

section 156

Part 1 Regulated employment

1 Residential facilities

(1) Employment is regulated employment if any of the usual functions of the employment is carried out, or is likely to be carried out, inside—

(a) a residential facility; or

(b) another place, other than a residential facility, at which a child accommodation service is provided under funding provided by the Commonwealth or by the department in which the *Education (General Provisions) Act 2006* is administered.

(2) However, employment mentioned in subsection (1) is not regulated employment if the employment is part of a licensed care service.

2 Schools—boarding facilities

Employment is regulated employment if—

(a) any of the usual functions of the employment is carried out, or is likely to be carried out, inside a boarding facility at a school; and

(b) the employee is not an approved teacher.

3 Schools—employees other than teachers and parents

(1) Employment is regulated employment if the usual functions of the employment include or are likely to include—

Not authorised—indicative only

Not authorised—indicative only

(a) providing services at a school that are directed mainly towards children; or

(b) conducting activities at a school that mainly involve children.

(2) However, employment mentioned in subsection (1) is not regulated employment if the employee is—

(a) an approved teacher; or

(b) a volunteer who is a parent of a child attending the school.

4 Education and care services and similar employment

(1) Employment is regulated employment if—

(a) it is employment as an educator or carer in, or staff member of, an education and care service or a QEC service; and

(b) the employee is not a volunteer who is a parent of a child to whom education and care is regularly provided in the course of the service.

(2) Employment is regulated employment if—

(a) any of the usual functions of the employment are carried out, or are likely to be carried out at education and care service premises or QEC service premises while children are being educated and cared for at the premises; and

(b) the employee is not a volunteer who is a parent of a child to whom education and care is regularly provided at the premises.

(3) Employment is regulated employment if—

(a) the usual functions of the employment include, or are likely to include, providing education and care to children in the course of a commercial service other than an education and care service or a QEC service; and

(b) the employee is not a volunteer who is a parent of a child to whom education and care is regularly provided in the course of the service.

4A Child care and similar employment

Employment is regulated employment if—

(a) any of the usual functions of the employment include or are likely to include providing child care in the course of a commercial service; and

(b) the employee is not a volunteer who is a parent of a child to whom child care is regularly provided in the course of the service.

Examples—

1 a babysitting service

2 a nanny service

3 a service conducted by a hotel or resort to provide child care to children who are short-term guests

4 a service providing adjunct care

5 Churches, clubs and associations involving children

(1) Employment is regulated employment if—

(a) the usual functions of the employment include, or are likely to include—

(i) providing services directed mainly towards children; or

(ii) conducting activities mainly involving children; and

(b) the services are provided, or the activities are conducted, by or within a church, club, association or similar entity.

(2) However, employment mentioned in subsection (1) is not regulated employment if—

(a) the employment is unpaid; and

(b) the employee is a parent of a child who—

Not authorised—indicative only

Not authorised—indicative only

(i) if subsection (1)(a)(i) applies—receives the services to which the employment relates or similar services provided by someone else within the church, club, association or other entity; or

(ii) if subsection (1)(a)(ii) applies—participates in the activities to which the employment relates or similar activities conducted by someone else within the church, club, association or other entity.

Examples—

1 A sporting club has teams for adults and children of various ages. A person is employed by the club, as a volunteer, to coach one of the children's teams. The person does not have any children. Under subsection (1), the coaching is regulated employment.

2 Same facts as in example 1, except that the person has a child on the team that the person is coaching. Under subsection (2), the coaching is not regulated employment because the child is participating in the sporting activities conducted at the club to which the coaching relates.

3 Same facts as in example 1, except that the person has a child on another of the club's teams, which is coached by another employee of the club. Under subsection (2), the person's coaching is not regulated employment because the child is participating in sporting activities, conducted by someone else at the club, that are similar to the activities to which the person's coaching relates.

4 Same facts as in example 1, except that the person has a child who receives child-minding services provided by another employee of the club. In this case, the coaching is regulated employment. Subsection (2) does not apply because the services the child is receiving (child-minding) are not similar to the activities to which the coaching relates.

6 Health, counselling and support services

(1) Employment is regulated employment if the usual functions of the employment include, or are likely to include, an employee providing 1 or more of the following—

(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

(b) 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;

(c) a counselling service to a child—

(i) if the employee is physically present with the child while no-one else is present; or

(ii) if the employee is not physically present with the child;

Example for subparagraph (ii)—

a counselling service that involves an internet or telephone help line service that provides help to children to resolve personal problems or difficulties

(d) a support service to a child—

(i) if the employee is physically present with the child while no-one else is present; or

(ii) if the employee is not physically present with the child.

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Not authorised—indicative only

Example for paragraph (d)—

a support service providing emotional support for child victims or witnesses in connection with court or other legal proceedings

(2) Also, employment is regulated employment if—

(a) the employer is a funded non-government service provider or an NDIS 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 service provider.

