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 (Worker Screening) Amendment Bill 2020. This indicative reprint has been prepared for information only—***it is not an authorised reprint of the Act***.

Some enacted but uncommenced amendments included in the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020* No. 32 have also been incorporated in this indicative reprint.

The point-in-time date for this indicative reprint is the introduction date for the Disability Services and Other Legislation (Worker Screening) Amendment Bill 2020—26 November 2020.

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Working with Children (Risk Management and Screening) Act 2000

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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

Part 1 Introduction

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.

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.

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

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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.

7 Act applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986

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

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; and

(c) to establish a register of regulated persons who provide home-based care services to children.

Part 2 Interpretation

9 Dictionary

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

10 What is employment

(1) For this Act, 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 11.

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.

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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.

11 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 10 is an education provider; and

(b) the other person mentioned in section 10 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 10, 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 there is no express agreement between the person and the trainee student for the trainee student to carry out the work.

12 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 Act, 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 Act—

(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).

13 Who is a *volunteer*

(1) A ***volunteer*** is a person who is employed by another person and does not carry out any work for the other person for a financial reward.

(2) In this section—

financial reward does not include—

(a) a payment that is a reimbursement for out-of-pocket expenses; or

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

14 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 Act 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.

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15 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.

16 What is a *disqualifying offence*

(1) A ***disqualifying offence*** is—

(a) an offence against a provision of an Act mentioned in schedule 4 or 5, column 1, subject to any qualification

relating to the provision mentioned opposite in column 3; or

(b) an offence of counselling or procuring the commission of an offence of a kind mentioned in paragraph (a); or

(c) an offence of attempting, or of conspiring, to commit an offence of a kind mentioned in paragraph (a); or

(d) an offence that has, as an element, intention to commit an offence of a kind mentioned in paragraph (a); or

(e) an offence that, at the time it was committed was an offence of a kind mentioned in paragraph (a); or

(f) an offence under a law of another jurisdiction that, if it had been committed in Queensland, would have constituted an offence mentioned in paragraph (a) to (e).

Note—

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

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

17 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; or

(c) is the respondent to an application for an offender prohibition order under the Offender Reporting Act.

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(2) However, a person to whom subsection (1)(a) applies and subsection (1)(b) and (c) do not apply is not a disqualified person if an eligibility declaration is in force for the person.

Note—

See chapter 8, part 1, division 2 for provisions about obtaining an eligibility declaration, when an eligibility declaration is taken to be issued and when an eligibility declaration ends.

18 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; or

(c) is the respondent to an application for an offender prohibition order under the Offender Reporting Act.

Chapter 7 Regulated employment and regulated businesses

Part 1 Preliminary

156 Regulated employment

(1) Employment is ***regulated employment*** if it is employment of a type that is stated to be regulated employment in schedule 1, part 1.

(2) However, employment is not regulated employment if—

(a) it is of a type of employment that schedule 1, part 1 states is not regulated employment; or

(b) schedule 1, part 3 states that this chapter does not apply to the employment.

(3) Also, the unpaid employment of a child is not regulated employment unless 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.

(4) Further, the employment of a person is not regulated employment if the person is employed to work, and works, in the employment for not more than 7 days in a calendar year.

157 Regulated businesses

(1) A business is a ***regulated business*** if it is a type of business that is stated to be a regulated business in schedule 1, part 2.

(2) However, a business is not a regulated business if schedule 1, part 3 states that this chapter does not apply to the carrying on of the business.

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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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.

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 who made a working with children check (exemption) application;

(b) persons who hold a working with children authority;

(c) persons who are not required to hold a working with children authority;

(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 Screening requirements

Division 1 Preliminary

173 Requirements for employer giving notice about employing person

(1) Before giving a notice mentioned in section 175(1)(b) or 176C(1)(b) about the employment or proposed employment of a person, an employer must take reasonable steps to verify the person's identity.

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Examples of reasonable steps—

- the employer views the person's working with children card that includes the person's photograph
- the employer views the person's driver licence that includes the person's photograph

(2) The employer must give the notice in the approved form and in an approved way.

Division 2 Requirement for working with children clearance

174 Application of division

This division does not apply in relation to the employment of a person, or the carrying on of a business by a person, who is a police officer or registered teacher.

175 Clearance required to employ person in regulated employment

(1) A person (the ***employer***) must not employ, or continue to employ, another person (the ***employee***) in regulated employment unless—

(a) the employee holds a working with children clearance; and

(b) the employer has given the chief executive a notice, under section 173, about employing the employee in regulated employment.

Maximum penalty—

(a) if an aggravating circumstance applies to the offence—200 penalty units or 2 years imprisonment; or

(b) otherwise—100 penalty units.

(2) It is an ***aggravating circumstance*** for an offence against subsection (1) if—

(a) the employee holds a negative notice and the employer knows, or ought reasonably to know, the employee holds the negative notice; or

(b) the chief executive has given the employer a notice under chapter 8, part 5A that states the employee's working with children authority has been cancelled; or

(c) the chief executive has given the employer a withdrawal notice for a working with children check application made by the employee because section 199 applies; or

(d) the employee holds a disability exclusion or interstate NDIS exclusion and the employer knows, or ought reasonably to know, the employee holds the disability exclusion or interstate NDIS exclusion.

176 Employing person with suspended clearance prohibited

A person (the ***employer***) must not employ another person (the ***employee***) to start in regulated employment if—

(a) the employee holds a working with children clearance that is suspended; and

(b) the employer knows, or ought reasonably to know, the employee's clearance is suspended.

Maximum penalty—200 penalty units or 2 years imprisonment.

176A Person prohibited from regulated employment without clearance

(1) A person must not start or continue in regulated employment unless the person holds a working with children clearance.

Maximum penalty—

(a) if an aggravating circumstance applies to the offence—500 penalty units or 5 years imprisonment; or

(b) otherwise—100 penalty units.

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(2) It is an ***aggravating circumstance*** for an offence against subsection (1) if the person—

(a) holds a negative notice; or

(b) is a disqualified person; or

(c) held a working with children authority that was cancelled on the person's request under chapter 8, part 5A, division 4; or

(d) made a working with children check application and the application was withdrawn because section 199 applies; or

(e) holds a disability exclusion or interstate NDIS exclusion.

(3) However, if the person's working with children clearance was cancelled under chapter 8, part 5A, a court may not find the person contravened subsection (1) unless the court is satisfied the person was given written notice about the cancellation.

(4) Also, if the person was issued a disability exclusion or interstate NDIS exclusion because a disability clearance or interstate NDIS clearance issued to the person was cancelled, a court may not find that the aggravating circumstance mentioned in subsection (2)(e) applies to the person unless the court is satisfied the person was given written notice about—

(a) the issue of the disability exclusion or interstate NDIS exclusion; or

(b) the cancellation of the disability clearance or interstate NDIS clearance.

176B Clearance required to carry on regulated business

A person must not carry on a regulated business unless the person holds a working with children clearance.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

Under section 14, particular executive officers of a corporation that carries on a regulated business are taken to carry on the regulated business.

Division 3 Requirement for working with children exemption for police officers and registered teachers

176C Exemption required to employ police officer or registered teacher in regulated employment

(1) A person (the ***employer***) must not employ, or continue to employ, a police officer or registered teacher (the ***employee***) in regulated employment unless—

(a) either—

(i) the employee holds a working with children authority; or

(ii) the employee has made a working with children check (exemption) application and the application has not been decided or withdrawn; and

(b) the employer has given the chief executive a notice, under section 173, about employing the employee in regulated employment.

Maximum penalty—

(a) if an aggravating circumstance applies to the offence—200 penalty units or 2 years imprisonment; or

(b) otherwise—100 penalty units.

(2) It is an ***aggravating circumstance*** for an offence against subsection (1) if—

(a) the employee holds a negative notice and the employer knows, or ought reasonably to know, the employee holds the negative notice; or

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Not authorised—indicative only

(b) the chief executive has given the employer a notice under chapter 8, part 5A that states the employee's working with children authority has been cancelled; or

(c) the chief executive has given the employer a withdrawal notice for a working with children check application made by the person because section 199 applies; or

(d) the employee holds a disability exclusion or interstate NDIS exclusion and the employer knows, or ought reasonably to know, the employee holds the disability exclusion or interstate NDIS exclusion.

176D Employing police officer or registered teacher with suspended authority prohibited

A person (the ***employer***) must not employ a police officer or registered teacher (the ***employee***) to start in regulated employment if—

(a) the employee holds a working with children authority that is suspended; and

(b) the employer knows, or ought reasonably to know, the employee's authority is suspended.

Maximum penalty—200 penalty units or 2 years imprisonment.

176E Police officer or registered teacher prohibited from regulated employment without exemption

(1) A person who is a police officer or registered teacher must not start or continue in regulated employment unless—

(a) the person holds a working with children authority; or

(b) the person has made a working with children check (exemption) application and the application has not been decided or withdrawn.

Maximum penalty—

(a) if an aggravating circumstance applies to the offence—500 penalty units or 5 years imprisonment; or

(b) otherwise—100 penalty units.

(2) It is an ***aggravating circumstance*** for an offence against subsection (1) if the person—

(a) holds a negative notice; or

(b) for a person mentioned in subsection (1)(b)—is a disqualified person; or

(c) held a working with children authority that was cancelled on the person's request under chapter 8, part 5A, division 4; or

(d) made a working with children check application that was withdrawn because section 199 applies; or

(e) holds a disability exclusion or interstate NDIS exclusion.

(3) However, if the person's working with children authority was cancelled under chapter 8, part 5A, a court may not find the person contravened subsection (1) unless the court is satisfied the person was given written notice about the cancellation.

(4) Also, if the person was issued a disability exclusion or interstate NDIS exclusion because a disability clearance or interstate NDIS clearance issued to the person was cancelled, a court may not find that the aggravating circumstance mentioned in subsection (2)(e) applies to the person unless the court is satisfied the person was given written notice about—

(a) the issue of the disability exclusion or interstate NDIS exclusion; or

(b) the cancellation of the disability clearance or interstate NDIS clearance.

176F Exemption required for regulated employment if previous application withdrawn

(1) This section applies if a person who is a police officer or registered teacher makes a working with children check

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(exemption) application that is withdrawn because section 196 or 199 applies.

(2) The person must not start or continue in regulated employment unless the person holds a working with children authority.

Maximum penalty—

(a) if the withdrawal notice is given because section 199 applies—500 penalty units or 5 years imprisonment; or

(b) otherwise—100 penalty units or 1 year's imprisonment.

(3) Despite section 176E, subsection (2) applies even if the person makes another working with children check (exemption) application.

176G Exemption required for police officer or registered teacher to carry on regulated business

A person who is a police officer or registered teacher must not carry on a regulated business unless—

(a) the person holds a working with children authority; or

(b) the person has made a working with children check (exemption) application and the application has not been decided or withdrawn.

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

Under section 14, particular executive officers of a corporation that carries on a regulated business are taken to carry on the regulated business.

Division 4 Restricted persons prohibited from restricted employment

176H Definitions for division

In this division—

restricted employment means employment that is not regulated employment under—

(a) section 156(3) or (4); or

(b) schedule 1, part 1, section 3(2)(b), 4(4), 4A(2), 5(2), 6A(3)(a) or (b) or 11(2)(b).

restricted person means a person who—

(a) holds a negative notice; or

(b) holds a working with children authority that is suspended; or

(c) is a disqualified person and does not hold a working with children authority; or

Note—

See chapter 8, part 1, division 2 and sections 223 and 285 for circumstances in which a disqualified person may be issued a working with children authority.

(d) has been charged with a disqualifying offence the proceeding for which has not ended.

176I Employing restricted person in restricted employment prohibited

A person (the ***employer***) must not employ, or continue to employ, another person (the ***employee***) in restricted employment if—

(a) the employee is a restricted person; and

(b) the employer knows, or ought reasonably to know, the employee is a restricted person.

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Not authorised—indicative only

Maximum penalty—200 penalty units or 2 years imprisonment.

176J Restricted person prohibited from starting or continuing in restricted employment

(1) A restricted person must not start or continue in restricted employment.

Maximum penalty—500 penalty units or 5 years imprisonment.

(2) However—

(a) if the person is a restricted person because the person holds a negative notice that was issued under chapter 8, part 5A when the person's working with children authority was cancelled—a court may not find the person contravened subsection (1) unless the court is satisfied the person was given written notice about the issue of the negative notice; and

(b) if the person is a restricted person because the person's working with children authority is suspended under chapter 8, part 5A—a court may not find the person contravened subsection (1) unless the court is satisfied the person was given written notice about the suspension.

Chapter 8 Working with children checks and authorities

Part 1 Restrictions on making working with children check applications

Division 1 Prohibited applications

176K Application by disqualified person prohibited

A disqualified person must not make a working with children check application.

Maximum penalty—500 penalty units or 5 years imprisonment.

176L Application by negative notice holder prohibited

(1) A person who holds a negative notice must not make a working with children check application.

Maximum penalty—500 penalty units or 5 years imprisonment.

(2) However, if the person's negative notice was issued under part 5A when the person's working with children authority was cancelled, a court may not find the person contravened subsection (1) unless the court is satisfied the person was given written notice about the issue of the negative notice.

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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 to make a working with children check application.

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) made in the approved form and in an approved way; and

(b) signed by the applicant; and

(c) accompanied by the prescribed fee.

(4) The approved form must provide for the application to provide proof of the applicant's identity.

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.

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 working with children check application and, for that purpose—

(a) if the person is a police officer or registered teacher—part 5, division 8 applies; or

(b) otherwise—part 4, division 9 applies.

(3) The division mentioned in subsection (2) applies as if—

(a) a reference in the division to a working with children check application were a reference to an eligibility application; and

(b) a reference in the division to issuing a working with children authority were a reference to issuing an eligibility declaration; and

(c) a reference in the division to issuing a negative notice were a reference to refusing the eligibility application.

(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—

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(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, the person may make a working with children check application;

(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 working with children authority to the person; or

(b) cancels a negative notice issued to the person; or

(c) decides not to cancel the person's working with children authority under section 300.

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182 Chief executive may request further information

(1) On receiving an eligibility application, the chief executive may give the applicant a notice asking the applicant to give the chief executive, 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.

(2) A request under subsection (1) must state that, if the applicant does not comply with the request within the stated time, the applicant's application will be withdrawn.

185 When eligibility declaration ends

(1) An eligibility declaration issued to a person remains in force until it ends under subsection (2).

(2) An eligibility declaration issued to a person ends 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

(b) a negative notice is issued to the person; or

(c) a working with children authority 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

Not authorised—indicative only

(b) based on the correct or complete information, the chief executive decides under section 180 that the chief executive may issue the eligibility declaration.

(2) The chief executive may exercise the power under subsection (1) on the chief executive's own initiative or on application by the person whose eligibility application was refused.

Part 2 Working with children check applications

187 Who may apply

(1) A person (an ***applicant***) may apply to the chief executive for a working with children check.

(2) A police officer or registered teacher (also an ***applicant***) may apply to the chief executive for a working with children check for an exemption.

187A Application combined with disability worker screening application

(1) A person (an ***applicant***) may combine an application mentioned in section 187(1) or (2) with a disability worker screening application.

(2) An application made under subsection (1) is a ***combined application***.

(3) This chapter applies to a combined application to the extent it is an application mentioned in section 187(1) or (2).

(4) If a combined application is made to the chief executive, the chief executive must give the information in the combined application, to the extent the information relates to the applicant's disability worker screening application, to the chief executive (disability services).

188 Form of application

(1) An application under this part must be—

(a) in the approved form; and

(b) made in an approved way; and

(c) signed by the applicant.

(2) A working with children check (general) application must be accompanied by the prescribed fee for the application, unless section 189 applies to the applicant.

(3) The approved form must provide for the applicant—

(a) to provide proof of the applicant's identity; and

(b) to consent to employment screening under this chapter; and

(c) if the application is a working with children check (exemption) application—to declare that the applicant is a police officer or a registered teacher.

(4) Also, the approved form must state—

(a) it is an offence for a disqualified person to make a working with children check application; and

(b) a disqualified person may apply for an eligibility declaration which, if issued, will allow the person to make a working with children check application.

189 No application fee for volunteers

(1) This section applies if the chief executive is satisfied the applicant—

(a) has an agreement with another person (the ***employer***) to be employed in regulated employment as a volunteer by the employer; or

(b) proposes to carry on, or to continue carrying on, a regulated business other than for reward.

(2) The applicant is not required to pay the prescribed fee for the application.

Not authorised—indicative only

Not authorised—indicative only

190 Chief executive may request further information

(1) On receiving an application under this part, the chief executive may give the applicant a notice asking the applicant to give the chief executive, 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.

(2) A request under subsection (1) must state that, if the applicant does not comply with the request within the stated time, the applicant's application will be withdrawn.

190A Chief executive may request further information for combined application

(1) This section applies if an applicant made a combined application and the chief executive becomes aware that, under the *Disability Services Act 2006*—

(a) the applicant's disability worker screening application has been withdrawn; or

(b) a disability exclusion has been issued to the applicant.

(2) The chief executive may give the applicant a notice asking the applicant to advise the chief executive, within a reasonable stated time, whether or not the applicant wishes to proceed with the working with children check application under this part.

(3) A request under subsection (2) must state that, if the applicant does not comply with the request within the stated time, the applicant's working with children check application will be withdrawn.

191 Working with children authority continues in force pending decision

(1) This section applies if an applicant holds a working with children authority (the ***current authority***).

(2) Despite sections 231(1) and 289(1), the current authority remains in force from the day it would otherwise end until the earliest of the following things happens—

(a) the application is decided or withdrawn;

(b) the current authority is cancelled;

(c) if the application is a working with children check (exemption) application—the applicant stops being a police officer or registered teacher.

192 Effect of application by disqualified person

(1) This section applies if the applicant is a disqualified person.

(2) The application has no effect.

(3) The chief executive must give a notice that states the following matters to the applicant and each notifiable person for the applicant—

(a) the chief executive is satisfied the applicant is a disqualified person;

(b) the application has no effect because the applicant is a disqualified person;

(c) it is an offence for the applicant to, or to allow the applicant to, start or continue in regulated employment, or restricted employment, or for the applicant to carry on a regulated business.

193 Effect of application by negative notice holder

(1) This section applies if the applicant holds a negative notice.

(2) The application has no effect.

Not authorised—indicative only

Not authorised—indicative only

(3) The chief executive must give a notice that states the following matters to the applicant and each notifiable person for the applicant—

(a) the application has no effect because the applicant holds a negative notice;

(b) the day the negative notice was issued.

(4) If the negative notice was issued to the applicant because the applicant is a relevant disqualified person, a notice given to the chief executive (child safety) under subsection (3) must also state the provision of the Act under which the negative notice was issued.

193A Effect of interim bar imposed by chief executive (disability services)

(1) This section applies if—

(a) the applicant has also made a disability worker screening application, regardless of whether the applicant made a combined application; and

(b) the chief executive is aware that the chief executive (disability services) has imposed an interim bar on the applicant under the *Disability Services Act 2006*, section 82.

(2) The chief executive is not required to decide the applicant's working with children check application until the chief executive becomes aware that the interim bar is no longer in effect.

