



Western Australia

Working with Children (Criminal Record Checking) Amendment Act 2022

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Working with Children (Criminal Record Checking) Amendment Act 2022

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Western Australia

Working with Children (Criminal Record Checking) Amendment Act 2022

No. 47 of 2022

An Act to amend the *Working with Children (Criminal Record Checking) Act 2004* and to make consequential amendments to various Acts.

[Assented to 7 December 2022]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Working with Children (Criminal Record Checking) Amendment Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

Part 2 — Working with Children (Criminal Record Checking) Act 2004 amended

3. Act amended

This Part amends the *Working with Children (Criminal Record Checking) Act 2004*.

4. Section 1 amended

In section 1 delete “(Criminal Record Checking)” and insert:

(Screening)

5. Section 4 amended

(1) In section 4 insert in alphabetical order:

authorised officer means an officer designated under section 34K for the purposes of this Act or for the purposes of the provision in which the term is used;

conduct review authority means a person or body, or a person or body of a class, prescribed by the regulations for the purposes of this definition;

conduct review finding or outcome means —

- (a) a finding of a kind prescribed by the regulations; or
- (b) an outcome of a kind prescribed by the regulations;

corresponding authority means a person or body in another jurisdiction that performs functions in the operation or administration of a corresponding law that substantially correspond to the functions of the CEO under this Act;

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criminal records agency means —

- (a) the Commissioner; or
- (b) the Commissioner of the Australian Federal Police; or
- (c) the Commissioner (however designated) of the police force of another jurisdiction; or
- (d) a person or body that is —
 - (i) established under a law of another State, a Territory or the Commonwealth; and
 - (ii) prescribed by the regulations for the purposes of this definition;

external government agency means —

- (a) a government department established, constituted or continued under a law of another jurisdiction; or
- (b) a body (whether incorporated or not), or the holder of an office, post or position, that —
 - (i) is established, constituted or continued for a public purpose under a law of another jurisdiction; and
 - (ii) under the authority of a law of another jurisdiction, performs a statutory function on behalf of the government of that jurisdiction;

government agency means —

- (a) a department of the Public Service; or
- (b) a body (whether incorporated or not), or the holder of an office, post or position, that —
 - (i) is established, constituted or continued for a public purpose under a written law; and

- (ii) under the authority of a written law, performs a statutory function on behalf of this State;

or

- (c) an external government agency;

outcome includes —

- (a) the suspension, cancellation or termination of a licence, registration, authority or other form of authorisation; and
- (b) the making of a determination or decision, or the issuing of a notice, order or other instrument, that prohibits, restricts, regulates or controls the conduct of a particular activity, or the performance of particular work, by a person;

public authority means —

- (a) a department of the Public Service; or
- (b) a body (whether incorporated or not), or the holder of an office, post or position, that —
 - (i) is established, constituted or continued for a public purpose under a written law; and
 - (ii) under the authority of a written law, performs a statutory function on behalf of this State;

or

- (c) an entity established by or under the *Health Practitioner Regulation National Law (Western Australia)*; or
- (d) any other person or body, or person or body of a class, prescribed by the regulations for the purposes of this definition;

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relevant conduct, in relation to a conduct review finding or outcome, means the conduct that gave rise to the finding or outcome;

WWC purpose —

- (a) means a purpose that is for, or connected with, the operation or administration of, or compliance with, this Act; and
- (b) includes any of the following purposes —
 - (i) verifying the identity of a person who is, or who has at any time been, an applicant for an assessment notice under this Act;
 - (ii) considering and deciding an application for an assessment notice under this Act;
 - (iii) making a decision under section 12 because of the operation of section 17(3)(d) or 17B(2)(b);
 - (iv) considering and deciding an application for a negative notice to be cancelled;
 - (v) acting under section 20;
 - (vi) acting after the CEO has been given a notice that the CEO must treat under section 32(1) as an application for an assessment notice;
 - (vii) ongoing monitoring of information about a person's criminal record while the CEO is proceeding as described in subparagraph (ii), (iii), (iv), (v) or (vi) in relation to the person;
 - (viii) ongoing monitoring of information about a person's criminal record after an interim negative notice has been issued to the person;

- (ix) ongoing monitoring of information about a person’s criminal record while the person has a current assessment notice for the purpose of determining whether the person should continue to hold the assessment notice;
 - (x) taking any action in connection with a matter that is the subject of proceedings on an application under section 26.