(3) However, employment mentioned in subsection (1) or (2) is not regulated employment if—

(a) the employee is an Australian lawyer who, under the *Legal Profession Act 2007*, may engage in legal practice in this State and the employment involves the employee engaging in legal practice; or

(b) the employee is an approved teacher and the employment is part of the employee's duties for the school that employs the employee; or

(c) the employee is providing the service as part of the employee's employment with a licensed care service; or

(d) the employee is—

(i) a consumer at a child-related service outlet of a funded non-government service provider or an NDIS 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 or an NDIS non-government service provider; and

(B) is at the service outlet only to help with the care of the person.

(4) Despite subsections (2) and (3)—

(a) the employment of a person by an NDIS non-government service provider is regulated employment if a regulation provides that the employment is regulated employment; and

(b) the employment of a person by an NDIS non-government service provider is not regulated employment if a regulation provides that the employment is not regulated employment.

(5) In this section—

consumer, in relation to a child-related service outlet of a funded non-government service provider or an NDIS non-government service provider, means a person with a disability who is provided with disability services at the outlet.

counselling service means a service that provides or purports to provide, on a professional basis, help or guidance to persons to resolve personal, social or emotional problems or difficulties.

health service means any of the following—

(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;

Not authorised—indicative only

Not authorised—indicative only

(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;

(b) a service prescribed under a regulation to be a health service.

support service means a service that provides emotional support, mentoring or pastoral care, but does not include a legal advice or legal advocacy service.

7 Private teaching, coaching or tutoring

(1) Employment is regulated employment if the usual functions of the employment include or are likely to include prescribed teaching.

(2) However, employment mentioned in subsection (1) is not regulated employment if the employer is an education provider.

(3) In this section—

prescribed teaching means teaching, coaching or tutoring 1 child, or more than 1 child at the same time, on a commercial basis.

8 Education programs conducted outside of school

(1) Employment is regulated employment if the usual functions of the employment include, or are likely to include, providing services or conducting activities for—

(a) an educational program under the *Education (General Provisions) Act 2006*, section 284, 294, 301, 304 or 310; or

(b) a program, provided by an entity, under arrangements approved under the *Education (General Provisions) Act 2006*, section 182 or 183.

(2) However, employment mentioned in subsection (1) is not regulated employment if the employer is a provider under the *Education (General Provisions) Act 2006*, section 232.

9 Child accommodation services including home stays

(1) Employment is regulated employment if the usual functions of the employment include, or are likely to include, a child accommodation service.

(2) If accommodation constituting a child accommodation service is provided, or is to be provided, by a person in the person's home (a ***home stay provider***), each adult residing in that home, other than the home stay provider, is taken to be a volunteer who is engaged in regulated employment.

(3) However, employment mentioned in subsection (1) or (2) is not regulated employment if the home stay provider is a relative of the child who receives the child accommodation service to which the employment relates.

(4) In this section—

home, of a person, includes the person's principal place of residence and any holiday home of the person.

10 Religious representatives

Employment is regulated employment if—

(a) the employee is a religious representative; and

(b) the usual functions of the employment include, or are likely to include—

(i) providing services, as a religious representative, directed mainly towards children; or

(ii) conducting activities, as a religious representative, mainly involving children.

11 Sport and active recreation

(1) Employment is regulated employment if—

Not authorised—indicative only

Not authorised—indicative only

(a) the usual functions of the employment include, or are likely to include—

(i) providing services directed mainly towards children; or

(ii) conducting activities mainly involving children; and

(b) the services are provided, or the activities are conducted, as part of sport or active recreation.

(2) However, employment mentioned in subsection (1) is not regulated employment if—

(a) the employment takes place at an amusement park; or

(b) the employee is a volunteer who is a parent of a child to whom the services are provided, or in relation to whom the activities are conducted, as part of the sport or active recreation; or

(c) the services are provided, or the activities are conducted, by or within a church, club, association or similar entity, as mentioned in section 5(1)(b) of this schedule.

12 Emergency services cadet program

(1) Employment is regulated employment if the usual functions of the employment include or are likely to include—

(a) undertaking the role of an adult member in the cadet program managed by the department responsible for emergency services; and

(b) prescribed teaching.

(2) In this section—

prescribed teaching means teaching, coaching or tutoring 1 child, or more than 1 child at the same time.

13 School crossing supervisors

Employment is regulated employment if the usual functions of the employment include, or are likely to include, providing

services as a crossing supervisor within the meaning of the *Transport Operations (Road Use Management) Act 1995*, section 122A(1)(b).

14 Care of children under Child Protection Act 1999

(1) Employment is regulated employment if the usual functions of the employment include, or are likely to include, providing care for a child as an approved carer, other than a provisionally approved carer.

(2) If a person provides, or is likely to provide, care for a child in the person's capacity as an approved carer, other than a provisionally approved carer, each adult member of the person's household is taken to be a volunteer who is engaged in regulated employment.

(3) Employment is regulated employment if—

(a) any of the usual functions of the employment is carried out, or is likely to be carried out, inside a licensed residential facility; or

(b) the employee is employed by a licensed care service and any of the usual functions of the employment includes or is likely to include providing support for an approved carer.

(4) Without limiting subsection (3), each of the following persons is taken to be engaged in regulated employment under the subsection—

(a) a person who is responsible for directly managing a licensed care service;

(b) a person who is engaged in relation to the provision of care to a child by a licensed care service.