(3) If the chief executive defers deciding the working with children check application under subsection (2), the chief executive must give the applicant a written notice about the deferral.

Part 3 Withdrawal of application

194 Application of part

This part applies to—

(a) a working with children check application; and

(b) an eligibility application.

195 Notice of withdrawal

(1) The chief executive withdraws an application by giving the applicant a notice (a ***withdrawal notice***) that states the application is withdrawn.

(2) The chief executive must give a withdrawal notice to the applicant if, before the application is decided—

(a) the applicant withdraws the application under section 196; or

(b) the chief executive is permitted or required, under this part, to withdraw the application.

(3) If the application is a working with children check application, the chief executive must also give a withdrawal notice to each notifiable person for the applicant.

(4) A withdrawal notice must state the reason for the withdrawal.

196 Withdrawal by applicant

(1) The applicant may withdraw an application at any time before it is decided.

(2) The applicant withdraws the application by giving the chief executive notice about the withdrawal.

(3) The notice may be given orally or in writing.

Not authorised—indicative only

Not authorised—indicative only

196A Withdrawal of combined application

(1) This section applies if the applicant made a combined application.

(2) The applicant may combine a notice withdrawing the applicant's working with children check application under section 196 with a request to withdraw the applicant's disability worker screening application.

Note—

The request may be made orally or in writing. See—

(a) section 196(3); and

(b) the *Disability Services Act 2006*, section 75(2).

(3) A request made under subsection (2) is a ***combined withdrawal request***.

(4) This part applies to a combined withdrawal request to the extent it is a notice under section 196.

(5) If a combined withdrawal request is made to the chief executive, the chief executive must give a notice about the combined withdrawal request to the chief executive (disability services).

197 Deemed withdrawal—identity can not be established

The chief executive must withdraw an application if—

(a) the chief executive gives the applicant a notice under section 182(1)(a) or 190(1)(a) asking the applicant to provide information to establish the applicant's identity within a stated time; and

(b) the notice includes the warning mentioned in section 182(2) or 190(2); and

(c) the applicant does not comply with the request; and

(d) the chief executive can not establish the applicant's identity with certainty.

198 Deemed withdrawal—failure to comply with particular requests

The chief executive may withdraw an application if—

(a) the chief executive gives the applicant—

(i) a notice under section 182(1)(b), 190(1)(b) or 190A(2) asking the applicant to provide stated information; or

(ii) a notice under section 330, 332, 333, 337 or 338 asking the applicant to give the consent, or take the other action, stated in the notice; and

(b) the notice includes a warning that, if the applicant does not comply with the notice, the application will be withdrawn; and

(c) the person does not comply with the notice.

199 Deemed withdrawal—applicant charged with serious offence or disqualifying offence etc.

(1) The chief executive must withdraw a working with children check application if the applicant is charged with a serious offence or disqualifying offence.

(2) A withdrawal notice given under section 195 because this section applies must state that—

(a) for a notice given to the applicant—it is an offence for the applicant to start or continue in restricted employment; or

(b) for a notice given to a notifiable person for the applicant—it is an offence to employ, or continue to employ, the applicant in restricted employment.

200 Deemed withdrawal—applicant no longer police officer or registered teacher

(1) The chief executive must withdraw a working with children check (exemption) application made by a police officer if the applicant or the police commissioner gives the chief executive

Not authorised—indicative only

Not authorised—indicative only

a written notice that states the applicant is no longer a police officer.

(2) The chief executive must withdraw a working with children check (exemption) application made by a registered teacher if the applicant or the college of teachers gives the chief executive a written notice that states the applicant is no longer a registered teacher.

Part 4 Working with children clearances

Division 9 Deciding application

219 Application of division

This division applies if a person made a working with children check (general) application and the application has not been withdrawn.

220 Deciding application—generally

(1) The chief executive must decide to approve or refuse the application under this division.

(2) If the chief executive approves the application, the chief executive must issue a written notice that states the application is approved (a ***working with children clearance***) to the person.

(3) If the chief executive refuses the application, the chief executive must issue a written notice that states the application is refused (a ***negative notice***) to the person.

221 Deciding application—no conviction or conviction etc. for non-serious offence

(1) Subject to subsection (2), the chief executive must issue a working with children clearance 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 chapter 7, part 4, division 4 and sections 199, 295(1) and 296.

(c) the chief executive is aware of a conviction of the person for an offence other than a serious offence; or

(d) the chief executive is aware of other information about the person that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person.

(2) If subsection (1)(b), (c) or (d) 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 working with children clearance, the chief executive must issue a negative notice to the person.

Not authorised—indicative only

Not authorised—indicative only

222 Deciding application—previous holder of working with children exemption

(1) Subject to subsection (2), the chief executive must issue a working with children clearance to the person if—

(a) the person was the holder of a working with children exemption 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 working with children exemption 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 working with children clearance, the chief executive must issue a negative notice to the person.

223 Deciding application—negative notice cancelled or holder of eligibility declaration

(1) This section applies if—

(a) the chief executive has, under section 304I, cancelled a negative notice issued to the person; or

(b) an eligibility declaration is in force for the person.

(2) If the chief executive is not aware of any new assessable information about the person, the chief executive must issue a working with children clearance to the person.

(3) Subject to subsection (4), if the chief executive is aware of new assessable information about the person, 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 working with children clearance, the chief executive must issue a working with children clearance to the person.

(5) In this section—

new assessable information, about a person, means information about the person that—

(a) is, police information, disciplinary information or other information that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person; and

(b) was not known to the chief executive when the chief executive took the action mentioned in subsection (1)(a) or (b).

224 Issuing notice to relevant disqualified person

The chief executive must issue a negative notice to the person if the chief executive is aware the person is a relevant disqualified person.

225 Deciding application—person no longer relevant disqualified person or convicted of serious offence

(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) 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

(b) has been convicted of a serious offence.

(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 harm the best interests of children for the chief

Not authorised—indicative only

Not authorised—indicative only

executive to issue a working with children clearance, the chief executive must issue a working with children clearance 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) information about the person given to the chief executive under the *Disability Services Act 2006*, section 138ZG;

(f) 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 or other relevant 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—

(i) disciplinary information about the person; or

(ii) other information about the person that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests

Not authorised—indicative only

Not authorised—indicative only

of children for the chief executive to issue a working with children clearance to the person.

(2) If the chief executive is aware of disciplinary information about the person, 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;

(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.

(3) If the chief executive is aware of other information about the person mentioned in subsection (1)(b)(ii), the chief executive must have regard to the following—

(a) the nature of the information, including the circumstances and gravity of the behaviour or conduct the subject of the information;

(b) the relevance of the information to employment, or carrying on a business, that involves or may involve children;

(c) the length of time that has passed since the event or conduct the subject of the information occurred;

(d) anything else relating to the information that the chief executive reasonably believes is 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 working with children check (general) 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;

(iii) any other information about the person that the chief executive is aware of that the chief executive reasonably believes is relevant to whether it would be in the best interests of children for the chief executive to issue a working with children clearance to the person; 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 working with children clearance, 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.

Not authorised—indicative only

Not authorised—indicative only

(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 in particular information

(1) This section applies if, before the chief executive decides the person's application, any of the following things happen (each a ***relevant change***)—

(a) the person's name or contact details as stated in the application change;

(b) the person's employment, or proposed employment, as stated in the application changes;

(c) the person stops carrying on a business stated in the application;

(d) the person no longer intends to carry on a proposed business stated in the application.

(2) The person must give a notice, in the approved form and in an approved way, about the relevant change to the chief executive within 7 days after the change happens.

Maximum penalty—10 penalty units.

231 Term of clearance

(1) Unless cancelled earlier under part 5A, the term of a working with children clearance issued to a person is—

(a) if the chief executive decides the term of the clearance under subsection (2)—the term decided by the chief executive; or

(b) otherwise—3 years.

(2) The chief executive may decide that the term of a person's working with children clearance is the same as the term of—

(a) if the person made a combined application—a disability clearance issued to the person by the chief executive (disability services) after deciding the application; or

(b) a disability clearance otherwise held by the person.

(3) The term decided by the chief executive under subsection (2) may be less than 3 years or more than 3 years.

Note—

Under the *Disability Services Act 2006*, section 101, the term of an NDIS clearance is 5 years and the term of a State clearance is 3 years.

231A Term of negative notice

A negative notice remains in force until it is cancelled under part 5A.

Division 10 Steps after application decided

232 Application of division

This division applies if the chief executive decides a person's working with children check (general) application.

232A Issuing working with children card

If the chief executive issues the person a working with children clearance, the chief executive must issue a working with children card for the clearance to the 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;

Not authorised—indicative only

Not authorised—indicative only

(b) the relevant review and appeal information;

(c) that it is an offence for a person who holds a negative notice to—

(i) make a working with children check application; or

(ii) start or continue in regulated employment or restricted employment; or

(iii) carry on a regulated business.

234 Persons to be notified of decision

(1) The chief executive must give each notifiable person for the person a written notice stating whether the person was issued a working with children clearance or a 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.

(3) The chief executive may also give a potential employer for the person a notice mentioned in subsection (1).

235 Department to be given particular advice

(1) This section applies if—

(a) the chief executive issues a working with children clearance to a person; and

(b) the chief executive of another department (the ***other executive***) proposes to start employing, or continue employing, the person in regulated employment; 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 13 Persons who are police officers or registered teachers

247 Clearances held by police officers and registered teachers

(1) This section applies if—

(a) a person holds a working with children clearance; and

(b) the person is or becomes a police officer or registered teacher.

(2) The person's working with children clearance continues in effect subject to section 231.

(3) This chapter continues to apply in relation to the person's working with children clearance while it is in force.

Not authorised—indicative only

Not authorised—indicative only

(4) If the chief executive is aware the person is a police officer or registered teacher and, under part 5A or part 7, division 1, the chief executive is required or permitted to issue a working with children clearance to the person, the chief executive must instead issue a working with children exemption to the person.

Part 5 Working with children exemptions

Division 8 Deciding application

281 Application of division

This division applies if a person made a working with children check (exemption) application and the application has not been withdrawn.

282 Deciding application—generally

(1) The chief executive must decide to approve or refuse the application under this division.

(2) If the chief executive approves the application, the chief executive must issue a written notice that states the application is approved (a ***working with children exemption***) to the person.

(3) If the chief executive refuses the application, the chief executive must issue a written notice that states the application is refused (a ***negative notice***) to the person.

283 Deciding application—police officer if further screening not required

If the person is a police officer, the chief executive must issue a working with children exemption to the person if—

(a) the chief executive is not aware of—

(i) any police information about the person; or

(ii) any other information about the person that would be relevant to deciding whether it would be in the best interests of children for the chief executive to issue the exemption to 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 Deciding application—registered teacher if further screening not required

If the person is a registered teacher, the chief executive must issue a working with children exemption to the person if—

(a) the chief executive is not aware of—

(i) any police information or disciplinary information about the person; or

(ii) any other information about the person that would be relevant to deciding whether it would be in the best interests of children for the chief executive to issue the exemption to 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 Deciding application 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 application as if the chief executive were deciding a working with children check (general) application under part 4, division 9.

(3) For subsection (2), sections 221 to 229 apply for making the decision as if—

(a) a reference to issuing a working with children clearance were a reference to issuing a working with children exemption; and

(b) a reference to a working with children check (general) application were a reference to a working with children check (exemption) application.

286 Obtaining advice from police commissioner

(1) This section applies if the working with children check (exemption) 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 working with children check (exemption) 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;

(d) any number, date or other information given by the person about the person's status as a registered teacher.

Not authorised—indicative only

Not authorised—indicative only

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 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 in particular information

(1) This section applies if, before the chief executive decides the person's application, any of the following things happen (each a ***relevant change***)—

(a) the person's name or contact details as stated in the application change;

(b) the person's employment, or proposed employment, as stated in the application changes;

(c) the person stops carrying on a business stated in the application;

(d) the person no longer intends to carry on a proposed business stated in the application.

(2) The person must give a notice, in the approved form and in an approved way, about the relevant change to the chief executive within 7 days after the change happens.

Maximum penalty—10 penalty units.

289 Term of exemption

(1) Unless a relevant event happens earlier, the term of a working with children exemption issued to a person is—

(a) if the chief executive decides the term of the exemption under subsection (2)—the term decided by the chief executive; or

(b) otherwise—3 years.

(2) The chief executive may decide that the term of a person's working with children exemption is the same as the term of—

(a) if the person made a combined application—a disability clearance issued to the person by the chief executive (disability services) after deciding the application; or

(b) a disability clearance otherwise held by the person.

(3) The term decided by the chief executive under subsection (2) may be less than 3 years or more than 3 years.

Note—

Under the *Disability Services Act 2006*, section 101, the term of an NDIS clearance is 5 years and the term of a State clearance is 3 years.

(4) Each of the following is a ***relevant event*** for a working with children exemption—

(a) if the holder of the exemption is a police officer—the holder stops being a police officer;

(b) if the holder of the exemption is a registered teacher—the holder stops being a registered teacher;

Not authorised—indicative only

Not authorised—indicative only

(c) the exemption is cancelled under part 5A.

289A Term of negative notice

A negative notice remains in force until it is cancelled under part 5A.

Division 9 Steps after application decided

290 Application of division

This division applies if the chief executive decides a person's working with children check (exemption) application.

290A Issuing working with children card for exemption

If the chief executive issues a working with children exemption to the person, the chief executive must issue a working with children card for the exemption to the person.

291 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 negative notice to—

(i) make a working with children check application; or

(ii) start or continue in regulated employment or restricted employment; or

(iii) carry on a regulated business.

292 Notifiable person to be notified of decision

(1) The chief executive must give each notifiable person for the person a written notice that states whether the person was issued a working with children exemption or a 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 chapter under which the negative notice was issued.

Note—

See sections 224 and 225 (as applied to working with children check (exemption) applications under section 285) for circumstances in which a negative 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 chief executive issues a working with children exemption to a person; and

(b) the chief executive of another department (the ***other executive***) proposes to start employing, or continue employing, the person in regulated employment; 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.

Not authorised—indicative only

Not authorised—indicative only

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.

Part 5A Suspension or cancellation of working with children authority

Division 1 Preliminary

294 Chief executive's decisions under this part

(1) This section applies if a provision of this part requires the chief executive to decide—

(a) whether to cancel a person's working with children authority or negative notice; or

(b) whether it is appropriate to issue a working with children authority or negative notice to a person.

(2) The chief executive must decide the matter as if it were a decision about a working with children check application and, for that purpose—

(a) if the person is a police officer or registered teacher—part 5, division 8 applies; or

(b) otherwise—part 4, division 9 applies.

(3) The division mentioned in subsection (2) applies to the matter as if—

(a) a reference in the division to issuing a working with children clearance or working with children exemption were a reference to deciding—

(i) it is appropriate to issue a working with children authority to a person; or

(ii) it is not appropriate to issue a negative notice to a person; or

(iii) not to cancel a person's working with children authority; or

(iv) to cancel a person's negative notice; and

(b) a reference in the division to issuing a negative notice were a reference to deciding—

(i) it is appropriate to issue a negative notice to a person; or

(ii) it is not appropriate to issue a working with children authority to a person; or

(iii) not to cancel a person's negative notice; or

(iv) to cancel a person's working with children authority.

Division 2 Suspension of working with children authority

295 Application of division

(1) This division applies if a person who holds a working with children authority is charged with a serious offence or disqualifying offence.

(2) Also, this division applies if a registered teacher holds a working with children authority and the teacher's teacher

Not authorised—indicative only

Not authorised—indicative only

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

296 Chief executive must suspend authority

(1) The chief executive must suspend the person's working with children authority by giving the person a written notice (a ***suspension notice***) about the suspension.

(2) The suspension notice must state—

(a) the person's working with children authority is suspended; and

(b) the reason for the suspension; and

(c) how long the suspension will continue; and

(d) the effect of the suspension; and

(e) the person must return the person's working with children card to the chief executive immediately after the notice is given, unless the person has a reasonable excuse; and

Note—

See section 304O for the requirement for a person whose working with children authority is suspended to return the person's working with children card to the chief executive.

(f) the relevant review and appeal information.

297 Notifiable persons and potential employers notified about suspension

(1) The chief executive must give each notifiable person for the person a written notice that states—

(a) the person's working with children authority is suspended; and

(b) how long the suspension will continue; and

(c) the effect of the suspension; and

(d) it is an offence to allow the person to perform work that is regulated employment or restricted employment while the authority is suspended; and

(e) the person's employer must not terminate the person's employment solely or mainly because the authority is suspended.

Note—

See also sections 342 and 343 for the chief executive's obligation to notify other persons about the suspension of a person's working with children authority.

(2) Also, the chief executive may give a notice mentioned in subsection (1) to a potential employer of the person.

298 Effect of suspension of working with children authority

(1) This section applies while the person's working with children authority is suspended.

Note—

See also chapter 7, part 4, division 4 for the effect of the suspension of a person's working with children authority in relation to restricted employment.

(2) The person must not—

(a) start employment in regulated employment; or

(b) if the person is employed in regulated employment—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.

(3) A person given a notice about the suspension under section 297 or 342 must not allow the person to perform work that is regulated employment.

Maximum penalty—200 penalty units or 2 years imprisonment.

(4) A person's employer who is given a notice about the suspension under section 297 must not terminate the person's

Not authorised—indicative only

Not authorised—indicative only

employment solely or mainly because the person's working with children authority is suspended.

Note—

See also section 356(4).

(5) The working with children authority remains in force even if it would otherwise expire under section 231(1) or 289(1).

299 When suspension of authority ends

The suspension of the person's working with children authority ends if—

(a) the chief executive decides to cancel the authority under section 300; or

(b) the suspension ends under section 302; or

(c) the authority is otherwise cancelled under this part.

300 Chief executive's decision about suspended authority

(1) The chief executive may decide whether to cancel the person's working with children authority—

(a) on the chief executive's own initiative; or

(b) on the person's application.

Note—

See section 294 for how the chief executive is required to decide whether to cancel a person's working with children authority.

(2) However, the chief executive is not required to decide a person's application mentioned in subsection (1)(b)—

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

(b) if the person has been convicted of a serious offence or disqualifying offence and either—

(i) the period allowed for an appeal relating to the person's conviction or sentence has not ended; or

(ii) an appeal relating to the conviction or sentence has started but has not been decided; or

(c) if the person is a registered teacher—while the person's teacher registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 49.

301 Chief executive decides to cancel suspended authority

(1) If the chief executive decides to cancel the person's working with children authority under section 300, the chief executive must—

(a) cancel the authority; and

(b) issue a negative notice to the person; and

(c) give the person a written notice that states—

(i) the decision and reasons for the decision; and

(ii) if the person has not returned the person's working with children card to the chief executive—the person must return the person's card to the chief executive immediately, unless the person has a reasonable excuse; and

Note—

See section 304P for the requirement for a person whose working with children authority is cancelled to return the person's working with children card to the chief executive.