- (2) In section 4 in the definition of ***another jurisdiction*** delete “Western Australia” and insert:

this State

- (3) In section 4 in the definition of ***Class 3 offence*** after “an offence” insert:

(including an offence under a law of another jurisdiction)

- (4) In section 4 in the definition of ***criminal record***:
 - (a) in paragraph (a) delete “of an offence, in Western Australia” and insert:

for an offence in this State

 - (b) in paragraph (b) delete “offence, in Western Australia” and insert:

offence in this State

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- (5) In section 4 in the definition of *interim negative notice* delete “section 13;” and insert:

section 13AA(2) or (3);

- (6) In section 4 in the definition of *work* delete “course.” and insert:

course;

6. Section 6 amended

- (1) In section 6(1) delete “subsection (3),” and insert:

this section,

- (2) Delete section 6(3) and (4) and insert:

- (3) Subsection (1) does not apply to work that is carried out on a voluntary basis by a child unless the work is carried out in circumstances, or by a child of a class of children, prescribed by the regulations.
- (4) Subsection (1) does not apply to work that is carried out in circumstances, or by a person of a class of persons, prescribed by the regulations.
- (5) Regulations made for the purposes of subsection (3) or (4) may, without limitation, prescribe a class of children or a class of persons (as the case requires) by reference to criminal record checks or other forms of

screening (however described) made under another Act prescribed by the regulations.

Note: The heading to amended section 6 is to read:

Child-related work

7. Section 7 replaced

Delete section 7 and insert:

7. Class 1 offence and Class 2 offence

(1) A *Class 1 offence* is —

- (a) an offence against a provision listed in Schedule 1 (if the offence complies with any condition specified in that Schedule); or
- (b) an offence under a law of another jurisdiction prescribed by the regulations to be a Class 1 offence; or
- (c) an offence under a law of another jurisdiction the elements of which, if they had occurred in this State, would have constituted an offence of a kind referred to in this subsection; or
- (d) an offence committed, or alleged to have been committed, before 1 January 2006 that is an offence of a kind referred to in this subsection; or
- (e) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in paragraphs (a) to (d).

(2) A *Class 2 offence* is —

- (a) an offence against a provision listed in Schedule 2 (if the offence complies with any condition specified in that Schedule); or

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- (b) an offence under a law of another jurisdiction prescribed by the regulations to be a Class 2 offence; or
 - (c) an offence under a law of another jurisdiction the elements of which, if they had occurred in this State, would have constituted an offence of a kind referred to in this subsection; or
 - (d) an offence committed, or alleged to have been committed, before 1 January 2006 that is an offence of a kind referred to in this subsection; or
 - (e) an offence of attempting, or of conspiracy or incitement, to commit an offence of a kind referred to in paragraphs (a) to (d).
- (3) For the purposes of Schedules 1 and 2, an offence falls within the ambit of this subsection if —
- (a) the victim of the offence is a child who has reached 14 years of age; and
 - (b) the age difference between the victim and the offender does not exceed 5 years.

8. Section 8 amended

In section 8(3) delete “he or she” and insert:

the person

Note: The heading to amended section 8 is to read:

Conviction in relation to offence

9. Section 9A amended

In section 9A(2):

(a) delete paragraph (a) and insert:

(a) section 9(3)(b) does not apply and the approved form may include provision for information about the student's education provider or the person who employs, or proposes to employ, the student in child-related employment; and

(aa) section 11(3A)(a) applies as if —

(i) the reference to an employer or proposed employer included a reference to the student's education provider; and

(ii) the reference to employ or propose to employ the applicant in child-related employment included a reference to the student being employed or proposed to be employed in child-related employment as part of a course with an education provider;

and

(b) in paragraph (c) delete "13(3)" and insert:

13AA(4)

(c) in paragraphs (f) and (h) delete "his or her" and insert:

the student's

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- (d) in paragraph (h) delete “subsection.” and insert:

subsection; and
- (e) after paragraph (h) insert:
 - (i) section 34B(1) applies as if —
 - (i) a reference to an employer or proposed employer included a reference to the student’s education provider; and
 - (ii) a reference to employ or propose to employ a person in child-related employment included a reference to the student being employed or proposed to be employed in child-related employment as part of a course with an education provider.

Note: The heading to amended section 9A is to read:

Application of certain provisions to students

10. Section 9 amended

- (1) In section 9(1) delete “(the *employer*)”.
- (2) Delete section 9(3) and insert:
- (3) The approved form must include provision for —
 - (a) identifying information to be given about the applicant; and
 - (b) information about the person who employs, or proposes to employ, the applicant in child-related employment.