15 Regulation about usual functions of employment

(1) For this part, a regulation may make provision about whether a function of employment is a usual function.

(2) Without limiting subsection (1), a regulation may—

Not authorised—indicative only

Not authorised—indicative only

(a) state the employment, or type of employment, to which the regulation applies; and

(b) declare that a stated function of the employment is, or is not, a usual function of the employment.

(3) A regulation under this section may describe a function of employment by reference to the frequency with which it is carried out, or in another way.

Part 2 Regulated businesses

16 Health, counselling and support services

(1) A business is a regulated business if the usual activities of the business include, or are likely to include, a person providing 1 or more of the following—

(a) a health service to a child—

(i) that, by its nature, requires physical contact with the child; or

(ii) if the person is physically present with the child while no-one else is present;

(b) a counselling service to a child—

(i) if the person is physically present with the child while no-one else is present; or

(ii) if the person is not physically present with the child;

(c) a support service to a child—

(i) if the person is physically present with the child while no-one else is present; or

(ii) if the person is not physically present with the child;

(d) a service at a child-related service outlet of a funded non-government service provider or an NDIS non-government service provider.

(2) However, a business mentioned in subsection (1) is not a regulated business if the business is a licensed care service.

(3) In this section—

counselling service means a service that provides or purports to provide, on a professional basis, help or guidance to persons to resolve personal, social or emotional problems or difficulties.

health service means any of the following—

(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;

(b) a service prescribed under a regulation to be a health service.

support service means a service that provides emotional support, mentoring or pastoral care, but does not include a legal advice or legal advocacy service.

Not authorised—indicative only

Not authorised—indicative only

17 Private teaching, coaching or tutoring

(1) A business is a regulated business if the usual activities of the business include, or are likely to include, teaching, coaching or tutoring 1 child, or more than 1 child at the same time, on a commercial basis.

(2) However, a business mentioned in subsection (1) is not a regulated business if the business is conducted by an education provider.

18 Education and care services and similar businesses

A business is a regulated business if the usual activities of the business include, or are likely to include—

(a) operating an education and care service, a QEC service or another commercial service that includes providing education and care to children; or

(b) carrying out activities in premises or a vehicle in which there are children to whom education and care is being provided.

18A Child care services and similar businesses

A business is a regulated business if the usual activities of the business include, or are likely to include—

(a) conducting a commercial service that includes providing child care; or

(b) carrying out activities in premises or a vehicle in which there are children to whom child care is being provided.

19 Educational programs conducted outside of school

A business is a regulated business if—

(a) the usual activities of the business include, or are likely to include, providing services or conducting activities for—

(i) an educational program under the *Education (General Provisions) Act 2006*, section 286(2), 291 or 304; or

(ii) a program provided, by the entity carrying on the business, under arrangements approved under the *Education (General Provisions) Act 2006*, section 182 or 183; and

(b) the entity carrying on the business is not a provider under the *Education (General Provisions) Act 2006*, section 232.

20 Religious representatives

A business is a regulated business if the usual activities of the business include, or are likely to include, a religious representative—

(a) providing services, as a religious representative, directed mainly towards or involving children; or

(b) conducting activities, as a religious representative, directed mainly towards or involving children.

21 Child accommodation services including home stays

(1) A business is a regulated business if the usual activities of the business include, or are likely to include, a child accommodation service and—

(a) the person who carries on the business provides the accommodation that constitutes the child accommodation service in the person's home; or

(b) the person who carries on the business provides the child accommodation service under an arrangement organised by a government entity or a local government.

(2) However, a business mentioned in subsection (1) is not a regulated business if the business is conducted at a boarding facility, residential facility or another place of the type mentioned in section 1(1)(b) of this schedule.

(3) In this section—

Not authorised—indicative only

Not authorised—indicative only

home, of a person, includes the person's principal place of residence and any holiday home of the person.

22 Sport and active recreation

(1) A business is a regulated business if the usual activities of the business include, or are likely to include, sport or active recreation activities directed mainly towards or involving children.

(2) However, a business mentioned in subsection (1) is not a regulated business if—

(a) the business takes place at an amusement park; or

(b) the activities are conducted by or within a church, club, association or similar entity, as mentioned in section 5(1)(b) of this schedule.

23 Hostel for children other than residential facility

A business is a regulated business if the usual activities of the business include, or are likely to include, operating a place, other than a residential facility, at which a child accommodation service is provided under funding provided by the Commonwealth or by the department in which the *Education (General Provisions) Act 2006* is administered.

24 Businesses relating to licensed care service under Child Protection Act 1999

A business is a regulated business if—

(a) the usual activities of the business include, or are likely to include, a licensed care service; or

(b) the usual activities of the business include, or are likely to include, carrying out activities or providing services inside a licensed residential facility.

25 Non-State schools—directors of governing bodies and authorised persons

A person is taken to be a person carrying on a regulated business by being—

(a) a director of the governing body of an accredited school under the *Education (Accreditation of Non-State Schools) Act 2017*; or

(b) an authorised person under the *Education (Accreditation of Non-State Schools) Act 2017*.