(iii) the relevant review and appeal information; and

(iv) unless the person is a relevant disqualified person, the circumstances in which the person may apply under section 304G for the negative notice to be cancelled; and

(d) give each notifiable person for the person a written notice that states—

(i) the person's authority has been cancelled; and

(ii) the person has been issued a negative notice; and

Not authorised—indicative only

Not authorised—indicative only

(iii) it is an offence to employ or continue to employ the person in regulated employment or restricted employment.

Note—

See sections 342 and 343 for the chief executive's obligation to notify other persons about the cancellation of a person's working with children authority.

(2) Also, the chief executive may give a notice mentioned in subsection (1)(d) to a potential employer of the person.

302 Chief executive decides not to cancel suspended authority

(1) This section applies if the chief executive decides not to cancel the person's working with children authority under section 300.

(2) The suspension of the person's working with children authority ends.

(3) The chief executive must—

(a) give a written notice that states the suspension of the person's authority has ended to—

(i) the person; and

(ii) each notifiable person for the person; and

(iii) each potential employer for the person who was given a notice about the suspension under section 297; and

(b) if the chief executive has the person's working with children card and the person's authority did not expire while the authority was suspended—return the person's working with children card to the person; and

(c) if section 235 applied in relation to the person's working with children application—give the advice mentioned in that section to the other executive.

Note—

See also sections 342 and 343 for the chief executive's obligation to notify other persons when the suspension of a person's working with children authority ends.

Division 3 Cancelling working with children authority without suspension

303 Cancelling authority if relevant disqualified person

(1) This section applies—

(a) if a person who holds a working with children authority becomes a relevant disqualified person; and

(b) whether or not the person's authority is suspended under section 296.

(2) The chief executive must cancel the working with children authority.

304 Cancelling authority issued because of wrong or incomplete information

The chief executive may cancel a person's working with children authority if the chief executive is satisfied—

(a) the decision to issue the authority was based on wrong or incomplete information; and

(b) having considered the correct or complete information, it is appropriate to issue a negative notice to the person.

Note—

See section 294 for how the chief executive is required to decide whether it is appropriate to issue a negative notice to the person.

304A Cancelling authority because of subsequent information

(1) This section applies if, after the chief executive decides to issue a working with children authority to a person, the chief

Not authorised—indicative only

Not authorised—indicative only

executive becomes aware of information (***further information***) that is—

(a) disciplinary information, or information received under part 6, division 2, 3 or 4, about the person that was not known to the chief executive when the decision was made; or

(b) other information about the person that the chief executive reasonably believes is relevant to deciding whether it would be in the best interests of children for the person to continue to hold the authority that was not known to the chief executive when the decision was made; or

(c) a decision about the person made by a court or tribunal after the authority was issued, including the reasons for the decision.

(2) However, this section does not apply if the chief executive is required to suspend the person's working with children authority under section 296 because of the further information.

(3) The chief executive may cancel the person's working with children authority if, after considering the further information, the chief executive is satisfied it is appropriate to issue a negative notice to the person.

Note—

See section 294 for how the chief executive is required to decide whether it is appropriate to issue a negative notice to the person.

304B Action after decision

(1) If the chief executive is required, or decides, to cancel a person's working with children authority under this division, the chief executive must—

(a) cancel the person's authority; and

(b) issue a negative notice to the person; and

(c) give the person a written notice that states—

(i) the decision to cancel the authority and issue the negative notice and the reasons for the decision; and

(ii) the person must return the person's working with children card to the chief executive immediately, unless the person has a reasonable excuse; and

Note—

See section 304P for the requirement for a person whose working with children authority is cancelled to return the person's working with children card to the chief executive.

(iii) the relevant review and appeal information; and

(iv) unless the person is a relevant disqualified person, the circumstances in which the person may apply under section 304G for the negative notice to be cancelled.

(2) If the chief executive's decision under section 304 or 304A is not to cancel the person's authority, the person's authority continues in force, subject to section 231(1) or 289(1).

304C Notifiable persons and potential employers notified about cancellation

(1) If the chief executive cancels a person's working with children authority under this division, the chief executive must give each notifiable person for the person a written notice that states—

(a) the person's authority has been cancelled; and

(b) the person has been issued a negative notice; and

(c) it is an offence to employ or continue to employ the person in regulated employment or restricted employment.

Note—

See sections 342 and 343 for the chief executive's obligation to notify other persons about the cancellation of a person's working with children authority.

Not authorised—indicative only

Not authorised—indicative only

(2) If the person's working with children authority was cancelled under section 303, a notice given to the chief executive (child safety) under subsection (1) must state that the person's authority was cancelled, and a negative notice was issued to the person, under that section.

(3) Also, the chief executive may give a notice mentioned in subsection (1) to a potential employer of the person.

Division 4 Cancelling working with children authority on holder's request

304D Request to cancel working with children authority

(1) A person may ask the chief executive to cancel the person's working with children authority.

(2) The person may make the request even if the person's working with children authority is suspended under section 296.

(3) The request must be written.

304E Cancellation of working with children authority

After receiving the request, the chief executive must—

(a) cancel the person's working with children authority; and

(b) give the person a written notice that states—

(i) the authority has been cancelled; and

(ii) the person must return the person's working with children card to the chief executive immediately, unless the person has a reasonable excuse; and

Note—

See section 304P for the requirement for a person whose working with children authority is cancelled to return the person's working with children card to the chief executive.

(iii) it is an offence for the person to perform work that is regulated employment, other than as allowed under section 176A or 176E; and

(iv) it is an offence for the person to carry on a regulated business, other than as allowed under section 176B or 176G.

304F Notifiable persons and potential employers notified about cancellation

(1) The chief executive must give a written notice to each notifiable person for the person that states—

(a) the person's working with children authority has been cancelled on the person's request; and

(b) it is an offence to employ, or continue to employ, the person in regulated employment other than as allowed under section 175 or 176C.

Note—

See sections 342 and 343 for the chief executive's obligation to notify other persons about the cancellation of a person's working with children authority.

(2) Also, the chief executive may give a potential employer for the person a notice mentioned in subsection (1).

Division 5 Cancelling negative notice on holder's request

304G Application to cancel negative notice

(1) This section applies to a person who—

(a) holds a negative notice; and

(b) is not a relevant disqualified person.

(2) The person may apply to the chief executive to cancel the negative notice if—

Not authorised—indicative only

Not authorised—indicative only

(a) the application is made more than 2 years after—

(i) the notice was issued; and

(ii) if the person previously applied to cancel the notice under this section—the previous application was made; or

(b) the decision to issue the notice was based on wrong or incomplete information; or

(c) the negative notice was issued because the person was a relevant disqualified person and the person is no longer a relevant disqualified person.

304H Form of application

(1) The application must be—

(a) in the approved form; and

(b) made in an approved way; and

(c) signed by the person; and

(d) if the person is not a police officer or registered teacher—accompanied by the prescribed fee for the application.

(2) The person may state anything in the application that the person considers is relevant to the chief executive's decision, including, for example, a change in the person's circumstances since the negative notice was issued.

304I Deciding application

(1) If the chief executive decides to cancel the person's negative notice, the chief executive must—

(a) cancel the negative notice; and

(b) give the person a notice about the cancellation.

Note—

See section 294 for how the chief executive is required to decide an application to cancel a person's negative notice.

(2) If the chief executive decides not to cancel the person's negative notice, the chief executive must give the person a written notice that states—

(a) the application has been refused and the person's negative notice continues in effect subject to—

(i) if the person is a police officer or a registered teacher—section 289A; or

(ii) otherwise—section 231A; and

(b) the reasons for the chief executive's decision to refuse the application; and

(c) the relevant review and appeal information.

Division 6 Other cancellation of negative notice

304J Chief executive may act on own initiative or application

The chief executive may decide to—

(a) act under this division on the chief executive's own initiative; or

(b) if a person applies to cancel the person's negative notice under section 304G—act under section 304K or 304L instead of cancelling the person's negative notice under section 304G.

304K No longer relevant disqualified person

(1) The chief executive may cancel a person's negative notice if the chief executive is satisfied—

(a) the negative notice was issued because the person was a relevant disqualified person; and

(b) the person is no longer a relevant disqualified person.

(2) If the chief executive decides to cancel the person's negative notice, the chief executive may decide to substitute a working

Not authorised—indicative only

Not authorised—indicative only

with children authority if the chief executive is satisfied it is appropriate to issue the authority to the person.

Note—

See section 294 for how the chief executive is required to decide whether it is appropriate to issue a working with children authority to a person.

304L Negative notice issued because of wrong or incomplete information

The chief executive may cancel a person's negative notice and substitute a working with children authority if the chief executive is satisfied—

(a) the decision to issue the negative notice was based on wrong or incomplete information; and

(b) having considered the correct or complete information, it is appropriate to issue a working with children authority to the person.

Note—

See section 294 for how the chief executive is required to decide whether it is appropriate to issue a working with children authority to a person.

304M Subsequent information

The chief executive may cancel a person's negative notice and substitute a working with children authority if—

(a) the chief executive becomes aware of information that was not known to the chief executive when the decision to issue the notice was made; and

(b) after considering the further information, the chief executive is satisfied it is appropriate to issue a working with children authority to the person.

Note—

See section 294 for how the chief executive is required to decide whether it is appropriate to issue a working with children authority to a person.

304N Action after making decision

(1) If the chief executive decides to cancel a person's negative notice under this division, the chief executive must cancel the notice.

(2) If the chief executive decides under this division to substitute a working with children authority for a person's cancelled negative notice, the chief executive must issue to the person—

(a) if the person is a police officer or registered teacher—a working with children exemption; or

(b) otherwise—a working with children clearance.

(3) If the chief executive decides to refuse an application mentioned in section 304J(b), the chief executive must give the person a written notice that states—

(a) the application has been refused and the person's negative notice continues in effect subject to—

(i) if the person is a police officer or registered teacher—section 289A; or

(ii) otherwise—section 231A; and

(b) the reasons for the chief executive's decision to refuse the application; and

(c) the relevant review and appeal information.

Division 7 Return of working with children card

304O Requirement to return suspended card

(1) This section applies to a person if the chief executive gives the person a written notice that states the person's working with children authority is suspended.

(2) The person must return the person's working with children card for the authority to the chief executive immediately after

Not authorised—indicative only

Not authorised—indicative only

the notice is given to the person, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

304P Requirement to return cancelled card

(1) This section applies to a person if the chief executive gives the person a written notice that states the person's working with children authority is cancelled.

(2) The person must give the person's working with children card for the authority to the chief executive immediately after the chief executive gives the notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

Part 6 Provisions about obtaining or dealing with information

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;

(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

Not authorised—indicative only

Not authorised—indicative only

(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—

(i) the person is issued a negative notice, whether or not the negative notice was issued because a working with children authority held by the person was cancelled; or

(ii) an eligibility application made by the person 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 about the issue of the negative notice or refusal of the eligibility application.

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

(5) QCAT does not have jurisdiction to review a decision of the police commissioner that information about a person is investigative information or that information that is investigative information may be given to the 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

Not authorised—indicative only

Not authorised—indicative only

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 because of the information—apply under section 304G for the negative notice to be cancelled on the grounds the decision to issue the notice was based on wrong information; or

(b) if an eligibility application made by the person was refused because of the information—apply under section 186 for revocation of the refusal on the grounds it 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.

Division 2 Obtaining information from police commissioner

310 Application of division

This division applies to a person if—

(a) the person holds a working with children authority; or

(b) the person has made a working with children check application that has not been decided or withdrawn; or

(c) all of the following apply—

(i) the person has purported to make a working with children check application;

(ii) the application has not been properly made, including, for example, because the application was not accompanied by the prescribed fee for the application;

(iii) the application, as made, contains sufficient information for the chief executive to establish the person's identity with certainty; or

(d) the person has applied, under section 300, to the chief executive to decide whether or not to cancel the person's working with children authority that is suspended and the application has not been decided; or

(e) the person has applied, under section 304G, to the chief executive to cancel the person's negative notice; or

(f) the person has made an eligibility application that has not been decided or withdrawn; or

(g) an eligibility declaration for the person is in force; or

(h) for a person who holds a negative notice—

(i) the person has made an application under section 309(3) or 354 that has not been decided; or

Not authorised—indicative only

Not authorised—indicative only

(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 holds a working with children clearance—any number or date related to the person's clearance or working with children card;

(e) if the person holds a working with children exemption—any number or date related to the person's exemption or working with children card;

(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—

(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).

Not authorised—indicative only

Not authorised—indicative only

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 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.

Not authorised—indicative only

Not authorised—indicative only

(4) In this section—

withdrawal means withdrawal of any of the following—

(a) a working with children check application;

(b) 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) 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—

(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), the chief executive, on receiving notice under subsection (2) or (3), may write to the person to inform the person about the person's obligations under section 323(2).

Note—

Section 323 imposes 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

Not authorised—indicative only

Not authorised—indicative only

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 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—

Not authorised—indicative only

Not authorised—indicative only

(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 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—

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Not authorised—indicative only

(a) a conviction of a person whether the conviction happened before or after the commencement of this section; and

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

(5) In this section—

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

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

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

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

(a) a rehabilitation period prescribed under that law for the conviction has expired; and

(b) the conviction has not been revived under that law.

Division 5 Changes in information or status

321 Acquiring police information

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

322 Effect of conviction for serious offence

(1) This section applies to a person who holds a working with children authority if the person is convicted of a serious offence.

Note—

See sections 303 and 304A for the chief executive's power to cancel a working with children authority if the holder of the authority is convicted of an offence.

(2) The person must immediately return the person's working with children card 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 working with children card to the chief executive under subsection (2) and the chief executive returns the card to the person; or

(b) the person is issued a new working with children authority.

323 Notice of change in police information

(1) This section applies—

Not authorised—indicative only

Not authorised—indicative only

(a) to a person who—

(i) holds a working with children authority; or

(ii) has made a working with children check application; and

(b) if the person becomes aware that the police information about the person has changed.

(2) The person must immediately give a notice that complies with subsection (3) about the change to the chief executive.

Maximum penalty—100 penalty units.

(3) The notice given to the chief executive under subsection (2) must—

(a) be given in the approved form and in an approved way; and

(b) if the person is employed in regulated employment—include information about the employment.

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) the person has made a working with children check (exemption) application; or

(ii) the person holds a working with children exemption; 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 chapter 7, part 4, division 2 for offences about the employment of a person who is not a police officer or registered teacher in regulated employment.

(3) To remove any doubt, it is declared that—

(a) it is not a requirement of subsection (2) that the person give the person's employer any information about the circumstances of the person ceasing to be a police officer other than that it has happened; and

(b) unless otherwise required under this chapter, it is not a requirement that the employer stop employing the person on receiving the notification.

328 Effect of person ceasing to be registered teacher

(1) This section applies to a person who is a registered teacher employed in regulated employment if the person surrenders the person's registration under the *Education (Queensland College of Teachers) Act 2005*, section 59.

(2) The person must immediately notify the person's employer in relation to the regulated employment of the surrender.

Maximum penalty—10 penalty units.

Note—

See chapter 7, part 4, division 2 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—

Not authorised—indicative only

Not authorised—indicative only

(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

(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 working with children check application or eligibility application;

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Not authorised—indicative only

(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 chief executive may withdraw the person's working with children check application or eligibility application; 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 part 3 about the withdrawal of working with children check applications and eligibility applications.

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.

(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 person fails to give the consent, the chief executive may withdraw the person's working with children check application or eligibility application.

(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—

Not authorised—indicative only

Not authorised—indicative only

(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.

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

Not authorised—indicative only

Not authorised—indicative only

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 person fails to give the consent, the chief executive may withdraw the person's working with children check application or eligibility application.

(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

(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

Not authorised—indicative only

Not authorised—indicative only

(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.

(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.

Not authorised—indicative only

Not authorised—indicative only

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

(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;

Not authorised—indicative only

Not authorised—indicative only

(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 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.

Not authorised—indicative only

Not authorised—indicative only

(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.

(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 part 5, division 8 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, it is an offence for an employer to allow the relevant person to perform work that is regulated employment unless and until a prescribed event under section 322 happens for the person.

(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 to whom a notice is given under subsection (3) or (4) that states that the change in police information is a conviction for a serious offence must not allow the relevant

Not authorised—indicative only

Not authorised—indicative only

person to perform work that is regulated employment unless and until a prescribed event under section 322 happens for the person.

Maximum penalty—200 penalty units or 2 years imprisonment.

(6) An employer may not dismiss the relevant person solely or mainly because the employer is given a notice under subsection (3) or (4).

(7) In this section—

employer means a person who employs a relevant person.

relevant person means—

(a) a person who holds a working with children authority, other than an authority that is suspended under section 296; or

(b) a person who has made a working with children check application that 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.

(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 person holds a working with children authority or a negative notice;

(b) whether the person has made a working with children check application.

(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;

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Not authorised—indicative only

(c) the prescribed person's address;

(d) any number or date given by the prescribed person about a working with children authority 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 a notice about each of the following events that happen—

(a) a prescribed person is issued a negative notice;

(b) a prescribed person's working with children authority—

(i) is suspended under section 296; or

(ii) is cancelled under section 301 or 304E;

(c) the suspension of a prescribed person's working with children authority ends under section 302;

(d) the term of a prescribed person's working with children authority ends;

(e) a prescribed person's working with children check application is withdrawn.

(4) Also, if a prescribed person who holds a negative notice makes a working with children check application, the chief executive must give the accreditation board a notice that states that the application has no effect.

Note—

See section 193.

(5) In this section—

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

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 working with children authority; and

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

(2) The chief executive must give the college a notice about each of the following events that happen—

(a) the person's working with children authority—

(i) is suspended under section 296; or

(ii) is cancelled under section 301 or 304E;

(b) the suspension of the person's working with children authority ends under section 302;

(c) the term of the person's working with children authority ends;

(d) the person is issued a negative notice.

(3) 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 Giving information to chief executive (disability services)

(1) This section applies to information about a person—

(a) the chief executive was given, or given access to, under chapter 7 or this chapter; or

Not authorised—indicative only

Not authorised—indicative only

(b) in the chief executive's possession in relation to an employment-screening decision about the person.

(2) The chief executive may give information about a person to the chief executive (disability services) if the chief executive reasonably believes the information is relevant to the functions of the chief executive (disability services) under the *Disability Services Act 2006*, part 5.

(3) Without limiting subsection (2), the information that may be given includes—

(a) information about a working with children check application made by a person; and

(b) information about a working with children authority or negative notice held by a person; and

(c) police information about a person; and

(d) disciplinary information about a person; and

(e) information about a person's mental health.

344A Chief executive may give authorised entities particular information

(1) Each of the following is an ***authorised entity*** for a person—

(a) another person (the person's ***employer***) if—

(i) the employer has notified the chief executive under this Act that the employer employs, or proposes to employ, the person; and

(ii) neither the employer nor the person has notified the chief executive otherwise;

(b) another person the chief executive accepts as an authorised representative of the person's employer;

(c) another person who is a notifiable person for the person;

(d) an entity to whom the chief executive is required to, or may, give a working with children notice about the person under this Act.

(2) The chief executive may give the authorised entity information about—

(a) a working with children check application made by the person; or

(b) a working with children authority or negative notice held by the person; or

(c) a working with children notice about the person given, or required to be given, to the authorised entity under this Act.

(3) The chief executive may give the information under subsection (2) by allowing the authorised entity to access the information electronically.

(4) In this section—

working with children notice, about a person, means a notice that relates to—

(a) a working with children check application made by the person; or

(b) a working with children authority or negative notice held by the person.

344B Use of information obtained under s 344A about a person

(1) This section applies to a person who is given, or accesses, information about a person under section 344A.

(2) The person must not use the information, or disclose or give access to the information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (3).

Maximum penalty—100 penalty units.

(3) The person may use the information, or disclose or give access to the information to another person, if the use, disclosure or giving of access—

(a) is to identify, assess or monitor a risk, or potential risk, to the safety or welfare of a child in relation to the

Not authorised—indicative only

Not authorised—indicative only

regulated employment of the person to whom the information relates; or

(b) is to establish whether or not the person to whom the information relates—

(i) has made a working with children check application; or

(ii) holds a working with children authority or a negative notice; or

(c) is to comply with an obligation under this Act; or

(d) happens with the consent of the person to whom the information relates; or

(e) is required to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or the health, safety or welfare of the public; or

(f) is required by a law enforcement agency to prevent, detect, investigate, prosecute or punish an offence; or

(g) is required for a proceeding in a court or a tribunal; or

(h) is authorised under a regulation or another law.

(4) In this section—

law enforcement agency means—

(a) an entity mentioned in the *Information Privacy Act 2009*, schedule 5, definition ***law enforcement agency***, paragraph (b); or

(b) an enforcement body within the meaning of the *Privacy Act 1988* (Cwlth).

344C Notifying self-managed NDIS participant about particular matters

(1) This section applies if—

(a) a child is an NDIS participant; and

(b) a relevant person for the child gives the chief executive written notice that a stated person carrying on an NDIS

regulated business is delivering NDIS supports or services to the child.

(2) The chief executive may give the child, a person with parental responsibility for the child or the child's plan manager a written notice about any of the following matters—

(a) if a working with children check application made by the person is decided—that fact and whether the person was issued a working with children authority or negative notice;

(b) if a working with children authority held by the person expires or is suspended or cancelled—the expiry, suspension or cancellation;

(c) if, under section 339(3), the chief executive is required to give a notifiable person for the person a notice about a change in police information about the person—the change in the police information.

(3) A notice about a matter mentioned in subsection (2)(c) must include only the information about the change in the police information that the chief executive is required to give a notifiable person for the person under section 339(3).

(4) In this section—

NDIS participant means a participant in the national disability insurance scheme under the *National Disability Insurance Scheme Act 2013* (Cwlth).

NDIS regulated business means a regulated business mentioned in schedule 1, section 16A.

parental responsibility see the *National Disability Insurance Scheme Act 2013* (Cwlth), section 75.

plan manager, for a child who is an NDIS participant, means a person other than the child who is managing the funding for supports under the child's plan within the meaning of the *National Disability Insurance Scheme Act 2013* (Cwlth), section 42.

relevant person, for a child who is an NDIS participant, means—

Not authorised—indicative only

Not authorised—indicative only

(a) the child; or

(b) a person with parental responsibility for the child; or

(c) the child's plan manager; or

(d) a person who carries on an NDIS regulated business that includes delivering NDIS supports or services to the child.

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

Division 1 Replacement card

347 Replacement of lost or stolen card

(1) If a person's working with children card is lost or stolen (the ***lost or stolen card***), the person must, within 14 days after the loss or theft—

(a) give the chief executive a notice about the loss or theft in the approved form and in an approved way; and

(b) either—

(i) apply for a replacement card; or

(ii) ask the chief executive under section 304D to cancel the person's working with children authority.

Maximum penalty—10 penalty units.

(2) An application under subsection (1)(b)(i) must be—

(a) made in the approved form and in an approved way; and

(b) accompanied by the prescribed fee for the application.

(3) The chief executive must—

(a) cancel the lost or stolen card; and

(b) if the person applied for a replacement card under subsection (1)(b)(i)—issue a replacement working with children card to the person.

(4) The chief executive must give written notice about the loss or theft of the lost or stolen card to the police commissioner.

348 Replacement card for change of name or contact details

(1) This section applies to—

(a) a person who holds a working with children authority; or

(b) a person who holds a negative notice if the person has applied for the notice to be cancelled and the application has not been decided or withdrawn.

(2) If the person does any of the following (each a ***relevant change***), the person must give the chief executive a notice, in the approved form and in an approved way, about the relevant change within 14 days after it happens—

(a) changes a name the person has previously given to the chief executive;

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

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Not authorised—indicative only

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

Maximum penalty—10 penalty units.

(3) If the chief executive considers it is appropriate to do so, the chief executive may issue a replacement working with children card to the person.

(4) If the chief executive issues a replacement working with children card to the person, the chief executive must cancel the person's previously held card.

348A Requirement to return replaced card

(1) This section applies to a person who holds a working with children card (the ***replaced card***) if the chief executive issues the person a further working with children card.

(2) The person must give the replaced card to the chief executive within 7 days after the further working with children card is issued, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 1A Change in regulated employment or regulated business

349 Holder must notify change of regulated employment or regulated business

(1) This section applies if a person who holds a working with children authority that is not suspended makes any of the following changes—

(a) the person ends regulated employment or changes the person's employment and the new employment is regulated employment;

(b) the person stops carrying on a regulated business;

(c) the person starts carrying on another regulated business other than the regulated business the person was

carrying on, or proposing to carry on, when the authority was issued.

(2) The person must give the chief executive a notice about the change, in the approved form and in an approved way, within 14 days after the change happens.

Maximum penalty—10 penalty units.

350 Holder must notify change and pay prescribed application fee—volunteer or business carried on other than for financial reward

(1) This section applies if—

(a) a person holds a working with children clearance that is not suspended; and

(b) during the term of the clearance, the person is or was—

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

(ii) carrying on a regulated business on a not-for-profit basis and not otherwise carrying on a regulated business; and

(c) either of the following changes happens—

(i) the person becomes employed in regulated employment other than as a volunteer;

(ii) the person starts carrying on a regulated business for financial reward.

(2) The person must, within 14 days after the change happens—

(a) give the chief executive a notice, in the approved form and in an approved way, about the change; and

(b) if the person is required to pay the prescribed application fee under subsection (3)—pay the prescribed application fee to the chief executive.

Maximum penalty—10 penalty units.

Not authorised—indicative only

Not authorised—indicative only

(3) The person must pay the prescribed application fee if the working with children check (general) application in relation to which the working with children clearance was issued was made on the basis that the person was—

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

(b) carrying on, or proposing to carry on, a regulated business on a not-for-profit basis.

(4) If the chief executive considers it is appropriate to do so, the chief executive may issue the person—

(a) a new working with children clearance with a new term under section 231; or

(b) a replacement working with children card for the person's clearance.

(5) If the chief executive issues a replacement working with children card, the chief executive must cancel the previously held card.

Note—

See section 348A for the person's obligation to return the replaced card to the chief executive.

(6) In this section—

not-for-profit basis, for carrying on a regulated business, means the business is carried on other than for financial reward.

prescribed application fee means the prescribed fee for a working with children check (general) application made by a person for—

(a) for a person who gives a notice under subsection (2) for a change mentioned in subsection (1)(c)(i)—employment in regulated employment other than as a volunteer; or

(b) for a person who gives a notice under subsection (2) for a change mentioned in subsection (1)(c)(ii)—carrying on a regulated business for financial reward.

Division 1B Holder of working with children exemption stops being police officer or registered teacher

350A Holder and notifiable persons notified about expiry of working with children exemption

(1) This section applies if a person who holds a working with children exemption—

(a) if the person was a police officer when the exemption was issued—stops being a police officer; or

(b) if the person was a registered teacher when the exemption was issued—stops being a registered teacher, including because the person's registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 48 or 49.

(2) The chief executive must give the person a written notice that states—

(a) the term of the person's working with children exemption has ended under section 289(1); and

(b) the person must immediately return the person's working with children card to the chief executive; and

(c) the person may make a working with children check (general) application, unless the person is a disqualified person.

(3) The person must give the person's working with children card to the chief executive immediately after the chief executive gives the notice, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(4) The chief executive must give each notifiable person for the person a written notice that states the term of the person's working with children exemption has ended because the person is no longer a police officer or registered teacher.

Not authorised—indicative only

Not authorised—indicative only

350B Effect of negative notice if holder no longer police officer or registered teacher

(1) This section applies if a person who holds a negative notice—

(a) if the person was a police officer when the negative notice was issued—stops being a police officer; or

(b) if the person was a registered teacher when the negative notice was issued—stops being a registered teacher, including because the person's registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 48 or 49.

(2) The person's negative notice continues in effect as if it were a notice issued under section 220(3).

Division 2 Offences relating to false or misleading information

351 False or misleading disclosure

A person must not state anything to the chief executive for chapter 7 or 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 chapter 7 or this chapter containing information the person knows is false or misleading in a material particular.

Maximum penalty—100 penalty units or 2 years imprisonment.

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

(a) tells the 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 the person a negative notice; or

(ii) refused to cancel a negative notice issued to the person; or

(b) a decision of the chief executive that the person has been charged with a disqualifying offence if—

(i) because of the decision, the person's working with children authority was suspended under section 296; and

(ii) the person claims he or she has not been charged with the disqualifying offence; and

(iii) the person has applied under section 300(1)(b) for the chief executive to decide whether to cancel the person's suspended working with children authority 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 person's working with children authority was suspended under section 296; and

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Not authorised—indicative only

(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 under section 300(1)(b) for the chief executive to decide whether to cancel the person's suspended working with children authority 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 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 under section 304G for the chief executive to cancel the negative notice and that application has been refused.

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) or (c)—the decision on the application mentioned in section 300(1)(b) about the suspension;

(c) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (d)—the decision on the application under section 304G about the negative 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; or

(c) a decision of the chief executive that the person is the respondent to an application for an offender prohibition order under the Offender Reporting Act.

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 a negative notice to a person, or refuse to cancel a person's negative notice, 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.

Not authorised—indicative only

Not authorised—indicative only

354A Stay of operation of particular decisions on application for review

(1) This section applies to a decision of QCAT, on an application for a review of a chapter 8 reviewable decision under section 354, to set aside an exceptional case decision.

(2) QCAT's decision does not take effect until—

(a) the end of the period within which an appeal against QCAT's decision may be started; or

(b) if an appeal against QCAT's decision is started—the appeal is decided or withdrawn.

(3) This section applies despite the QCAT Act, sections 145 and 152.

(4) In this section—

exceptional case decision means a decision of the chief executive as to whether or not there is an exceptional case for a person if, because of the decision, the chief executive—

(a) issued a negative notice to the person; or

(b) refused to cancel the person's negative notice.

355 Effect of applicant for a review becoming a disqualified person

(1) This section applies if a disqualified person made an application under section 354 before the person became a disqualified person.

(2) The application and any proceeding in relation to the application must be dismissed—

(a) if a proceeding in relation to the application is before a court—by the court; or

(b) otherwise—by QCAT, even if the dismissal would be contrary to a direction of the 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 chapter 7 or 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 working with children authority is suspended under section 296 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 working with children authority, or make a working with children check application, for a stated period; or

(b) the person may never hold a working with children authority or make a working with children check application.

Not authorised—indicative only

Not authorised—indicative only

(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 working with children authority 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.

Chapter 8A Register of regulated persons who provide home-based care services

Part 1 Preliminary

357A Definitions for chapter

In this chapter—

associated adult, of a regulated person for a home-based care service, see section 357D.

authorised user see section 357E.

foster or kinship care see section 357B(a).

home-based care service see section 357B.

home-based family day care service see section 357B(b).

home-based stand-alone care service see section 357B(c).

register means the register kept under section 357F.

regulated person see section 357C.

357B Meaning of *home-based care service*

Each of the following services is a ***home-based care service***—

(a) care provided to a child by an approved foster carer, or approved kinship carer, under the *Child Protection Act 1999* (***foster or kinship care***);

(b) care provided to a child as part of a family day care service provided in a family day care residence (***home-based family day care service***);

(c) a stand-alone service provided to a child in the home of a carer in relation to the service (***home-based stand-alone care service***).

Not authorised—indicative only

Not authorised—indicative only

357C Meaning of *regulated person*

A person is a ***regulated person*** for a home-based care service if the person is—

(a) for foster or kinship care—the approved foster carer, or approved kinship carer, under the *Child Protection Act 1999* who provides the care; or

(b) for a home-based family day care service—a family day care educator, or family day care educator assistant, under the Education and Care Services National Law (Queensland) who provides the service; or

(c) for a home-based stand-alone care service—the carer, or a staff member, in relation to the service.

357D Meaning of *associated adult* of a regulated person

A person is an ***associated adult*** of a regulated person for a home-based care service if the person is—

(a) for a regulated person who is an approved foster carer or approved kinship carer under the *Child Protection Act 1999*—an adult member of the carer's household under that Act; or

(b) for a regulated person who is a family day care educator or family day care educator assistant under the Education and Care Services National Law (Queensland) for a home-based family day care service—an adult occupant of the family day care residence from which the service is provided; or

(c) for a regulated person who is a carer or staff member for a home-based stand-alone care service—an adult occupant of the home from which the service is provided.

357E Who is an *authorised user*

Each of the following is an ***authorised user***—

(a) the chief executive (child safety);

(b) the chief executive (education and care);

(c) the police commissioner;

(d) a police officer;

(e) the public guardian under the *Public Guardian Act 2014*;

(f) a person appointed under the *Public Guardian Act 2014*, section 109 as—

(i) a community visitor (child); or

(ii) both a community visitor (adult) and a community visitor (child); or

(iii) a child advocacy officer;

(g) an appropriately qualified public service employee authorised to access the register by the chief executive or a person mentioned in paragraph (a), (b) or (e);

(h) an appropriately qualified staff member under the *Police Service Administration Act 1990* authorised to access the register by the police commissioner.

Part 2 Register

357F Register of regulated persons who provide home-based care service to children

(1) The chief executive must keep an up-to-date register of regulated persons who provide a home-based care service.

(2) The purpose of the register is to promote the safety of children by enabling authorised users to access up-to-date information about—

(a) a regulated person who provides a home-based care service; and

(b) each person who is an associated adult of the regulated person for the home-based care service.

Not authorised—indicative only

Not authorised—indicative only

(3) The chief executive may keep the register in the form the chief executive considers appropriate.

357G Contents of the register

(1) The register must contain the following information, to the extent the information is known by the chief executive, about each regulated person for a home-based care service—

(a) the information that is reasonably necessary to identify and contact the person, including, for example—

(i) full name and any former names or aliases; and

(ii) contact details; and

(iii) date and place of birth;

(b) the type of each home-based care service for which the person is, or has been, a regulated person;

(c) information about a working with children check application made by the person;

(d) information about a working with children authority the person holds or previously held;

(e) information about an associated adult of the person, including the information mentioned in paragraphs (a), (c) and (d) about the adult;

(f) other information prescribed by regulation about—

(i) the person; or

(ii) a home-based care service for which the person is, or has been, a regulated person; or

(iii) an associated adult of the person for a home-based care service mentioned in subparagraph (ii).

(2) The register may also contain—

(a) information mentioned in subsection (1) about a person who was, but is no longer—

(i) a regulated person for a home-based care service; or

(ii) an associated adult of a regulated person for a home-based care service; and

(b) other information the chief executive considers appropriate—

(i) to ensure the register is accurate, comprehensive and usable; or

(ii) for the effective and efficient operation of the register.

357H Access to register

The chief executive may allow an authorised user to access information in the register.

357I Use, disclosure and giving of access to confidential information

(1) This section applies to a person—

(a) who is, or has been, an authorised user and, in that capacity was given, or given access to, confidential information in the register; or

(b) who is given, or given access to, confidential information in the register by a person mentioned in paragraph (a).

(2) The person must not use the information, or disclose or give access to the information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (3).

Maximum penalty—100 penalty units.

(3) The person may use the information, or disclose or give access to the information to another person, if the use, disclosure or giving of access—

(a) is to identify, assess or monitor a risk, or potential risk, to the safety or welfare of a child being provided care through a home-based care service; or

(b) is to establish whether or not a regulated person—

Not authorised—indicative only

Not authorised—indicative only

(i) has made a working with children check application; or

(ii) holds a working with children authority; or

(c) is to assess a person's suitability to be—

(i) a regulated person for a home-based care service; or

(ii) an associated adult of a regulated person for a home-based care service; or

(d) is reasonably required to discharge a function under a law; or

(e) is required for a proceeding in a court or tribunal; or

(f) is authorised under a regulation or another law; or

(g) is related to the operation of the register, including, for example, auditing access to the information in the register.

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.

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.

Not authorised—indicative only

Not authorised—indicative only

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;

(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.

Not authorised—indicative only

Not authorised—indicative only

(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.

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.

Not authorised—indicative only

Not authorised—indicative only

(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 Working with children card is evidence of authority

(1) A working with children card issued to a person other than a police officer or registered teacher is evidence that the person holds a working with children clearance.

(2) A working with children card issued to a police officer or registered teacher is evidence that the police officer or teacher holds a working with children authority.

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.

(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 this Act is an indictable offence, and a crime, if the maximum penalty for the offence is—

(a) 500 penalty units or more; or

(b) 5 years imprisonment or more.

(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 magistrate is satisfied, at any stage of the hearing and after hearing any submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction; or

Not authorised—indicative only

Not authorised—indicative only

(b) the magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.

(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 100 penalty units or 3 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*.

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 protected information

(1) This section applies to a person who—

(a) is or has been a public service employee employed in the department; and

(b) in that capacity, was given, or given access to, any of the following information (***protected information***) about a person—

(i) police information about the person and information related to the police information;

(ii) disciplinary information about the person;

(iii) information about the person's mental health, including, for example, information about a proceeding in the Mental Health Court or the Mental Health Review Tribunal about the person;

(iv) other information about the person that the chief executive has considered in making an employment-screening decision about the person,

Not authorised—indicative only

Not authorised—indicative only

including, for example, information given to the chief executive by the chief executive (disability services) under the *Disability Services Act 2006*, section 138ZG.

(2) Also, this section applies to a person who is or has been—

(a) the Minister and, in that capacity, received a report under section 395 that contains protected information; or

(b) a member of the Minister's staff and, in that capacity, was given, or given access to, a report or information mentioned in paragraph (a).

(3) The person must not use the protected information, or disclose or give access to the protected information to anyone else, unless the use, disclosure or giving or access is allowed under subsection (4).

Maximum penalty—100 penalty units or 2 years imprisonment.

(4) The person may use the protected information, or disclose or give access to the protected information to another person if the use, disclosure or giving of access—

(a) is for the purpose of an employment-screening decision; or

(b) is for the purpose of obtaining advice for, or giving advice to the Minister, in relation to the protected information; or

(c) happens with the consent of the person to whom the protected information relates; or

(d) is expressly permitted under chapter 8 or section 395; or

(e) is otherwise required under a law.

385 Confidentiality of other information

(1) This section applies to a person who—

(a) is or has been—

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

(ii) a public service employee employed in the department; and

(b) in that capacity, was given or given access to confidential information.