Part 3 Employment, or carrying on of a business, 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 or carrying on of a business of a person who is a registered health practitioner to the extent the activities performed or

Not authorised—indicative only

services provided relate 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.

30 Ambulance officers

Chapter 8 of this Act does not apply to the employment of a person as an ambulance officer under the *Ambulance Service Act 1991*, section 13 or 14 to the extent the employment relates to the person's functions under that Act.

Not authorised—indicative only

Schedule 2 Current serious offences

section 167

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	

Not authorised—indicative only

Not authorised—indicative only

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	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	
15	Exhibition or display of prohibited publication	
16	Leaving prohibited publication 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)
17(3) and (4)	Producing prohibited publication	
18	Procurement of minor for RC publication	
20	Leaving prohibited publication 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
210	Indecent treatment of children under 16	
211	Bestiality	
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.	
218A	Using internet etc. to procure children under 16	
218B	Grooming children under 16	
219	Taking child for immoral purposes	
221	Conspiracy to defile	
222	Incest	

Not authorised—indicative only

Not authorised—indicative only

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	
228DA	Administering child exploitation material website	
228DB	Encouraging use of child exploitation material website	
228DC	Distributing information about avoiding detection	
229B	Maintaining a sexual relationship with a child	
229G	Procuring engagement in 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
306	Attempt to murder	
309	Conspiring to murder	
313	Killing unborn child	
315	Disabling in order to commit indictable offence	
316	Stupefying in order to commit indictable offence	
317	Acts intended to cause grievous bodily harm and other malicious acts	
320A	Torture	
322	Administering poison with intent to harm	only if an offender was or could have been liable for a penalty as mentioned in section 322, penalty, paragraph (a)
323A	Female genital mutilation	

Not authorised—indicative only

Not authorised—indicative only

323B	Removal of child from State for female genital mutilation	
324	Failure to supply necessaries	
326	Endangering life of children by exposure	
349	Rape	
350	Attempt to commit rape	
351	Assault with intent to commit rape	
352	Sexual assaults	
354	Kidnapping	
354A	Kidnapping for ransom	
363	Child-stealing	
363A	Abduction of child under 16	
364	Cruelty to children under 16	
409	Definition of *robbery*	only if an offender was or could have been liable as mentioned in section 411(2)
419	Burglary	only if an offender was or could have been liable as mentioned in section 419(3)(b)(i) or (ii)
427	Unlawful entry of vehicle for committing indictable offence	only if an offender was or could have been liable as mentioned in section 427(2)(b)(i) or (ii)

5 *Drugs Misuse Act 1986*

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
5	Trafficking in dangerous drugs	
6	Supplying dangerous drugs	only if the offence is one of aggravated supply as mentioned in section 6(2)
8	Producing dangerous drugs	only if an offender was or could have been liable for a penalty as mentioned in section 8, penalty, paragraph (a) or (b)
9D	Trafficking in relevant substances or things	

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
272.8	Sexual intercourse with child outside Australia	
272.9	Sexual activity (other than sexual intercourse) with child outside Australia	

Not authorised—indicative only

Not authorised—indicative only

272.10	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant
272.11	Persistent sexual abuse of child outside Australia
272.12	Sexual intercourse with young person outside Australia—defendant in position of trust or authority
272.13	Sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority
272.14	Procuring child to engage in sexual activity outside Australia
272.15	"Grooming" child to engage in sexual activity outside Australia
272.18	Benefiting from offence against this Division

272.19	Encouraging offence against this Division
272.20	Preparing for or planning offence against this Division
273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia
273.6	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia
273.7	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
471.16	Using a postal or similar service for child pornography material

Not authorised—indicative only

Not authorised—indicative only

471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service
471.19	Using a postal or similar service for child abuse material
471.20	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service
471.22	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
471.24	Using a postal or similar service to procure persons under 16
471.25	Using a postal or similar service to "groom" persons under 16

471.26	Using a postal or similar service to send indecent material to person under 16
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
474.24A	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people

Not authorised—indicative only

Not authorised—indicative only

474.25A	Using a carriage service for sexual activity with person under 16 years of age
474.25B	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant
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
474.27A	Using a carriage service to transmit indecent communication to person 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 3 Repealed or expired serious offences

section 167

1 Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	as the provision was in force from time to time before its repeal by the *Health and Other Legislation Amendment Act 2016*
212	Defilement of Girls under Twelve	as the provision was in force from time to time before its repeal by the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*
214	Attempt to Abuse Girls under Ten	as the provision was in force from time to time before its repeal by the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*
218A	Using internet etc. to procure children under 16	as the provision was in force from time to time before its repeal by the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*
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 *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*
223	Incest by adult female	as the provision was in force from time to time before its repeal by the *Criminal Law Amendment Act 1997*
325	Endangering life or health of apprentices or servants	as the provision was in force from time to time before its repeal by the *Training and Employment Act 2000*

Not authorised—indicative only

Not authorised—indicative only

344	Aggravated assaults	as the provision was in force from 20 December 1946 to 30 June 1997 if the circumstance of aggravation was that the unlawful assault was an offence of a sexual nature as defined in the *Criminal Law Amendment Act 1945*, section 2A[1]

2 *Crimes Act 1914* (Cwlth)

Provision of Act	**Relevant heading**	**Qualification relating to the provision of the Act**
50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50DA	Benefiting from offence against this Part	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50DB	Encouraging offence against this Part	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)

1 *Criminal Law Amendment Act 1945*, section 2A was inserted into the *Criminal Law Amendment Act 1945* by the *Criminal Law Amendment Act 1946*.