(2) However, this section does not apply in relation to confidential information that is protected information under section 384.

(3) The person must not use the confidential information, or disclose or give access to the confidential information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (4).

Maximum penalty—100 penalty units.

(4) The person may use the confidential information, or disclose or give access to the confidential information to another person, if the use, disclosure or giving of access—

(a) is for the purpose of this Act; or

(b) is for the purpose of obtaining advice for, or giving advice to, the Minister in relation to the confidential information; or

(c) is for the purpose of performing a function under another law; or

(d) is for a proceeding in a court or tribunal; or

(e) is authorised under a regulation or another law; or

(f) happens with the consent of the person to whom the confidential information relates; or

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

Not authorised—indicative only

Not authorised—indicative only

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.

(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 or 8A, including—

(i) protected information under section 384; and

(ii) confidential information to which section 385 applies.

(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.

Not authorised—indicative only

Not authorised—indicative only

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.

398A Chief executive may arrange for use of information system

(1) The chief executive may approve a system (an ***information system***) for—

(a) generating, sending, receiving, storing or otherwise processing electronic communications between the chief executive and another person; or

(b) generating a decision of the chief executive, other than—

(i) a decision about whether or not there is an exceptional case for a person; or

(ii) another decision prescribed by regulation.

(2) The chief executive must take all reasonable steps to ensure that a decision generated by an information system is correct.

(3) A decision generated by an information system is taken to be a decision made by the chief executive.

(4) The chief executive may make a decision in substitution for a decision the chief executive is taken to have made under subsection (3) if the chief executive is satisfied that the decision generated by the information system is incorrect.

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—

(a) provide for arrangements between the chief executive and the chief executive (disability services) in relation to receiving, withdrawing, dealing with and deciding combined applications; and

(b) prescribe fees payable under the Act and provide for the fees to be refunded or waived; and

(c) provide for a maximum penalty of 20 penalty units for a contravention of a regulation.

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.

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.

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.

Not authorised—indicative only

Not authorised—indicative only

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.

(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*.

Not authorised—indicative only

Not authorised—indicative only

(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—

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

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.

(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.

Not authorised—indicative only

Not authorised—indicative only

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

(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.

Not authorised—indicative only

Not authorised—indicative only

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.

(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.

Not authorised—indicative only

Not authorised—indicative only

(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.

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.

Not authorised—indicative only

Not authorised—indicative only

(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

(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.

Not authorised—indicative only

Not authorised—indicative only

(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—

(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.

Not authorised—indicative only

Not authorised—indicative only

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—

(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

Not authorised—indicative only

Not authorised—indicative only

(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—

(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.

Not authorised—indicative only

Not authorised—indicative only

(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;

(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.

Not authorised—indicative only

Not authorised—indicative only

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.

(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—

Not authorised—indicative only

Not authorised—indicative only

(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

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

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(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

(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

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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

(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.

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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.

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,

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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

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

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business under previous section 97, and is not any of the following—

(a) a disability services regulated business;

(b) a health student regulated business;

(c) a new local government regulated business.

other new regulated employment means employment that is regulated employment under section 156 but was not regulated employment under previous section 97, and is not any of the following—

(a) disability services regulated employment;

(b) health student regulated employment;

(c) new local government regulated employment.

prescribed police information means a report or other information mentioned in section 136(2) of the unamended Act.

previous section 97 means section 97 of this Act as in force immediately before the commencement.

staff member has the meaning under section 129 of the unamended Act.

unamended Act means this Act as in force from time to time before the commencement.

Division 2 Transitional provisions relating to chapter 8

466 Existing applications for prescribed notice about employment that is no longer regulated employment

(1) This section applies to an application for a prescribed notice made under section 100 of the unamended Act that—

(a) has not been decided or withdrawn at the commencement; and

(b) relates to the employment of a person in former regulated employment.

(2) The application is taken to have been withdrawn.

(3) The commissioner must—

(a) give written notice of the withdrawal to—

(i) the person; and

(ii) each notifiable person for the person; and

(b) refund any fee paid for the application.

(4) In this section—

former regulated employment means employment that is not regulated employment under section 156 but was regulated employment under previous section 97.

467 Existing applications for prescribed notice about a business that is no longer a regulated business

(1) This section applies to an application for a prescribed notice made under section 101 of the unamended Act that—

(a) has not been decided or withdrawn at the commencement; and

(b) relates to carrying on a former regulated business.

(2) The application is taken to have been withdrawn.

(3) The commissioner must—

(a) give written notice of the withdrawal to—

(i) the person; and

(ii) each notifiable person for the person; and

(b) refund any fee paid for the application.

(4) In this section—

former regulated business means a business that is not a regulated business under section 156 but was a regulated business under previous section 97.

Not authorised—indicative only

Not authorised—indicative only

468 Existing applications for prescribed notice about person convicted of new disqualifying offence

(1) This section applies to an application for a prescribed notice made under section 100 or 101 of the unamended Act that—

(a) has not been decided or withdrawn at the commencement; and

(b) relates to a person who has been or is convicted of a new disqualifying offence but who is not a new relevant disqualified person.

(2) If, at the time of the application, the person did not hold a positive notice or held a positive notice that was suspended under section 119C of the unamended Act—

(a) the application is taken to have been withdrawn; and

(b) the commissioner must give written notice of the withdrawal to—

(i) the person; and

(ii) each notifiable person for the person.

(3) If, at the time of the application, the person held a positive notice that was not suspended under section 119C of the unamended Act—

(a) the person is taken to have been issued with an eligibility declaration other than for section 223(1)(b); and

(b) the commissioner must decide the application under this Act.

469 Existing applications for prescribed notice about new relevant disqualified person

(1) This section applies to an application for a prescribed notice made under section 100 or 101 of the unamended Act that—

(a) has not been decided or withdrawn at the commencement; and

(b) relates to a person who is a new relevant disqualified person.

(2) The application is taken to have been withdrawn.

(3) The commissioner must give written notice of the withdrawal to—

(a) the person; and

(b) each notifiable person for the person.

470 Other existing applications for prescribed notice

(1) This section applies to an application for a prescribed notice (***existing application***) that—

(a) was made under section 100 or 101 of the unamended Act; and

(b) has not been decided or withdrawn at the commencement; and

(c) is not an application to which section 466, 467, 468 or 469 applies.

(2) The application is taken to be a prescribed notice application under the relevant provision (***chapter 8 application***) and, subject to subsection (5), chapter 8, part 4 applies to the application.

(3) Subject to subsection (4), anything done or existing in relation to the existing application is taken to have been done or existing in relation to the chapter 8 application.

Examples for subsection (3)—

1 The commissioner has given the person about whom the existing application is made a notice asking for stated information, including by way of a submission. The notice is taken to have been given in relation to the chapter 8 application.

2 The commissioner has requested police information about the person about whom the existing application is made from the police commissioner. The request is taken to have been made in relation to the chapter 8 application.

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Not authorised—indicative only

(4) Subsection (3) applies only to the extent the thing can be done or in existence in relation to the chapter 8 application.

(5) Despite section 231(2), a prescribed notice issued under this section remains current for 2 years after it is issued, unless it is earlier cancelled under chapter 8, part 4, division 11.

(6) In this section—

relevant provision means—

(a) for an application under section 100 of the unamended Act—section 199; or

(b) for an application under section 101 of the unamended Act—section 211.

471 Existing positive notices held by new relevant disqualified person because of interim order

(1) This section applies in relation to a positive notice issued under section 102(2)(a) of the unamended Act (including a positive notice that, immediately before the commencement, is suspended under section 119C of the unamended Act) to a person who is a new relevant disqualified person only because the person is subject to an interim sexual offender order.

(2) If the positive notice is not suspended under section 119C of the unamended Act immediately before the commencement, the commissioner must, by written notice given to the person, suspend the person's positive notice.

(3) The written notice must state the matters mentioned in section 240(3).

(4) If the positive notice is suspended under section 119C of the unamended Act immediately before the commencement and the suspension has not ended at the commencement, the suspension continues subject to subsection (5).

(5) Sections 240 and 241 apply to the suspended positive notice as if the notice were suspended under section 240(2).

472 Existing positive notices held by other new relevant disqualified persons

(1) This section applies in relation to a positive notice issued under section 102(2)(a) of the unamended Act (including a positive notice that, immediately before the commencement, is suspended under section 119C of the unamended Act) to a person who is a new relevant disqualified person other than a person mentioned in section 471(1).

(2) The positive notice is cancelled.

(3) If, immediately before the commencement, the positive notice is suspended under section 119C of the unamended Act, any application for the cancellation of the suspension under section 119D of the unamended Act that has not been decided or withdrawn at the commencement is taken to have been withdrawn.

(4) The commissioner must give notice of the cancellation of the positive notice to—

(a) the person; and

(b) each notifiable person for the person.

(5) A notice mentioned in subsection (4)—

(a) must state that the positive notice is cancelled and the date the positive notice is cancelled; and

(b) is taken, for sections 194, 195, 256 and 257, to be a notice that a negative notice has been issued to the person on the date the positive notice is cancelled.

473 Other existing positive notices and positive notice blue cards

(1) This section applies in relation to a positive notice issued under section 102(2)(a) of the unamended Act that is current under this Act immediately before the commencement, other than a positive notice to which section 471 or 472 applies.

(2) The positive notice—

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Not authorised—indicative only

(a) is taken to be a positive notice issued under section 220(a); and

(b) remains current for 2 years after it was issued under section 102(2)(a) of the unamended Act, unless it is earlier cancelled under chapter 8, part 4, division 11.

(3) Any positive notice blue card issued under the unamended Act for the positive notice—

(a) continues to be a positive notice blue card relating to the positive notice; and

(b) remains current for the same period as the positive notice.

(4) If the holder of the positive notice is a new disqualified person (but not a new relevant disqualified person), the person is taken to have been issued with an eligibility declaration, subject to subsection (5).

(5) If, after the commencement, the commissioner is to make, under chapter 8, part 4, division 9 (including as applied under other provisions of chapter 8), a decision about the holder of a positive notice who is a new disqualified person, and it is the first time the commissioner is to make a decision under that division about the person after the commencement, section 223(1)(b) does not apply to the commissioner making the decision.

474 Existing negative notices

(1) A negative notice issued under section 102(2)(b) of the unamended Act that is current under the unamended Act immediately before the commencement is taken to be a negative notice issued under section 220(b).

(2) For subsection (1), the 2 year period mentioned in section 236(3) runs from the date the negative notice was issued under section 102(2)(b) of the unamended Act.

475 Application of ch 8 to police officers and registered teachers

(1) Section 173 and chapter 8, part 5 do not take effect until 3 months after the commencement (the ***exemption notice regime commencement date***).

(2) Chapter 8, part 4 applies in relation to a police officer or registered teacher until the exemption notice regime commencement date—

(a) with any necessary changes; and

(b) subject to this part.

(3) A prescribed notice application about a police officer or registered teacher that has not been decided or withdrawn at the exemption notice regime commencement date must be decided under chapter 8, part 4 despite section 173.

(4) An eligibility application made by a police officer or registered teacher that has not been decided or withdrawn at the exemption notice regime commencement date is taken to have been withdrawn, and the commissioner must give written notice of the withdrawal to the police officer or registered teacher.

(5) A current positive notice or current negative notice held by a police officer or registered teacher at the exemption notice regime commencement date, or issued under this part, continues in effect despite section 173, and section 247 applies in relation to the notice.

(6) Without limiting subsection (2)(a), until the exemption notice regime commencement date, sections 36 and 243 apply as if they provided for the issue of a prescribed notice, instead of an exemption notice, to a person who is a police officer or registered teacher.

Not authorised—indicative only

Not authorised—indicative only

476 Application of ch 8 to disability services regulated employment

(1) Chapter 8 does not apply to the employment of a person in disability services regulated employment until 3 months after the commencement (***disability services commencement date***).

(2) Subsection (3) applies to a person who, at the disability services commencement date—

(a) is employed in disability services regulated employment; and

(b) does not have a current positive notice; and

(c) either—

(i) has a current positive notice under the *Disability Services Act 2006* (***DSA positive notice***); or

(ii) has an application for a prescribed notice under the *Disability Services Act 2006* that has not been decided or withdrawn (***DSA application***).

(3) The relevant regulatory provisions do not apply in relation to the employment of the person until—

(a) for a person who has a DSA positive notice—the earlier of the following—

(i) the expiry or cancellation of the person's DSA positive notice under the *Disability Services Act 2006*;

(ii) 12 months after the disability services commencement date; or

(b) for a person who has a DSA application—

(i) if the person is issued with a DSA positive notice—12 months after the disability services commencement date; or

(ii) if the person is issued with a negative notice under the *Disability Services Act 2006*—the day the negative notice is issued; or

(iii) if the person's DSA application is withdrawn before it is decided—the day the DSA application is withdrawn.

Note—

See, however, sections 194 to 196 and 256 to 258.

(4) Section 323 does not apply to a person mentioned in subsection (2) until the first prescribed notice application or exemption notice application about the person is made after the disability services commencement date.

(5) In this section—

relevant regulatory provisions means—

(a) for a person who is not a police officer or registered teacher and is employed in disability services regulated employment as a volunteer—section 188; or

(b) for a person who is not a police officer or registered teacher and is employed in disability services regulated employment other than as a volunteer—sections 191 to 193; or

(c) for a police officer or registered teacher—sections 251 and 253 to 255.

477 Application of ch 8 to disability services regulated businesses

(1) Chapter 8 does not apply to the carrying on of a disability services regulated business until 3 months after the commencement (***disability services commencement date***).

(2) Subsection (3) applies to a person who, at the disability services commencement date—

(a) is carrying on a disability services regulated business; and

(b) does not have a current positive notice or current negative notice; and

(c) either—

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Not authorised—indicative only

(i) has a current positive notice under the *Disability Services Act 2006* (***DSA positive notice***); or

(ii) has an application for a prescribed notice under the *Disability Services Act 2006* that has not been decided or withdrawn (***DSA application***).

(3) Sections 197 and 259 do not apply to the person carrying on the disability services regulated business until—

(a) if the person holds a DSA positive notice—the earlier of the following—

(i) the expiry or cancellation of the person's DSA positive notice under the *Disability Services Act 2006*;

(ii) 12 months after the disability services commencement date; or

(b) for a person who has a DSA application—

(i) if the person is issued with a DSA positive notice—12 months after the disability services commencement date; or

(ii) if the person is issued with a negative notice under the *Disability Services Act 2006*—the day the negative notice is issued; or

(iii) if the person's DSA application is withdrawn before it is decided—the day the DSA application is withdrawn.

(4) Section 323 does not apply to a person mentioned in subsection (2) until the first prescribed notice application or exemption notice application about the person is made after the disability services commencement date.

478 Application of ch 8 to new local government regulated employment

(1) Chapter 8 does not apply to the employment of a person in new local government regulated employment until 3 months

after the commencement (***local government commencement date***).

(2) Subsections (3) to (5) apply to a person who, at the local government commencement date—

(a) is employed in new local government regulated employment; and

(b) does not have a current positive notice.

(3) If the person is not a police officer or registered teacher and is employed in the new local government regulated employment as a volunteer, section 188 does not apply in relation to the employment of the person until—

(a) if a prescribed notice application about the person is made before or during the transitional period and is not withdrawn—the day a prescribed notice is issued to the employee; or

(b) if a prescribed notice application about the person is made before or during the transitional period and is withdrawn—the day the application is withdrawn; or

(c) if a prescribed notice application about the person is not made before or during the transitional period—the transitional period ends.

Note—

See, however, sections 195 and 196.

(4) If the person is not a police officer or registered teacher and is employed in the new local government regulated employment other than as a volunteer and the person does not have a current positive notice, sections 191 to 193 do not apply in relation to the employment of the person until the transitional period ends.

Note—

See, however, sections 194 to 196.

(5) If the person is a police officer or registered teacher, sections 251 and 253 to 255 do not apply in relation to the employment of the person until the transitional period ends.

Not authorised—indicative only

Not authorised—indicative only

Note—

See, however, sections 256 to 258.

(6) Section 323 does not apply to a person mentioned in subsection (2) until the first prescribed notice application or exemption notice application about the person is made after the commencement.

(7) In this section—

transitional period means the period—

(a) starting on the local government commencement date; and

(b) ending 12 months after the local government commencement date.

479 Application of ch 8 to new local government regulated business

(1) Chapter 8 does not apply to the carrying on of a new local government regulated business until 3 months after the commencement (***local government commencement date***).

(2) Subsections (3) and (4) apply to a person who, at the local government commencement date—

(a) is carrying on a new local government regulated business; and

(b) does not have a current positive notice or current negative notice.

(3) If the person is not a police officer or registered teacher, section 197 does not apply to the person carrying on the local government regulated business until—

(a) if the person applies for a prescribed notice before or during the transitional period and does not withdraw the application—the day a prescribed notice is issued to the person; or

(b) if the person applies for a prescribed notice before or during the transitional period and withdraws the application—the day of the withdrawal; or

(c) if the person does not apply for a prescribed notice before or during the transitional period—the transitional period ends.

(4) If the person is a police officer or registered teacher, section 259 does not apply to the person carrying on the local government regulated business until the transitional period ends.

(5) Section 323 does not apply to a person mentioned in subsection (2) until the first prescribed notice application or exemption notice application about the person is made after the commencement.

(6) In this section—

transitional period means the period—

(a) starting on the local government commencement date; and

(b) ending 12 months after the local government commencement date.

480 Employing persons in other new regulated employment

(1) Subsections (2) and (3) apply if, immediately before the commencement—

(a) a person (the ***employee***) was employed or was continuing to be employed by another person (the ***employer***) in other new regulated employment as a volunteer; and

(b) at the commencement, the person does not have a current positive notice.

(2) If the employee is not a police officer or registered teacher, section 188 does not apply in relation to the employment of the employee until—

Not authorised—indicative only

Not authorised—indicative only

(a) if a prescribed notice application about the person is made before or during the transitional period and is not withdrawn—the day a prescribed notice is issued to the employee; or

(b) if a prescribed notice application about the person is made before or during the transitional period and is withdrawn—the day the application is withdrawn; or

(c) if a prescribed notice application about the person is not made before or during the transitional period—the transitional period ends.

Note—

See, however, sections 195 and 196.

(3) If the employee is a police officer or registered teacher, section 251 does not apply in relation to the employment of the employee until the transitional period ends.

Note—

See, however, sections 257 and 258.

(4) Subsections (5) and (6) apply if, immediately before the commencement—

(a) a person (the ***employee***) was employed or was continuing to be employed by another person (the ***employer***) in other new regulated employment other than as a volunteer; and

(b) at the commencement, the person does not have a current positive notice.

(5) If the employee is not a police officer or registered teacher, sections 191 to 193 do not apply in relation to the employment of the employee until the transitional period ends.

Note—

See, however, sections 194 to 196.

(6) If the employee is a police officer or registered teacher, sections 253 to 255 do not apply in relation to the employment of the employee until the transitional period ends.

Note—

See, however, sections 256 to 258.

(7) Section 323 does not apply to an employee mentioned in subsection (1) or (4) until the first prescribed notice application or exemption notice application about the person is made after the commencement.

(8) In this section—

transitional period means—

(a) if the employer for the other new regulated employment is a government entity—the period starting at the commencement and ending 12 months after the commencement; or

(b) otherwise—the period starting at the commencement and ending 6 months after the commencement.

481 Carrying on other new regulated business

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

(a) a person was carrying on an other new regulated business; and

(b) at the commencement, the person does not have a current positive notice or current negative notice.

(2) If the person is not a police officer or registered teacher, section 197 does not apply to the person carrying on the other new regulated business until—

(a) if the person applies for a prescribed notice before or during the transitional period and does not withdraw the application—the day a prescribed notice is issued to the person; or

(b) if the person applies for a prescribed notice before or during the transitional period and withdraws the application—the day of the withdrawal; or

Not authorised—indicative only

Not authorised—indicative only

(c) if the person does not apply for a prescribed notice before or during the transitional period—the transitional period ends.

(3) If the person is a police officer or registered teacher, section 259 does not apply to the person carrying on the other new regulated business until the transitional period ends.

(4) Section 323 does not apply to a person mentioned in subsection (1) until the first prescribed notice application or exemption notice application about the person is made after the commencement.

(5) In this section—

transitional period means—

(a) if the person carrying on the other new regulated business is a government entity—the period starting at the commencement and ending 12 months after the commencement; or

(b) otherwise—the period starting at the commencement and ending 6 months after the commencement.

482 Effect of conviction for serious offence

(1) This section applies in relation to a person with a positive notice who is convicted of a serious offence before the commencement if, at the commencement, the person has not been issued a further prescribed notice as mentioned in section 111 of the unamended Act.

(2) Section 322 applies to the person as if the conviction happened immediately after the commencement.

(3) For subsection (2), if the person has given the person's positive notice to the commissioner under section 117(2) of the unamended Act, the person is taken to have given the positive notice to the commissioner under section 322(2).

(4) In this section—

serious offence means serious offence as defined under the unamended Act.

483 Existing applications to cancel negative notice

(1) This section applies if—

(a) a person has applied for a cancellation of the person's negative notice under section 118 of the unamended Act; and

(b) the application has not been decided or withdrawn at the commencement.

(2) If the application was made by a new relevant disqualified person—

(a) the application is taken to have been withdrawn; and

(b) the commissioner must give written notice of the withdrawal to the person.

(3) If the application is made by a person other than a new relevant disqualified person, the application is taken to have been made under section 236, and must be decided under that section.

484 Existing suspensions of positive notice

(1) This section applies if—

(a) the commissioner has given a notice under section 119C of the unamended Act (***suspension notice***) suspending a person's positive notice; and

(b) the suspension has not ended at the commencement.

(2) The person's positive notice is taken to have been suspended under section 240(2) and sections 240 and 241 apply to the suspended positive notice.

(3) If the person has applied for the positive notice to be cancelled and a further positive notice or negative notice to be issued to the person under section 119D of the unamended Act, the application is taken to have been made under section 241 and the commissioner must decide the application under that section.

(4) This section is subject to sections 471 and 472.

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485 Continuation if commissioner acting on own initiative

(1) This section applies if—

(a) before the commencement, the commissioner had started on the commissioner's own initiative to exercise a power in relation to a person or a prescribed notice; and

(b) the commissioner may, immediately after the commencement, exercise the power under chapter 8.

(2) The commissioner may continue to exercise the power under chapter 8 in relation to the person or prescribed notice.

(3) Subsection (2) applies even if the matters to which the commissioner may or must have regard in exercising the power, or any other powers that the commissioner may exercise in relation to exercising the power, are different under chapter 8.

486 Effect of conviction or charge for new disqualifying offence

(1) For applying section 169(1)(a) or 170(a) in relation to a person convicted of a new disqualifying offence, it is immaterial as to when the offence was committed or when the person was convicted of the offence.

Example—

A new disqualifying offence may have been committed, and the person convicted of the offence, before the commencement.

(2) Section 240 applies in relation to a person who holds a current positive notice who is charged with a new disqualifying offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.

487 Replacement of positive notice or positive notice blue card

(1) This section applies if—

(a) a person's current positive notice or current positive notice blue card is lost or stolen 14 days or less before the commencement; and

(b) at the commencement, the person has not applied for a replacement notice or card as required under section 120 of the unamended Act.

(2) Section 120 of the unamended Act does not apply to the person.

(3) Section 347 applies to the person as if the reference to 14 days after the loss or theft were a reference to the later of the following—

(a) 14 days after the loss or theft;

(b) 7 days after the commencement.

488 Existing eligibility application by new relevant disqualified person

(1) This section applies to an application for an eligibility declaration that—

(a) was made under section 120F of the unamended Act by a new relevant disqualified person; and

(b) has not been decided or withdrawn at the commencement.

(2) The application is taken to have been withdrawn.

(3) The commissioner must give written notice of the withdrawal to the person.

489 Other existing eligibility applications

(1) This section applies to an application for an eligibility declaration (***existing application***) that—

(a) was made under section 120F of the unamended Act by a person other than a new relevant disqualified person; and

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(b) has not been decided or withdrawn at the commencement.

(2) The existing application is taken to be an eligibility application under section 178 (***section 178 application***) and chapter 8, part 4, division 2 applies to the application.

(3) Anything done or existing in relation to the existing application is taken to have been done or existing in relation to the section 178 application.

Examples for subsection (3)—

1 The commissioner has given the applicant a notice asking for stated information, including by way of a submission. The notice is taken to have been given in relation to the section 178 application.

2 The commissioner has requested police information about the applicant from the police commissioner. The request is taken to have been made in relation to the section 178 application.

(4) Subsection (3) applies only to the extent the thing can be done or in existence in relation to the section 178 application under chapter 8, part 4, division 2.

490 Existing decisions on eligibility applications

(1) An eligibility declaration issued under section 120H of the unamended Act to a new relevant disqualified person is cancelled.

(2) An eligibility declaration issued under section 120H of the unamended Act to a person other than a new relevant disqualified person is taken to be an eligibility declaration issued under section 180.

(3) The reference to a refusal of an eligibility application in section 178(2) is taken to include a reference to a refusal of an eligibility application under section 120H of the unamended Act.

(4) Section 186 applies to a refusal under section 120H of the unamended Act of an eligibility application made by a person other than a new relevant disqualified person.

491 Existing reviews and appeals by new disqualified person

(1) This section applies if—

(a) before the commencement, a person—

(i) applied for a review of a decision of the commissioner under section 121 of the unamended Act; or

(ii) appealed under the QCAT Act against a decision of QCAT relating to a review of a decision under section 121 of the unamended Act; and

(b) the review or appeal has not been decided at the commencement; and

(c) the person is a new disqualified person.

(2) The entity hearing the review or appeal, or any proceeding relating to the review or appeal, must dismiss the review or appeal or the proceeding.

492 Other existing reviews and appeals

(1) This section applies if—

(a) before the commencement, a person—

(i) applied for a review of a decision of the commissioner under section 121 of the unamended Act; or

(ii) appealed under the QCAT Act against a decision of QCAT relating to a review of a decision under section 121 of the unamended Act; and

(b) the review or appeal has not been decided at the commencement; and

(c) section 491 does not apply to the review or appeal.

(2) The entity hearing the review or appeal must apply this Act in relation to the matter the subject of the review or appeal.

(3) Without limiting subsection (2), the entity may exercise a power of the commissioner under chapter 8, part 6, divisions 6

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and 7 for deciding a review of or appeal against a decision of the commissioner as to whether or not there is an exceptional case for a person.

(4) Subsection (5) applies if a disqualified person applied for the review or the review to which the appeal relates before the person became a disqualified person.

(5) The entity hearing the review or appeal, or any proceeding in relation to the review or appeal, must dismiss the review or appeal, or the proceeding, on its own initiative or on application by the commissioner.

493 Person may apply for a review of a decision

(1) This section applies to a decision of the commissioner made before the commencement if—

(a) immediately before the commencement, a person could have, but has not, applied for a review of the decision under section 121 of the unamended Act; and

(b) the period within which the person could have applied for the review (the ***review period***) has not passed; and

(c) the person is not a disqualified person.

(2) The person may apply for a review of the decision under section 354 within the review period.

(3) To remove any doubt, it is declared that section 355 applies in relation to the application for the review.

494 Police commissioner's decision that information is investigative information

(1) This section applies in relation to an offence (***new investigative information offence***) that—

(a) is a schedule 6 offence; but

(b) was not an offence mentioned in section 121A(1)(a) of the unamended Act.

(2) Section 305 applies in relation to a positive notice holder's acts or omissions constituting a new investigative information offence even if the acts were committed or omissions were made before the commencement.

495 Appeals against police commissioner's decision that information is investigative information

(1) Sections 121C to 121E of the unamended Act continue to apply in relation to a decision of the police commissioner that information about a person is investigative information made before the commencement as if the amending Act had not been enacted.

(2) An appeal against a decision mentioned in subsection (1) must be decided under the unamended Act.

496 Notice about withdrawal of application or negative notice

(1) This section applies if—

(a) under section 123A of the unamended Act, the commissioner was required to give someone written notice about the withdrawal of an application or that a particular person has a current negative notice; and

(b) at the commencement, the notice has not been given.

(2) The commissioner must give the notice under section 123A of the unamended Act as if the amending Act had not been enacted.

497 Dealing with information

(1) Information obtained by the commissioner under part 6 of the unamended Act is taken to have been obtained under chapter 8.

(2) Without limiting subsection (1), section 345 applies to the information as if the reference to using the information under chapter 8 in the section included a reference to using the information under part 6 of the unamended Act.

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498 Disqualification orders for acts done or omissions made before commencement

A court may make a disqualification order under section 357 in relation to a person convicted of an offence after the commencement arising out of an act done or omission made before the commencement.

Division 3 Transitional provisions relating to previous part 7

499 Notice about change in criminal history not given at the commencement

(1) This section applies if—

(a) before the commencement, there is a change in a staff member's criminal history; and

(b) at the commencement, the staff member has not disclosed the details of the change to the commissioner as required by section 133 of the unamended Act.

(2) Despite section 133 of the unamended Act, the person is no longer required to give the details.

500 Request for prescribed police information not complied with at the commencement

(1) This section applies if—

(a) the commissioner has, under section 136 of the unamended Act, asked the police commissioner for prescribed police information about a person; and

(b) at the commencement, the police commissioner has not given the prescribed police information to the commissioner.

(2) Despite section 136(3) of the unamended Act, the police commissioner is no longer required to comply with the commissioner's request.

501 Particular prescribed police information obtained but not used before commencement

(1) This section applies if—

(a) before the commencement, the police commissioner gave the commissioner a person's prescribed police information under section 136 of the unamended Act; and

(b) at the commencement, the commissioner has not, in relation to the prescribed police information, made an assessment about the person's suitability to be, or continue to be, a staff member under section 138 of the unamended Act.

(2) The commissioner must immediately—

(a) destroy the prescribed police information; and

(b) stop making the assessment.

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

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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.

(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.

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(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*.

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.

Not authorised—indicative only

Not authorised—indicative only

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.

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

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(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

(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—

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(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—

(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—

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Not authorised—indicative only

(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

(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

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Not authorised—indicative only

(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

(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.

Not authorised—indicative only

Not authorised—indicative only

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

(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.

Not authorised—indicative only

Not authorised—indicative only

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.

(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.

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(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

(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—

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(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.

(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.

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Not authorised—indicative only

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.

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

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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.

Part 19 Transitional provisions for Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019

Division 1 Preliminary

549 Definitions for part

In this part—

amended Act means this Act as in force after the commencement of the section in which the term is used.

amendment Act means the *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019*.

Division 2 Application of particular provisions before changes to employment screening

550 Particular references in ch 8A during transition period

From the commencement of this section until the commencement of the amendment Act, section 28—

(a) a reference in chapter 8A to a working with children check application is taken to—

(i) be a reference to a prescribed notice application or an exemption notice application; and

(ii) include a reference to an application mentioned in subparagraph (i) that was decided, withdrawn or taken to have been withdrawn before the commencement; and

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(b) a reference in chapter 8A to a working with children authority is taken to be a reference to a positive notice or a positive exemption notice.

551 Stay of operation of particular decisions of QCAT

(1) Section 354A applies to a decision of QCAT mentioned in that section made after the commencement, even if the proceeding for the review started before the commencement.

(2) A reference in section 354A to a negative notice is taken to include a reference to a negative exemption notice.

552 New regulated employment

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

(a) a person was employed in employment, or was continuing in employment, mentioned in schedule 1, section 4(2); and

(b) the employee does not have a current positive notice or positive exemption notice.

(2) Sections 188 and 251 do not apply in relation to the person until—

(a) 3 months after the commencement; or

(b) if a prescribed notice application or exemption notice application is made about the person within the period mentioned in paragraph (a)—the application is decided or withdrawn.

552A Effect of pre-commencement charge for serious offence

For applying this Act in relation to a person the subject of a charge for a serious offence that has not been dealt with on the commencement, the person is taken to have been charged with the offence on the commencement.

552B Applicant in paid employment convicted of serious offence

(1) This section applies if—

(a) before the commencement of the amendment Act, section 28, a prescribed notice application was made about a person under section 199; and

(b) the application relates to the person's employment, or proposed employment, in regulated employment other than as a volunteer; and

(c) the application has not been decided or withdrawn; and

(d) the chief executive becomes aware that the person was convicted of a serious offence—

(i) if the person held a positive notice when the application was made—after the application was made; or

(ii) if the person held a positive notice that expired before the application was made—after the person's notice expired; or

(iii) otherwise—before or after the application was made.

(2) The chief executive must give the person a written notice that states—

(a) the person is not allowed to perform work that is regulated employment before the person's application is decided; and

(b) it is an offence for the person to perform work that is regulated employment, or to start in regulated employment, unless the person is issued a positive notice.

(3) If the chief executive gives the person a notice under subsection (2), the person must not, unless the person is issued a positive notice—

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(a) if the employee is employed in regulated employment when given the notice under subsection (2)—perform work that is regulated employment; or

(b) otherwise—start in regulated employment.

Maximum penalty—500 penalty units or 5 years imprisonment.

(4) If the chief executive gives the person a notice under subsection (2), the chief executive must also give each notifiable person for the person a written notice that states—

(a) the person is not allowed to perform work that is regulated employment before the person's application is decided; and

(b) it is an offence for an employer to allow the person to start or continue to perform work that is regulated employment unless the person is issued a positive notice.

(5) If the chief executive gives a person (an ***employer***) a notice about another person (the ***employee***) under subsection (4), the employer must not allow the employee to start or continue to perform work that is regulated employment unless the employee is issued a positive notice.

Maximum penalty—200 penalty units or 2 years imprisonment.

(6) An employer may not dismiss the employee solely or mainly because the employer is given a notice under subsection (4).

(7) Section 356 applies in relation to the employer as if a reference in that section to this chapter includes a reference to this section.

(8) This section applies despite chapter 8, part 4, division 4.

Division 3 New serious offences and disqualifying offences

553 Definitions for division

In this division—

new disqualified person means a person who is a disqualified person only because—

(a) the person has a conviction for a new disqualifying offence; or

(b) the person is the respondent to an application for an offender prohibition order under the Offender Reporting Act.

new disqualifying offence means an offence that—

(a) is a disqualifying offence; but

(b) was not a disqualifying offence immediately before the commencement.

new relevant disqualified person means a person who is a relevant disqualified person only because—

(a) the person has a conviction for a new disqualifying offence for which an imprisonment order was imposed; or

(b) the person is the respondent to an application for an offender prohibition order under the Offender Reporting Act.

new serious offence means an offence that—

(a) is a serious offence; but

(b) was not a serious offence immediately before the commencement.

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553A Effect of conviction or charge for new serious offence

(1) For applying this Act in relation to a person convicted of a new serious offence, it is immaterial as to when the offence was committed or when the person was convicted of the offence.

(2) This Act applies in relation to a person who is charged with a new serious offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.

(3) For applying this Act to a current positive notice or current positive exemption notice held by a person immediately before the commencement—

(a) a person convicted of a new serious offence before the commencement is taken to have been convicted of the offence on the commencement; and

(b) a person the subject of a charge for a new serious offence that has not been dealt with on the commencement is taken to have been charged with the offence on the commencement.

554 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.

(2) This Act applies in relation to a person 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) For applying this Act to a current positive notice or current positive exemption notice held by a person immediately before the commencement, a person the subject of a charge for a new disqualifying offence that has not been dealt with on

the commencement is taken to have been charged with the offence on the commencement.

554A Effect of conviction for new disqualifying offence on existing positive notice or positive exemption notice

(1) This section applies if—

(a) a person held a current positive notice or current positive exemption notice immediately before the commencement; and

(b) the person was convicted of a new disqualifying offence before the commencement.

(2) For applying this Act to the person's positive notice or positive exemption notice, the offence is taken to be, or to continue to be, a serious offence despite the enactment of the amending Act.

(3) Without limiting subsection (2), if the person applies for another positive notice or positive exemption notice after the commencement, or section 557 or 558 applies in relation to the person—

(a) the person's conviction for the offence is taken to be, or to continue to be, a conviction for a serious offence; and

(b) the person is taken not to be a disqualified person or relevant disqualified person in relation to the person's conviction for the offence.

555 Existing eligibility application

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

(a) an eligibility application had not been decided or withdrawn; or

(b) an application mentioned in section 186(2) had not been decided.

(2) The application must be decided under the amended Act.

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556 Expiry of eligibility declaration for new disqualifying offence

An eligibility declaration in force for a person immediately before the commencement ends if, on the commencement—

(a) the person is a new disqualified person, whether or not the person is also a new relevant disqualified person; or

(b) the person is the subject of a charge for a new disqualifying offence that has not been dealt with.

557 Existing prescribed notice applications and exemption notice applications

(1) This section applies if—

(a) immediately before the commencement, a prescribed notice application or an exemption notice application made about a person had not been decided or withdrawn; and

(b) on the commencement, either—

(i) the person is a new disqualified person, whether or not the person is also a new relevant disqualified person; or

(ii) the person is the subject of a charge for a new disqualifying offence that has not been dealt with.

(2) The person's application is taken to be withdrawn.

(3) The chief executive must give a written notice about the withdrawal to—

(a) the person; and

(b) each notifiable person for the person; and

(c) if the person is the director of a school's governing body—the accreditation board.

558 Existing positive notice or positive exemption notice held by person convicted of new serious offence or new disqualifying offence

(1) This section applies if—

(a) immediately before the commencement, a person held a current positive notice or current positive exemption notice; and

(b) before the commencement, the person was convicted of—

(i) a new serious offence; or

(ii) a new disqualifying offence that is taken to be a serious offence under section 554A(2).

(1A) Section 322 does not apply to the person in relation to the person's conviction for the offence.

(1B) The chief executive must—

(a) consider whether it is appropriate to cancel the person's positive notice or positive exemption notice under this section because of the person's conviction for the offence; and

(b) give the person, and each notifiable person for the person, a notice stating that, because of the enactment of the amending Act, the chief executive is considering under this section whether the person should continue to hold the person's positive notice or positive exemption notice.