Not authorised—indicative only

Schedule 4 Current disqualifying offences

section 168

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	

Not authorised—indicative only

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	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	
15	Exhibition or display of prohibited publication	only if an offender was or could have been liable as mentioned in section 15, penalty, paragraph (c)
16	Leaving prohibited publication 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)
17(3) and (4)	Producing prohibited publication	
18	Procurement of minor for RC publication	
20	Leaving prohibited publication in or on private premises	only if an offender was or could have been liable as mentioned in section 20, penalty, paragraph (c)

Not authorised—indicative only

Not authorised—indicative only

4 Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
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	
218B	Grooming 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	
228DA	Administering child exploitation material website	
228DB	Encouraging use of child exploitation material website	
228DC	Distributing information about avoiding detection	
229B	Maintaining a sexual relationship with a child	
229G	Procuring engagement in 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)

Not authorised—indicative only

Not authorised—indicative only

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 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
272.8	Sexual intercourse with child outside Australia	

272.9	Sexual activity (other than sexual intercourse) with child outside Australia
272.10	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant
272.11	Persistent sexual abuse of child outside Australia
272.12	Sexual intercourse with young person outside Australia—defendant in position of trust or authority
272.13	Sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority
272.14	Procuring child to engage in sexual activity outside Australia
272.15	"Grooming" child to engage in sexual activity outside Australia

Not authorised—indicative only

Not authorised—indicative only

272.18	Benefiting from offence against this Division
272.19	Encouraging offence against this Division
272.20	Preparing for or planning offence against this Division
273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia
273.6	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia
273.7	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
471.16	Using a postal or similar service for child pornography material

471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service
471.19	Using a postal or similar service for child abuse material
471.20	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service
471.22	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people
471.24	Using a postal or similar service to procure persons under 16
471.25	Using a postal or similar service to "groom" persons under 16

Not authorised—indicative only

Not authorised—indicative only

471.26	Using a postal or similar service to send indecent material to person under 16
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
474.24A	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people

474.25A	Using a carriage service for sexual activity with person under 16 years of age
474.25B	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant
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
474.27A	Using a carriage service to transmit indecent communication to person under 16 years of age

6 *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

Not authorised—indicative only

Not authorised—indicative only

Schedule 5 Repealed or expired disqualifying offences

section 168

1 Criminal Code

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	as the provision was in force from time to time before its repeal by the *Health and Other Legislation Amendment Act 2016* for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind
212	Defilement of Girls under Twelve	as the provision was in force from time to time before its repeal by the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*
214	Attempt to Abuse Girls under Ten	as the provision was in force from time to time before its repeal by the *Criminal Code, Evidence Act and Other Acts Amendment Act 1989*
218A	Using internet etc. to procure children under 16	as the provision was in force from time to time before its repeal by the *Criminal Law (Child Exploitation and Dangerous Drugs) Amendment Act 2013*
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 *Criminal Code, Evidence Act and Other Acts Amendment Act 1989* only if, at the time of the offence, the person in relation to whom the offence was committed was a child

223	Incest by adult female	as the provision was in force from time to time before its repeal by the *Criminal Law Amendment Act 1997* 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 *Criminal Law Amendment Act 1945*, section 2A; and (b) at the time of the offence, the person in relation to whom the offence was committed was a child

2 *Crimes Act 1914* (Cwlth)

Provision of Act	**Relevant heading**	**Qualification relating to the provision of the Act**
50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)

Not authorised—indicative only

50DA	Benefiting from offence against this Part	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50DB	Encouraging offence against this Part	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)

Not authorised—indicative only

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	

4 Criminal Code

Not authorised—indicative only

Not authorised—indicative only

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
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
218B	Grooming children under 16	
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 engagement in 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 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

Not authorised—indicative only

Not authorised—indicative only

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
272.8	Sexual intercourse with child outside Australia	
272.9	Sexual activity (other than sexual intercourse) with child outside Australia	
272.10	Aggravated offence—child with mental impairment or under care, supervision or authority of defendant	
272.11	Persistent sexual abuse of child outside Australia	
272.12	Sexual intercourse with young person outside Australia—defendant in position of trust or authority	
272.13	Sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority	

272.14	Procuring child to engage in sexual activity outside Australia
272.15	"Grooming" child to engage in sexual activity outside Australia

Not authorised—indicative only

Schedule 6A Repealed or expired offences that may form basis of investigative information

section 305(3) and (4)