(2) The chief executive may cancel the person's positive notice and substitute a negative notice if the chief executive is satisfied that, if the chief executive were to decide a new prescribed notice application about the person under the amended Act, the chief executive would issue a negative notice to the person.

(3) Section 237(2) to (6) applies to a decision under subsection (2).

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(4) The chief executive may cancel the person's positive exemption notice and substitute a negative exemption notice if the chief executive is satisfied that, if the chief executive were to decide a new exemption notice application about the person under the amended Act, the chief executive would issue a negative exemption notice to the person.

(5) Section 295(2) to (6) applies to a decision under subsection (4).

(6) If the chief executive decides not to cancel the person's positive notice or positive exemption notice under this section, the chief executive must give the person, and each notifiable person for the person, a notice stating that the chief executive is satisfied, having considered the enactment of the amending Act, the person should continue to hold the person's positive notice or positive exemption notice.

559 Existing application to cancel negative notice or negative exemption notice

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

(a) an application under section 236 to cancel a person's negative notice had not been decided or withdrawn; or

(b) an application under section 294 to cancel a person's negative exemption notice had not been decided or withdrawn.

(2) If the person is a new relevant disqualified person—

(a) the application is taken to be withdrawn; and

(b) the chief executive must give a written notice about the withdrawal to the person.

(3) If the person is not a new relevant disqualified person, the amended Act applies for deciding the application.

560 Existing application to cancel suspended positive notice or positive exemption notice

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

(a) an application under section 241 or 243 to cancel a person's suspended positive notice had not been decided or withdrawn; or

(b) an application under section 299 to cancel a person's suspended positive exemption notice had not been decided or withdrawn.

(2) The amended Act applies for deciding the application.

561 Undecided reviews and appeals by new disqualified persons

(1) This section applies if—

(a) a person is a new disqualified person; and

(b) immediately before the commencement—

(i) an application, made by the person under section 354, for a review of a chapter 8 reviewable decision had not been decided or withdrawn; or

(ii) an appeal, started by the person under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision had not been decided or withdrawn.

(2) The application or appeal, and any proceeding in relation to the application or appeal, must be dismissed.

(3) Subsection (2) applies to a proceeding before QCAT even if the dismissal would be contrary to a direction of the Court of Appeal.

562 Review of chapter 8 reviewable decision about new disqualified person

(1) This section applies if—

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(a) a person is a new disqualified person; and

(b) before the commencement—

(i) the chief executive made a chapter 8 reviewable decision about the person; and

(ii) the person had not applied for a review of the decision under section 354.

(2) The amended Act applies for the chapter 8 reviewable decision.

Note—

A disqualified person may not apply for a review of a chapter 8 reviewable decision. See section 354(1).

563 Appeal by new disqualified person against QCAT decision

(1) This section applies if—

(a) a person is a new disqualified person; and

(b) before the commencement, the person had a right to appeal, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision about the person; and

(c) on the commencement, the time for starting an appeal had not ended.

(2) Any appeal started by the person against the decision must be dismissed.

(3) If a proceeding in relation to the appeal is before QCAT, subsection (2) applies even if the dismissal would be contrary to a direction of the Court of Appeal.

564 Existing appeal by chief executive against QCAT decision

(1) This section applies if—

(a) a person is a new disqualified person; and

(b) immediately before the commencement, an appeal against a decision of QCAT relating to a chapter 8 reviewable decision about the person started by the chief executive under the QCAT Act had not been decided or withdrawn.

(2) The court or tribunal hearing the appeal must apply the amended Act in relation to the subject matter of the appeal.

(3) In deciding the appeal, the court or tribunal must consider that, if the person was a disqualified person when the chief executive made the chapter 8 reviewable decision, the person would not have been permitted to apply for a review of the chapter 8 reviewable decision.

565 Existing right of appeal by chief executive against QCAT decision

(1) This section applies if—

(a) a person is a new disqualified person; and

(b) before the commencement, the chief executive had a right to appeal, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision about the person; and

(c) on the commencement, the time for starting the appeal had not ended.

(2) The chief executive may start an appeal under the amended Act even though the person is a disqualified person.

(3) The court or tribunal hearing an appeal started under subsection (2) must apply the amended Act in relation to the subject matter of the appeal.

(4) In deciding the appeal, the court or tribunal must consider that, if the person was a disqualified person when the chief executive made the chapter 8 reviewable decision, the person would not have been permitted to apply for a review of the chapter 8 reviewable decision.

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Not authorised—indicative only

Division 4 Changes to employment screening

Subdivision 1 Preliminary

566 Definitions for division

In this division—

amended, for a provision of this Act, means as in force after the commencement of the section in which the provision is mentioned.

current—

(a) for a prescribed notice—means current under previous section 231; or

(b) for an exemption notice—means current under previous section 289.

exemption card, for a person's positive exemption notice, means a card issued to the person by the chief executive as evidence of the person's positive exemption notice.

exemption notice see previous schedule 7, definition *exemption notice*.

exemption notice application see previous schedule 7, definition *exemption notice application*.

negative exemption notice see previous schedule 7, definition *negative exemption notice*.

negative prescribed notice means a negative notice issued under previous section 220(b).

positive exemption notice see previous schedule 7, definition *positive exemption notice*.

positive notice see previous schedule 7, definition *positive notice*.

positive notice blue card see previous schedule 7, definition *positive notice blue card*.

prescribed notice see previous schedule 7, definition *prescribed notice*.

prescribed notice application see previous schedule 7, definition *prescribed notice application*.

previous, for a provision of this Act, means as in force before the commencement of the provision in which the term is used.

Subdivision 2 Existing eligibility declarations, prescribed notices, exemption notices and related applications

567 Existing eligibility application or eligibility declaration

(1) The amended Act applies for deciding an eligibility application that, immediately before the commencement, had not been decided or withdrawn.

(2) An eligibility declaration that, immediately before the commencement, was in force for a person continues in effect subject to amended section 185.

568 Existing prescribed notice application

(1) This section applies if, immediately before the commencement, a prescribed notice application for a person had been made but not decided, withdrawn or taken to have been withdrawn.

(2) The application is taken to be a working with children check (general) application.

(3) The amended Act applies for deciding the application.

(4) Subsection (5) applies if—

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

(b) immediately before the commencement, the person was employed in regulated employment under previous

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chapter 8, part 4 on the basis the prescribed notice application had been made but not decided, withdrawn or taken to have been withdrawn; and

(c) the person does not hold a negative notice or negative exemption notice.

(5) Despite chapter 7, part 4, division 2 and until the working with children check (general) application is decided or withdrawn—

(a) the person may continue to be employed in the regulated employment; and

(b) for that purpose, sections 175 and 176A do not apply in relation to the employment.

(6) Subsection (7) applies if—

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

(b) immediately before the commencement, the person was carrying on a regulated business under previous section 197(1)(b) on the basis the prescribed notice application had been made but not decided, withdrawn or taken to have been withdrawn; and

(c) the person does not hold a negative notice or negative exemption notice.

(7) Despite chapter 7, part 4, division 2 and until the working with children check (general) application is decided or withdrawn—

(a) the person may continue to carry on the regulated business; and

(b) for that purpose, section 176B does not apply in relation to the regulated business.

568A Transitioning to issuing working with children card for clearance that includes holder's photograph

(1) This section applies if the chief executive approves an application for a person to which section 568 applies.

(2) The chief executive may comply with section 232A for the person's working with children clearance by issuing the person a positive notice blue card that the chief executive would have issued before the commencement to a person who holds a positive notice.

(3) The document mentioned in subsection (2) is taken to be a working with children card issued to the person under section 232A for the person's working with children clearance.

(4) Despite schedule 7, definition *working with children card*, it does not matter that a document issued under subsection (2) does not include a photograph of the person.

569 Existing positive notice and positive notice blue card

(1) This section applies if, immediately before the commencement, a person holds a current positive notice.

(2) The positive notice is taken to be a working with children clearance issued to the person under amended chapter 8, part 4, division 9.

(3) If, immediately before the commencement, the positive notice was suspended under previous section 240 or 242—

(a) the person's working with children clearance under subsection (2) is taken to have been suspended under amended section 296; and

(b) the suspension may be dealt with under the amended Act.

(4) A current positive notice blue card issued to the person for the person's positive notice is taken to be a working with children card issued to the person under section 232A for the person's working with children clearance under subsection (2).

(5) Despite schedule 7, definition *working with children card*, paragraph (b), it does not matter that the positive notice blue card does not include a photograph of the person.

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Not authorised—indicative only

570 Existing negative prescribed notice

(1) This section applies if, immediately before the commencement, a person holds a current negative prescribed notice.

(2) The negative prescribed notice is taken to be a negative notice issued to the person under amended chapter 8, part 4, division 9.

571 Existing exemption notice application

(1) This section applies to an exemption notice application that, immediately before the commencement, had not been decided, withdrawn or taken to have been withdrawn.

(2) The application is taken to be a working with children check (exemption) application.

(3) The amended Act applies for deciding the application.

571A Transitioning to issuing working with children card for exemption that includes holder's photograph

(1) This section applies if, within 6 months after the commencement, the chief executive approves an application for a person to which section 571 applies.

(2) Despite section 289, a working with children exemption is issued to the person for the term that ends 3 years after the commencement.

(3) The chief executive may comply with section 290A for the person's working with children exemption by issuing the person an exemption card that the chief executive would have issued before the commencement to a person who holds a positive exemption notice.

(4) The document mentioned in subsection (3) is taken to be a working with children card issued to the person under section 290A for the person's working with children exemption.

(5) Despite schedule 7, definition *working with children card*, it does not matter that a document issued under subsection (3) does not include—

(a) a photograph of the person; or

(b) the expiry date of the person's working with children exemption.

572 Existing positive exemption notice and positive exemption notice card

(1) This section applies if, immediately before the commencement, a person holds a current positive exemption notice.

(2) The positive exemption notice is taken to be a working with children exemption issued—

(a) to the person under amended chapter 8, part 5, division 8; and

(b) for the term that ends 3 years after the commencement.

(3) If, immediately before the commencement, the positive exemption notice was suspended under previous section 298—

(a) the person's working with children exemption under subsection (2) is taken to have been suspended under amended section 296; and

(b) the suspension may be dealt with under the amended Act.

(4) An exemption card issued to the person for the person's positive exemption notice is taken to be a working with children card issued to the person under section 290A for the person's working with children exemption under subsection (2).

(5) Despite schedule 7, definition *working with children card*, paragraph (b), it does not matter that the exemption card does not include—

(a) a photograph of the person; or

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(b) the expiry date of the person's working with children exemption.

573 Expiry of transitioned positive exemption notice

(1) This section applies in relation to a current positive exemption notice that is taken to be a working with children exemption under section 572 (the ***transitioned exemption***) if—

(a) the term mentioned in section 572(2)(b) ends; and

(b) either—

(i) the holder of the transitioned exemption did not make a working with children check application before the term ended; or

(ii) the holder of the transitioned exemption made a working with children check application before the term ended and the application was withdrawn before it was decided.

(2) The chief executive must give a notice to the person who held the transitioned exemption that states—

(a) the transitioned exemption has expired; and

(b) the person must return the person's working with children card to the chief executive within 14 days after the notice is given, unless the person has a reasonable excuse.

(3) The person must return the person's working with children card to the chief executive within 14 days after the notice is given, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

574 Existing negative exemption notice

(1) This section applies if, immediately before the commencement, a person holds a current negative exemption notice.

(2) The negative exemption notice is taken to be a negative notice issued to the person under amended chapter 8, part 5, division 8.

575 Existing application to cancel positive notice or positive exemption notice

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

(a) an application under previous section 244 to cancel a person's positive notice had not been decided or withdrawn; or

(b) an application under previous section 302 to cancel a person's positive exemption notice had not been decided or withdrawn.

(2) The application is taken to have been made under section 304D in relation to the person's working with children clearance under section 569(2) or working with children exemption under section 572(2).

(3) The amended Act applies for deciding the application.

576 Existing application to cancel negative notice or negative exemption notice

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

(a) an application under previous section 236 to cancel a person's negative prescribed notice had not been decided or withdrawn; or

(b) an application under previous section 294 to cancel a person's negative exemption notice had not been decided or withdrawn.

(2) The application is taken to have been made under section 304G in relation to the person's negative notice under section 570(2) or 574(2).

(3) The amended Act applies for deciding the application.

Not authorised—indicative only

Not authorised—indicative only

577 Existing application to cancel suspended positive notice or positive exemption notice

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

(a) an application under previous section 241 or 243 to cancel a person's suspended positive notice had not been decided or withdrawn; or

(b) an application under previous section 299 to cancel a person's suspended positive exemption notice had not been decided or withdrawn.

(2) The application is taken to have been made under section 300(1)(b) in relation to the person's working with children clearance under section 569(2) or working with children exemption under section 572(2).

(3) The amended Act applies for deciding the application.

Subdivision 3 Reviews and appeals

578 Reviews not started on commencement

(1) This section applies if—

(a) before the commencement—

(i) the chief executive made a chapter 8 reviewable decision about a person; and

(ii) the person had not applied for a review of the decision under section 354; and

(b) on the commencement, the time for starting a review of the decision had not ended.

(2) The person may apply for a review of the decision.

(3) QCAT must apply the amended Act in relation to the subject matter of the review.

579 Appeals not started on commencement

(1) This section applies if—

(a) before the commencement, the chief executive or another person had a right to appeal, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision; and

(b) on the commencement, the time for starting an appeal had not ended.

(2) The entity hearing the appeal must apply the amended Act in relation to the subject matter of the appeal.

580 Undecided reviews and appeals

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

(a) an application, made by a person under section 354, for a review of a chapter 8 reviewable decision had not been decided or withdrawn; or

(b) an appeal against a decision of QCAT relating to a chapter 8 reviewable decision, started by a person under the QCAT Act, had not been decided or withdrawn.

(2) The entity hearing the review or appeal must apply the amended Act in relation to the subject matter of the review or appeal.

Subdivision 4 Other transitional provisions

581 Definitions for subdivision

In this subdivision—

transitioned application means—

(a) for an eligibility application—an eligibility application under section 567; or

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Not authorised—indicative only

(b) for a prescribed notice application—a working with children check application under section 568; or

(c) for an exemption notice application—a working with children check (exemption) application under section 571.

transitioned authority means—

(a) for an eligibility declaration—an eligibility declaration under section 567; or

(b) for a positive notice—a working with children clearance under section 569; or

(c) for a negative prescribed notice—a negative notice under section 570; or

(d) for a positive exemption notice—a working with children exemption under section 572; or

(e) for a negative exemption notice—a negative notice under section 574.

582 Things done before commencement in relation to eligibility declaration, prescribed notice or exemption notice

(1) This section applies in relation to a thing done by the chief executive or another person under this Act before the commencement in relation to—

(a) an eligibility application, prescribed notice application or exemption notice application; or

(b) an eligibility declaration, prescribed notice or exemption notice.

(2) The thing is taken to have been done under the amended Act in relation to—

(a) for a thing done in relation to an eligibility application, prescribed notice application or exemption notice application—the transitioned application for the application; or

(b) for a thing done in relation to an eligibility declaration, prescribed notice or exemption notice—the transitioned authority for the declaration or notice.

(3) The amended Act applies for the purpose of subsection (2) with necessary changes.

(4) This section does not limit another provision of this division.

583 Obligations or powers arising before commencement in relation to eligibility declaration, prescribed notice or exemption notice

(1) This section applies if—

(a) before the commencement, the chief executive or another person was required or permitted under this Act to do, but did not do, something in relation to—

(i) an eligibility application, prescribed notice application or exemption notice application; or

(ii) an eligibility declaration, prescribed notice or exemption notice; and

(b) on the commencement, the period within which the chief executive or other person was required or permitted to do the thing has not passed.

(2) The chief executive or other person must or may do the thing under the amended Act in relation to—

(a) for a thing required or permitted to be done in relation to an eligibility application, prescribed notice application or exemption notice application—the transitioned application for the application; or

(b) for a thing required or permitted to be done in relation to an eligibility declaration, prescribed notice or exemption notice—the transitioned authority for the declaration or notice.

(3) The amended Act applies for the purpose of subsection (2) with necessary changes.

(4) This section does not limit another provision of this division.

Not authorised—indicative only

Not authorised—indicative only

584 Existing employer notices about employment or proposed employment of a person

(1) A person, as the employer of another person, is taken to have given the chief executive a notice mentioned in section 175(1)(b) about employing the other person if, before the commencement, the person—

(a) gave the chief executive a notification about employing the other person under previous section 188(1)(a), 192(2)(a) or 193(2)(a); or

(b) applied for a prescribed notice about the other person.

(2) A person, as the employer of a police officer or registered teacher, is taken to have given the chief executive a notice mentioned in section 176C(1)(b) about employing the police officer or teacher if, before the commencement, the person—

(a) gave the chief executive a notification about employing the police officer or teacher under previous section 251(a), 254(2)(a) or 255(2)(a) or (b); or

(b) applied for an exemption notice about the police officer or teacher.

585 Existing orders under s 357

This Act applies in relation to a disqualification order made under section 357 before the commencement as if—

(a) a reference to a positive notice were a reference to a working with children clearance; and

(b) a reference to a positive exemption notice were a reference to a working with children exemption; and

(c) a reference to applying for a prescribed notice were a reference to making a working with children check (general) application; and

(d) a reference to applying for an exemption notice were a reference to making a working with children check (exemption) application.

586 Particular references in Act or document

In an Act or a document, to the extent the context permits—

(a) a reference to a working with children check (general) application includes a reference to an application for a prescribed notice under previous chapter 8, part 4, division 6 or 7; and

(b) a reference to a working with children check (exemption) application includes a reference to an application for an exemption notice under previous chapter 8, part 5, division 7 or 8; and

(c) a reference to a working with children clearance includes a reference to a positive notice under previous section 220(a); and

(d) a reference to a working with children exemption includes a reference to a positive exemption notice under previous section 282(a); and

(e) a reference to a working with children authority includes a reference to—

(i) a positive notice under previous section 220(a); and

(ii) a positive exemption notice under previous section 282(a); and

(f) a reference to a negative notice includes a reference to—

(i) a negative notice under previous section 220(b); and

(ii) a negative exemption notice under previous section 282(b).

587 Application withdrawn or taken to have been withdrawn before commencement

(1) If, before the commencement, a person withdrew a prescribed notice application or exemption notice application the person made about another person—

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Not authorised—indicative only

(a) the application is taken to have been withdrawn under section 196; and

(b) a notice given by the chief executive about the withdrawal is taken to have been given under section 195 because section 196 applies.

(2) A notice about the withdrawal of a prescribed notice application about a person given under previous section 203, 204 or 214, or about the withdrawal of an exemption notice application about a person given under previous section 263, 264 or 275, is taken to be a withdrawal notice given under section 195 because section 196 applies.

(3) A notice about the withdrawal of a prescribed notice application about a person given under previous section 208 or 217, or about the withdrawal of an exemption notice application about a person given under previous section 269 or 279, is taken to be a withdrawal notice given under section 195 because section 199 applies.

588 Continuing obligation of confidentiality

(1) This section applies if—

(a) immediately before the commencement, previous section 384 applied to a person in relation to particular information; and

(b) on the commencement, section 384 does not apply to the person in relation to the information.

(2) Previous section 384 continues to apply to the person in relation to the information as if the amendment Act had not been enacted.

Division 5 Transitional regulation-making power

589 Transitional regulation-making power

(1) A regulation (a ***transitional regulation***) may make provision about a matter—

(a) for which it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition—

(i) from the operation of this Act as in force before the commencement of a relevant amendment; and

(ii) to the operation of this Act as in force after the commencement of the relevant amendment; and

(b) for which this Act does not provide or sufficiently provide.

(2) A transitional regulation may have retrospective operation to a day not earlier than the day the relevant amendment commenced.

(3) A transitional regulation must declare it is a transitional regulation.

(4) This section and any transitional regulation expire 18 months after the day this section commenced.

(5) In this section—

relevant amendment means an amendment of this Act by the amendment Act.

Not authorised—indicative only

Not authorised—indicative only

Part 20 Transitional provisions for Disability Services and Other Legislation (Worker Screening) Amendment Act 2020

590 New regulated employment

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

(a) a person was employed in employment, or was continuing in employment, mentioned in schedule 1, section 6A; and

(b) the employment was not regulated employment mentioned in schedule 1, section 6 as in force immediately before the commencement; and

(c) the person does not hold a working with children authority.

(2) Sections 175, 176A, 176C and 176E do not apply in relation to the employment until—

(a) 3 months after the commencement; or

(b) if the person makes a working with children check application within the period mentioned in paragraph (a)—the application is decided or withdrawn.

591 New regulated business

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

(a) a person was carrying on a business mentioned in schedule 1, section 16A; and

(b) the business was not a regulated business mentioned in schedule 1, section 16 as in force immediately before the commencement; and

(c) the person does not hold a working with children authority.

(2) Sections 176B and 176G do not apply in relation to the person carrying on the business until—

(a) 3 months after the commencement; or

(b) if the person makes a working with children check application within the period mentioned in paragraph (a)—the application is decided or withdrawn.

592 Information that may be given under section 344

(1) For section 344, the chief executive may give information about a person to the chief executive (disability services) regardless of whether the information relates to a matter that happened before or after the commencement.

(2) Without limiting subsection (1), the information that may be given includes—

(a) information about a working with children check application made before the commencement; and

(b) information about a working with children authority or negative notice issued before the commencement; and

(c) information mentioned in section 344(3)(c) to (e) obtained by the chief executive before the commencement.

593 Continuing obligation of confidentiality

(1) This section applies if—

(a) immediately before the commencement, section 385 applied to a person in relation to particular information; and

(b) on the commencement, section 385 does not apply to the person in relation to the information.

(2) Former section 385 continues to apply to the person in relation to the information as if the *Disability Services and*

Not authorised—indicative only

Not authorised—indicative only

Other Legislation (Worker Screening) Amendment Act 2020 had not been enacted.

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—

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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; or

(b) 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; or

(c) 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.

(2) If an adult is an occupant of a home in which a home-based stand-alone care service that is employment mentioned in subsection (1) is provided—

(a) the adult is taken to be a volunteer who is employed in regulated employment; and

(b) the carer who provides the service is taken to be the person who employs the adult in the regulated employment.

(3) If an adult is an occupant of a family day care residence in which employment mentioned in subsection (1) is provided—

(a) the adult is taken to be a volunteer who is employed in regulated employment; and

(b) the approved provider under the Education and Care Services National Law (Queensland) of the family day care service provided in the residence is taken to be the person who employs the adult in the regulated employment.

(4) Employment mentioned in subsection (1) is not regulated employment if the employee is a volunteer who is a parent of a child to whom education and care is regularly provided—

(a) in the course of the service; or

(b) at the premises.

4A Child care and similar employment

(1) Employment is regulated employment if any of the usual functions of the employment include or are likely to include providing child care in the course of a commercial service.

Examples—

- a babysitting service
- a nanny service
- a service conducted by a hotel or resort to provide child care to children who are short-term guests

(2) However, employment mentioned in subsection (1) is not regulated employment if the employee is a volunteer who is a parent of a child to whom child care is regularly provided in the course of the service.

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

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Not authorised—indicative only

(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—

(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.

Not authorised—indicative only

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

Not authorised—indicative only

(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.

Example for paragraph (d)—

a support service providing emotional support for child victims or witnesses in connection with court or other legal proceedings

(2) However, employment mentioned in subsection (1) is not regulated employment if—

(a) the employee is an approved teacher and the employment is part of the employee's duties for the school that employs the employee; or

(b) the employee is providing the service as part of the employee's employment with 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.

6A Disability work

(1) Employment is regulated employment if the usual functions of the employment include providing disability services to a child or children with disability.

(2) Employment is regulated employment if the usual functions of the employment—

(a) include carrying out risk-assessed NDIS work for an NDIS service provider in relation to a child or children with disability; and

(b) are to be carried out—

(i) as an employee of an NDIS service provider; or

(ii) at a place where an NDIS service provider provides NDIS supports or services to a child or children with disability.

(3) Employment mentioned in subsection (1) or (2) is not regulated employment if—

(a) the employee is a person with disability at a place who receives disability services or NDIS supports or services at the place; or

(b) the employee—

Not authorised—indicative only

Not authorised—indicative only

(i) is a secondary school student on work experience; and

(ii) carries out risk-assessed NDIS work or provides disability services only under the direct supervision of a person who holds a working with children authority; or

(c) the employee is a volunteer at a place who—

(i) is a relative of a person who receives disability services or NDIS supports or services at the place; and

(ii) is at the place only to help with the care of the person.

(4) In this section—

NDIS service provider see the *Disability Services Act 2006*, section 15(1).

risk-assessed NDIS work see the *Disability Services Act 2006*, section 45(2).

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

Not authorised—indicative only

Not authorised—indicative only

(ii) conducting activities, as a religious representative, mainly involving children.

11 Sport and active recreation

(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, 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.

Not authorised—indicative only

Not authorised—indicative only

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—

(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.

(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

16A Disability work

A business is a regulated business if the usual activities of the business include, or are likely to include—

(a) providing disability services to a child or children with disability; or

(b) providing NDIS supports or services to a child or children with disability.

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—

Not authorised—indicative only

Not authorised—indicative only

(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—

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 7 of this Act does not apply

26 Person engaged in employment for the police service

Chapter 7 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.

Not authorised—indicative only

Not authorised—indicative only

27 Employment of relevant person under the *Corrective Services Act 2006*

Chapter 7 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 7 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 services provided relate to the person's functions as a registered health practitioner.

28A Employment of lawyers

Chapter 7 of this Act does not apply to the employment of a person who is an Australian lawyer who may engage in legal practice in this State under the *Legal Profession Act 2007*, to the extent the person is engaging in legal practice.

29 Person providing only help or guidance to child employee

(1) Chapter 7 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 7 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 7 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.

Schedule 2 Current serious offences

section 15

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 child under 16 years or parent or carer of child under 16 years	
219	Taking child for immoral purposes	
221	Conspiracy to defile	

Not authorised—indicative only

Not authorised—indicative only

222	Incest	
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	
228I	Producing or supplying child abuse object	
228J	Possessing child abuse object	
229B	Maintaining a sexual relationship with a child	

229BB	Failure to protect child from child sexual offence	
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	
306	Attempt to murder	
309	Conspiring to murder	
313	Killing unborn child	
315	Disabling in order to commit indictable offence	
315A	Choking, suffocation or strangulation in a domestic setting	
316	Stupefying in order to commit indictable offence	

Not authorised—indicative only

Not authorised—indicative only

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	
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)

Editor's note—

Schedule 2, item 4, entry for the Criminal Code incorporates an uncommenced amendment—see 2020 Act No. 32 pt 14 div 3.

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**
270.5	Servitude offences	

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
271.4	Offence of trafficking in children	
271.7	Offence of domestic trafficking in children	
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
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

Not authorised—indicative only

Not authorised—indicative only

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
273A.1	Possession of child-like sex dolls etc.
273B.4	Failing to protect child at risk of child sexual abuse offence
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
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

Not authorised—indicative only

Not authorised—indicative only

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
474.22A	Possessing or controlling child abuse material obtained or accessed using a carriage service
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

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

Not authorised—indicative only

Not authorised—indicative only

Schedule 3 Repealed or expired serious offences

section 15

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*
218B	Grooming children under 16	as the provision was in force from time to time before its repeal by the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020*
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*
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)

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)

3 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, as the provisions were in force from time to time before their repeal by the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* (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 16

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	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)

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.	if the offence was committed against a child
218A	Using internet etc to procure children under 16	
218B	Grooming child under 16 years or parent or carer of child under 16 years	
219	Taking child for immoral purposes	
221	Conspiracy to defile	if the offence was committed against a child

Not authorised—indicative only

Not authorised—indicative only

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	
228I	Producing or supplying child abuse object	
228J	Possessing child abuse object	
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	
315A	Choking, suffocation or strangulation in a domestic setting	
320A	Torture	if the offence was committed against a child
349	Rape	
350	Attempt to commit rape	
351	Assault with intent to commit rape	
352	Sexual assaults	if the offence was committed against a child

Not authorised—indicative only

Not authorised—indicative only

354	Kidnapping	if the offence was committed against a child and the context in which the offence was committed was not familial
354A	Kidnapping for ransom	if the offence was committed against a child
363	Child-stealing	if the context in which the offence was committed was not familial
363A	Abduction of child under 16	if the context in which the offence was committed was not familial
364	Cruelty to children under 16	

5 Criminal Code (Cwlth)

Provision of Act	**Relevant heading**	**Qualification relating to the provision of the Act**
270.5	Servitude offences	if the offence was committed against a child
270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8
271.4	Offence of trafficking in children	
271.7	Offence of domestic trafficking in children	
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

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
273A.1	Possession of child-like sex dolls etc.

Not authorised—indicative only

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

Not authorised—indicative only

Not authorised—indicative only

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
474.22A	Possessing or controlling child abuse material obtained or accessed using a carriage service

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

Not authorised—indicative only

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

Schedule 5 Repealed or expired disqualifying offences

section 16

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*
218B	Grooming children under 16	as the provision was in force from time to time before its repeal by the *Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020*

Not authorised—indicative only

Not authorised—indicative only

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)
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)

3 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, as the provisions were in force from time to time before their repeal by the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* (Cwlth)

Not authorised—indicative only

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

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 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 disability
222	Incest	if the offence was committed against a child or a person with disability
228A	Involving child in making child exploitation material	

Not authorised—indicative only

Not authorised—indicative only

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 disability
349	Rape	if the offence was committed against a child or person with disability
350	Attempt to commit rape	if the offence was committed against a child or a person with disability
351	Assault with intent to commit rape	if the offence was committed against a child or a person with disability
352	Sexual assaults	if the offence was committed against a child or a person with 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 disability

270.7	Deceptive recruiting for sexual services	only if an offender was or could have been liable as mentioned in section 270.8 or if the offence is committed against a person with 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	

Not authorised—indicative only

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

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

Schedule 7 Dictionary

section 9

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.

amusement park, for schedule 1, includes a park that is permanent or temporary but does not include an amusement arcade.

applicant, for a working with children check application, see section 187.

approved carer means an approved carer under the *Child Protection Act 1999*.

approved form means a form approved under section 400.

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*.

approved way, for making an application or giving a notice, means a way for making the application, or giving the notice, approved by the chief executive and notified on a Queensland Government website.

associated adult, of a regulated person for a home-based care service, for chapter 8A, see section 357D.

authorised user, for chapter 8A, see section 357E.

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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;

(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 department in which the *Child Protection Act 1999* is administered.

chief executive (disability services) means the chief executive of the department in which the *Disability Services Act 2006*, part 5 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.

college of teachers means the Queensland College of Teachers established under the *Education (Queensland College of Teachers) Act 2005*, section 229.

combined application see section 187A(2).

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.

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

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(b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this Act.

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 see the *Disability Services Act 2006*, section 11.

disability clearance means an NDIS clearance or State clearance.

disability exclusion means an exclusion under the *Disability Services Act 2006*.

disability services see the *Disability Services Act 2006*, section 12.

disability worker screening application means a disability worker screening application under the *Disability Services Act 2006*.

disciplinary information means information received by the chief executive—

(a) under the repealed *Child Care Act 2002*, section 50A or 107A; or

(b) under the *Disability Services Act 2006*, section 138ZG, to the extent the information is disciplinary information or NDIS disciplinary or misconduct information under that Act; or

(c) under the *Education and Care Services Act 2013*, section 91 or 200; or

(d) under the *Education and Care Services National Law (Queensland) Act 2011*, section 20 or 21; or

(e) under the Education and Care Services National Law (Queensland), section 271; or

(f) under the *Child Protection Act 1999*, section 140A; or

(g) under the *Education (Queensland College of Teachers) Act 2005*, section 285, or the repealed *Education (Teacher Registration) Act 1988*, section 71B; or

(h) 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

(i) under the *Education (Queensland College of Teachers) Act 2005*, section 285AA; or

(j) 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 17.

disqualifying offence see section 16.

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).

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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.

eligibility application see section 178.

eligibility declaration see section 177.

employment—

(a) in relation to a trainee student—see sections 10 and 11; or

(b) in relation to regulated employment mentioned in schedule 1, section 4(2) or (3)—includes employment by the person mentioned in that section in the circumstances mentioned in the section; or

(c) in relation to regulated employment mentioned in schedule 1, section 14(1) or (2)—includes employment by the State in the circumstances mentioned in section 12; or

(d) otherwise—see section 10.

employment-screening decision, in relation to a person, means a decision about—

(a) whether a working with children authority or negative notice should be issued to the person; or

(b) whether a person's working with children authority or negative notice should be cancelled; or

(c) whether an eligibility declaration should be issued to a person.

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.

family day care residence see the Education and Care Services National Law (Queensland), section 5(1).

family day care service see the Education and Care Services National Law (Queensland), section 5(1).

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*.

foster or kinship care, for chapter 8A, see section 357B(a).

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 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.

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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).

home-based care service, for chapter 8A, see section 357B.

home-based family day care service, for chapter 8A, see section 357B(b).

home-based stand-alone care service see section 357B(c).

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—

(i) an order of a court that convicts a person for an offence, if the order includes a penalty that includes imprisonment for the offence, whether wholly or partially suspended;

(ii) an intensive correction order under the *Penalties and Sentences Act 1992* or an order of another jurisdiction that substantially corresponds to an intensive correction order; but

(b) does not include an order of imprisonment that is imposed as a consequence of a breach of a community service order or probation order within the meaning of the *Penalties and Sentences Act 1992*.

interim sexual offender order means an interim detention order or interim supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

interstate NDIS clearance see the *Disability Services Act 2006*, section 50(3).

interstate NDIS exclusion see the *Disability Services Act 2006*, section 51(3).

investigative information see section 305.

issue—

(a) a negative notice to a person includes issue a negative notice to the person when the person's working with children authority is cancelled; and

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(b) a working with children authority to a person includes issue a working with children authority to the person when the person's negative notice is cancelled.

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.

NDIS clearance see the *Disability Services Act 2006*, section 50(2).

NDIS supports or services see the *Disability Services Act 2006*, section 12A.

negative notice means—

(a) in relation to a person other than a police officer or registered teacher—a notice under section 220(3); or

(b) in relation to a police officer or a registered teacher—a notice under section 220(3) or 282(3).

notifiable person, for a person—

(a) means—

(i) if the chief executive is aware the person has applied for, started or is continuing in, regulated employment—the person's employer or proposed employer; or

(ia) if the chief executive is aware the person is employed at a State school within the meaning of the *Education (General Provisions) Act 2006*—

(A) the principal of the State school; and

(B) the chief executive of the department in which the *Education (General Provisions) Act 2006* is administered; or

(ii) if the chief executive is aware 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 or staff member for a QEC service, or a volunteer who works in or as part of a QEC service, under the *Education and Care Services Act 2013*—the chief executive (education and care); or

(iv) if the chief executive is aware that the person is an adult occupant of a home in which a home-based stand-alone care service is provided—the chief executive (child care); or

(v) if the chief executive is aware that the person is an approved provider or staff member in relation to an education and care service under the Education and Care Services National Law (Queensland)—the chief executive (education and care); or

(vi) if the chief executive is aware the person is a an adult occupant of a family day care residence—the chief executive (education and care); 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) includes—

(i) if the person is a police officer—the police commissioner; or

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(ii) if the person is a registered teacher—the college of teachers.

occupant—

(a) of a home in which a home-based stand-alone service is provided, see the *Education and Care Services Act 2013*, schedule 1; or

(b) of a family day care residence, see the *Education and Care Services National Law (Queensland) Act 2011*, section 22(4).

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.

parent see section 390.

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

(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.

potential employer, of a person, means a person who—

(a) the chief executive reasonably believes employs, or proposes to employ, the person; and

(b) is not a notifiable person for the person.

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 period, for chapter 8, part 7, division 3, see section 353.

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.

Queensland Government website means a website with a URL that contains 'qld.gov.au', other than the website of a local government.

register, for chapter 8A, see section 357A.

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*

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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 157.

regulated employment see section 156.

regulated person, for chapter 8A, see section 357C.

relative, of a person—

(a) means the person's parent, grandparent, great grandparent, brother, sister, uncle, aunt, niece, nephew or first cousin; and

(b) for an Aboriginal person—includes a person who, under Aboriginal tradition, is regarded as a relative mentioned in paragraph (a); and

(c) for a Torres Strait Islander—includes a person who, under Island custom, is regarded as a relative mentioned in paragraph (a); and

(d) for a person with a parent who is not a natural parent—includes anyone who would be a relative mentioned in paragraph (a) if the parent were a natural parent.

Example for paragraph (d)—

The daughter of a person's step-parent is a relative of the person.

relevant disqualified person see section 18.

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—

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(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.

restricted employment see section 176H.

restricted person, for chapter 7, part 4, division 4, see section 176H.

school means—

(a) a State school within the meaning of the *Education (General Provisions) Act 2006*; or

(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 15.

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.

stand-alone service see the *Education and Care Services Act 2013*, section 9.

State clearance see the *Disability Services Act 2006*, section 50(4).

teacher registration, of a person, means the person's full registration or provisional registration under the *Education (Queensland College of Teachers) Act 2005*.

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.

volunteer see section 13.

withdrawal notice see section 195.

work 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.

working with children authority means—

(a) a working with children clearance; or

(b) a working with children exemption.

working with children card means a document, in the form of a card, that—

(a) evidences that a working with children authority has been issued to a person; and

(b) includes a photograph of the person and the following information—

(i) the person's name;

(ii) a registration number for the person's authority;

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(iii) the expiry date of the person's authority.

working with children check application means—

(a) a working with children check (general) application; or

(b) a working with children check (exemption) application.

working with children check (exemption) application means—

(a) an application for a working with children check for an exemption made under section 187(2); or

(b) a combined application, to the extent it is an application mentioned in paragraph (a).

working with children check (general) application means—

(a) an application for a working with children check made under section 187(1); or

(b) a combined application, to the extent it is an application mentioned in paragraph (a).

working with children clearance see section 220(2).

working with children exemption see section 282(2).