Crimes Act 1914 (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
50BA	Sexual intercourse with child under 16	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BB	Inducing child under 16 to engage in sexual intercourse	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BC	Sexual conduct involving child under 16	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)
50BD	Inducing child under 16 to be involved in sexual conduct	as the provision was in force from time to time before its repeal by the *Crimes Legislation Amendment (Sexual Offences Against Children) Act 2010* (Cwlth)

Not authorised—indicative only

Criminal Code

Provision of Code	Relevant heading	Qualification relating to the provision of the Act
208	Unlawful sodomy	as the provision was in force from time to time before its repeal by the *Health and Other Legislation Amendment Act 2016* for an offence committed before 1 July 1997, only if committed against a child or a person with an impairment of the mind

Not authorised—indicative only

Not authorised—indicative only

Schedule 7 Dictionary

section 3

accreditation board means the Non-State Schools Accreditation Board continued in existence under the *Education (Accreditation of Non-State Schools) Act 2017*, section 97(1).

active recreation, for schedule 1, means a form of physical exertion or activity engaged in for the purpose of relaxation or enjoyment, that is not based on formal competition.

adjunct care means child care, or education and care, provided to a child—

(a) in conjunction with a meeting, function or other activity involving a relative or guardian of the child other than the paid employment of the relative or guardian; and

(b) on the premises in which the meeting, function or other activity is taking place; and

(c) for not more than 3 hours on each occasion the child care or education and care is provided.

alternative certifications, relating to an employee, means—

(a) a certification, in the approved form, by a prescribed person that the prescribed person has sighted the employee's proof of identity documents; and

(b) 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.

amended Act, for chapter 11, part 16, see section 510.

amending Act, for chapter 11, part 13, see section 465.

amusement park, for schedule 1, includes a park that is permanent or temporary but does not include an amusement arcade.

approved carer means an approved carer under the *Child Protection Act 1999*.

approved form means a form approved under section 400.

approved foster carer means an approved foster carer under the *Child Protection Act 1999*.

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*.

business includes a business or organisation in which profit is not the primary purpose of the activity constituting the business.

carer, in relation to a stand-alone service, means a person—

(a) who is engaged to provide education and care of a child in the course of a stand-alone service; or

(b) who is conducting the stand-alone service and providing education and care of children in the course of the service.

chapter 8 reviewable decision see section 353.

charge, of an offence, means a charge in any form, including, for example, the following—

(a) a charge on an arrest;

(b) a notice to appear served under the *Police Powers and Responsibilities Act 2000*, section 382;

(c) a complaint under the *Justices Act 1886*;

(d) a charge by a court under the *Justices Act 1886*, section 42(1A), or another provision of an Act;

Not authorised—indicative only

Not authorised—indicative only

(e) an indictment.

chief executive (child care) means the chief executive of the department in which the Education and Care Services National Law (Queensland) is administered.

chief executive (child safety) means the chief executive of the child safety department.

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

chief executive (education and care) means the chief executive of the department in which the Education and Care Services National Law (Queensland) is administered.

child accommodation service means a service for which the main purpose is to provide accommodation for children but does not include—

(a) the care of children by an approved carer under the *Child Protection Act 1999* acting in that capacity; or

(b) the provision of accommodation to children under residential tenancy agreements under the *Residential Tenancies and Rooming Accommodation Act 2008*.

child care means care of a child provided—

(a) by someone other than a relative or guardian of the child; and

(b) for reward; and

(c) in the course of a service for regularly providing care of children.

child-related employment decision see section 358.

child-related service outlet means a place at which disability services are provided to children.

child safety department means the department in which the *Child Protection Act 1999* is administered.

college of teachers means the Queensland College of Teachers established under the *Education (Queensland College of Teachers) Act 2005*, section 229.

commencement—

(a) for chapter 11, part 5—see section 413; or

(b) for chapter 11, part 8—see section 430; or

(c) for chapter 11, part 9—see section 441; or

(d) for chapter 11, part 11—see section 451; or

(e) for chapter 11, part 13—see section 465; or

(f) for chapter 11, part 16—see section 510; or

(g) for chapter 11, part 17—see section 541.

commercial service means a service operated on a commercial basis.

confidential information includes information about a person's affairs but does not include—

(a) information already publicly disclosed unless further disclosure of the information is prohibited by law; or

(b) statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

constituting members, for chapter 9, part 1, see section 358.

conviction means 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.

cousin includes second cousin.

criminal history, of a person, means—

(a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act; and

(b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act.

current—

(a) for a prescribed notice—means current under section 231; or

Not authorised—indicative only

Not authorised—indicative only

(b) for an exemption notice—means current under section 289.

dealt with, in relation to a charge of an offence, means any of the following—

(a) the person who is charged is convicted or acquitted of the charge;

(b) the person who is charged is convicted of another offence in relation to which the acts or omissions were substantially the same as the acts or omissions of the charge of the offence;

(c) the charge has been withdrawn or dismissed;

(d) a nolle prosequi or no true bill is presented in relation to the charge.

director, of a school's governing body, see the *Education (Accreditation of Non-State Schools) Act 2017*, schedule 1.

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 chief executive—

(a) under the repealed *Child Care Act 2002*, section 50A or 107A; or

(aa) under the *Education and Care Services Act 2013*, section 91 or 200; or

(b) under the *Education and Care Services National Law (Queensland) Act 2011*, section 20 or 21; or

(c) under the Education and Care Services National Law (Queensland), section 271; or

(d) under the *Child Protection Act 1999*, section 140A; or

(e) under the *Education (Queensland College of Teachers) Act 2005*, section 285, or the repealed *Education (Teacher Registration) Act 1988*, section 71B; or

(f) under the *Education (Queensland College of Teachers) Act 2005*, section 285A in relation to a matter mentioned in subsection (1)(a)(ii) to (iv) of that section; or

(g) under the *Education (Queensland College of Teachers) Act 2005*, section 285AA; or

(h) under the repealed *Health Practitioners (Disciplinary Proceedings) Act 1999*, section 384A.

disqualification order means—

(a) an order under section 357; or

(b) an offender prohibition disqualification order.

disqualified person see section 169.

disqualifying offence see section 168.

education and care service see the Education and Care Services National Law (Queensland), section 5(1).

education and care service premises see the Education and Care Services National Law (Queensland), section 5(1).

education provider means—

(a) a registered higher education provider under the *Tertiary Education Quality and Standards Agency Act 2011* (Cwlth); or

(b) a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Cwlth).

educator—

(a) for education and care provided under the Education and Care Services National Law (Queensland)—means an educator under that Law; or

(b) for regulated education and care provided under the *Education and Care Services Act 2013*—means an educator under that Act.

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eligibility application see section 178.

eligibility declaration see section 177.

employment—

(a) in relation to a trainee student—see sections 161 and 162; or

(b) 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

(c) 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.

engage, a person, for chapter 8A, includes the following—

(a) engage the person (whether or not the person is appointed under the *Public Service Act 2008*) within the meaning of that Act, section 150;

(b) engage the person under a contract for services;

(c) engage the person on a voluntary basis;

(d) engage the person under an arrangement to provide the person with practical experience.

exceptional case means exceptional case as mentioned in section 221(2), 222(2), 223(4) or 225(2).

executive officer, of a corporation, means any person, by whatever name called and whether or not the person is a director of the corporation, who is concerned or takes part in the management of the corporation.

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 offender prohibition order means a final order under the Offender Reporting Act.

final sexual offender order means a division 3 order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

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funded non-government service provider see the *Disability Services Act 2006*, section 16.

government entity means a government entity under the *Public Service Act 2008*, section 24, and includes the police service to the extent it is not a government entity under that section.

guardian, of a child, means any of the following persons—

(a) a person who is recognised in law as having all the duties, powers, responsibilities and authority relating to the child that, by law, parents have relating to their children;

Editor's note—

See the *Family Law Act 1975* (Cwlth), part VII (Children), division 2 (Parental responsibility).

(b) a person in whose favour a parenting order is in force under the *Family Law Act 1975* (Cwlth);

(c) a carer of the child under the *Child Protection Act 1999*;

(d) a person who is entitled to the custody of the child under the *Adoption Act 2009*.

guardian, of a person with a disability, means a guardian appointed for the person under the *Guardianship and Administration Act 2000*.

harm has the meaning given in the *Child Protection Act 1999*, section 9.

Editor's note—

Child Protection Act 1999, section 9—

9 What is *harm*

(1) ***Harm***, to a child, is any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing.

(2) It is immaterial how the harm is caused.

(3) Harm can be caused by—

(a) physical, psychological or emotional abuse or neglect; or

(b) sexual abuse or exploitation.

(4) Harm can be caused by—

(a) a single act, omission or circumstance; or

(b) a series or combination of acts, omissions or circumstances.

***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.

hospital means a public sector hospital under the *Hospital and Health Boards Act 2011* or a private health facility under the *Private Health Facilities Act 1999*.

***imprisonment order*—**

(a) means either of the following orders—

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(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*.

influence includes attempt to influence.

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.

jurisdiction, other than in relation to this jurisdiction, means the Commonwealth, a State or a foreign jurisdiction.

licensed care service means a licensed care service under the *Child Protection Act 1999*.

licensed residential facility means a licensed residential facility under the *Child Protection Act 1999*.

member, of a person's household, see the *Child Protection Act 1999*, schedule 3.

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.

NDIS non-government service provider—

(a) means an NDIS non-government service provider within the meaning of the *Disability Services Act 2006*, section 16A; but

(b) does not include an NDIS non-government service provider prescribed by regulation under the *Disability Services Act 2006*, section 41A.

negative exemption notice see section 282(b).

negative notice see section 220(b).

new disqualified person—

(a) for chapter 11, part 13—see section 465; or

(b) for chapter 11, part 16—see section 510.

new disqualifying offence—

(a) for chapter 11, part 13—see section 465; or

(b) for chapter 11, part 16—see section 510.

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—

(a) for chapter 11, part 13—see section 465; or

(b) for chapter 11, part 16—see section 510.

new serious offence, for chapter 11, part 16, see section 510.

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.

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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 chief executive is aware that the person is an approved provider under the *Education and Care Services Act 2013*—the chief executive (child care); or

(iv) if the chief executive is aware that the person is an adult occupant of a home in which stand-alone child care is provided under the *Education and Care Services Act 2013*—the chief executive (child care); or

(v) if the chief executive is aware that the person is an approved provider under the Education and Care Services National Law (Queensland)—the chief executive (education and care); or

(vi) if the chief executive is aware that the person is an adult occupant of a home in which education and care is provided in the course of an approved family day care service under the Education and Care Services National Law (Queensland)—the approved provider of the family day care service under that Law; or

(vii) if the chief executive 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 chief executive reasonably considers has responsibility for supervising or disciplining the person; or

(viii) if the chief executive 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 prohibition disqualification order means a disqualification order made under the Offender Reporting Act, section 13T.

offender prohibition order means an offender prohibition order under the Offender Reporting Act.

Offender Reporting Act means the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*.

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.

parent see section 390.

person with a disability means a person with a disability within the meaning of the *Disability Services Act 2006*, section 11.

police commissioner means the commissioner of the police service.

police information, about a person, means the following—

(a) the person's criminal history;

(b) investigative information about the person;

(c) information as to whether the person is or has been—

(i) a relevant disqualified person; or

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(ii) the subject of an application for a disqualification order; or

(iii) named as the respondent to an application for an offender prohibition order.

police service means the Queensland Police Service.

positive exemption notice see section 282(a).

positive notice see section 220(a).

positive notice blue card means a document, in the form of a card, issued to a person who is the holder of a current positive notice at or about the time that the person is issued with the positive notice, that includes the following information—

(a) the name of the person who is the holder of the positive notice;

(b) a registration number for the person;

(c) an expiry date for the positive notice;

(d) the signature, or an electronic version of the signature, of the person to whom the positive notice is issued.

prescribed department means—

(a) the department responsible for the care and protection of children; or

(b) the department responsible for community services; or

(c) the department responsible for disability services; or

(d) the department responsible for mental health.

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 person means a justice, commissioner for declarations, lawyer or police officer.

prescribed police information, for chapter 11, part 13, see section 465.

previous section 97, for chapter 11, part 13, see section 465.

proof of identity documents, for a person, means the documents, relating to proof of the person's identity, prescribed under a regulation.

provisionally approved carer means a provisionally approved carer under the *Child Protection Act 1999*.

QCAT child-related employment review, for chapter 9, part 1, see section 358.

QCAT president, for chapter 9, part 1, see section 358.

QEC service means a Queensland education and care service.

QEC service premises means each place at which a QEC service operates or is to operate.

Queensland education and care service see the *Education and Care Services Act 2013*, section 8.

registered health practitioner means a person registered under the Health Practitioner Regulation National Law, other than as a student.

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

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(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).

religious representative means a person—

(a) who is a member of—

(i) an organised religion; or

(ii) a religious group even if the group is not part of, or does not consider itself to be part of, an organised religion; and

(b) who, because of the way the organised religion or religious group operates—

(i) holds a position in the religion or group that is supported by the religion or group, including financial support, in a way that allows the person—

(A) to devote himself or herself to promoting the religion's or group's objects or values; and

(B) to hold himself or herself out as a representative of the religion or group; or

(ii) is training to hold a position mentioned in subparagraph (i).

repealed Act means the *Children's Commissioner and Children's Services Appeals Tribunals Act 1996*.

residential facility means a place at which a child accommodation service is provided—

(a) by a prescribed department; or

(b) under funding provided by a prescribed department; or

(c) under funding provided by the Commonwealth and administered by a prescribed department; or

(d) under a licence under the *Child Protection Act 1999*; or

(e) to children who are, under the *Child Protection Act 1999*, in the custody or guardianship of the chief executive of the department in which that Act is administered, if the place is prescribed under a regulation made for this paragraph.

school means—

(a) a State school within the meaning of the *Education (General Provisions) Act 2006*; or

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(b) an accredited school under the *Education (Accreditation of Non-State Schools) Act 2017*.

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*.

sport means a form of human activity capable of achieving a result requiring physical exertion or physical skill that, because of its nature or organisation, is competitive and is generally recognised as sport.

staff member—

(a) in relation to an education and care service—means an individual employed, appointed or engaged to work in or as part of the service, whether as a family day care co-ordinator, educator or otherwise, and includes the nominated supervisor and a person employed, appointed or engaged as a volunteer; or

(b) in relation to a QEC service, see the *Education and Care Services Act 2013*, schedule 1; or

(c) for chapter 11, part 13—see section 465.

stand-alone service see the *Education and Care Services Act 2013*, section 9.

temporary offender prohibition order means a temporary order under the Offender Reporting Act.

trainee student, of an education provider, means a person undertaking a course of study with the education provider.

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—

(a) before chapter 8, part 5 took effect under section 475; or

(b) under section 468(3) or 470; or

(c) before the person became a police officer or registered teacher.

unamended Act, for chapter 11, part 13, see section 465.

volunteer see section 165.

work, for chapter 8, includes the provision of a service, or the conduct of an activity—

(a) as part of providing a child accommodation service; or

(b) in the course of a religious vocation.

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