(3A) The approved form may require the provision of any other information the CEO thinks fit.

(3) After section 9(4) insert:

(5) The regulations may prescribe other requirements that apply in relation to an application or the consideration of an application.

Note: The heading to amended section 9 is to read:

Application for assessment notice (child-related employment)

11. Section 10 amended

(1) After section 10(3) insert:

(3A) The approved form may require the provision of any other information the CEO thinks fit.

(2) After section 10(4) insert:

(5) The regulations may prescribe other requirements that apply in relation to an application or the consideration of an application.

Note: The heading to amended section 10 is to read:

Application for assessment notice (child-related business)

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12. Section 11 amended

- (1) After section 11(2) insert:
- (3A) In addition, the applicant is taken to have withdrawn the application if —
- (a) an employer or proposed employer identified by the applicant for the purposes of the application fails, within a period determined by the CEO to be reasonable in the circumstances, to verify that they employ or propose to employ the applicant in child-related employment; and
 - (b) the CEO gives the applicant a written notice that informs the applicant that if a verification of the kind referred to in paragraph (a) is not provided to the CEO within a reasonable specified period then the applicant’s application will be taken to have been withdrawn; and
 - (c) the verification is not provided to the CEO within the specified period under paragraph (b); and
 - (d) the CEO gives the applicant a written notice stating that the applicant is taken to have withdrawn the application.
- (2) In section 11(3)(b) delete “subsection (2)(d),” and insert:
- subsection (2)(d) or (3A)(d),
- (3) In section 11(4) delete “section 17(3)(d)(i).” and insert:
- section 17(3)(d)(i) or 17B(2)(b)(i).

13. Section 12 amended

- (1) Delete section 12(2) and insert:
 - (2) The CEO must not decide the application unless the CEO has —
 - (a) made a criminal record check in respect of the applicant; and
 - (b) checked whether notice of a conduct review finding or outcome has been received under section 17A(3) in respect of the applicant.

- (2) In section 12(3) in the Table:
 - (a) in item 1 in the 2nd column paragraph (b) delete “applicant.” and insert:

applicant; or
 - (b) in item 1 in the 2nd column after paragraph (b) insert:

(c) any conduct review finding or outcome.
 - (c) delete items 3 and 4 and insert:

2A.	The CEO is aware that the applicant is, or has been, the subject of a conduct review finding or outcome other than as a result of a notice under section 17A(3).	s. 12(4)
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3.	The CEO is aware of a pending charge against the applicant in respect of a Class 3 offence, other than as a result of — (a) a notice under section 16(1) or 17(1); or (b) designated information as defined in section 17(1A).	s. 12(4)
3A.	The CEO is aware that the applicant is, or has been, the subject of a conduct review finding or outcome as a result of a notice under section 17A(3).	s. 12(5)
4.	The CEO is aware of a pending charge against the applicant in respect of a Class 3 offence as a result of — (a) a notice under section 16(1) or 17(1); or (b) designated information as defined in section 17(1A).	s. 12(5)

(d) in item 8 delete “a Class 1 offence or”;

(e) after item 9 insert:

9A.	The CEO is aware of a pending charge against the applicant in respect of a Class 1 offence that was allegedly committed by the applicant when a child.	s. 12(6)
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(f) after item 10 insert:

10A.	The CEO is aware — (a) of a Class 1 offence (that was not committed by the applicant when a child) of which the applicant has been convicted; and (b) that the applicant has been granted a pardon in respect of that offence.	s. 12(6)
10B.	The CEO is aware of a pending charge against the applicant in respect of a Class 1 offence that was not allegedly committed by the applicant when a child.	s. 12(7)

(g) in item 11 delete “convicted.” and insert:

convicted, other than where the applicant has been granted a pardon in respect of that offence.

(3) In section 12(8):

(a) delete “offence, the CEO is to decide whether he or she is satisfied in relation to the particular or exceptional circumstances of the case” and insert:

offence or a conduct review finding or outcome, the CEO must decide whether the CEO is satisfied in relation to the particular or exceptional circumstances of the case,

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- (b) in paragraph (a) delete “children;” and insert:

children; and
 - (c) in paragraphs (b) and (c) delete “committed;” and insert:

committed or the relevant conduct occurred or is alleged to have occurred; and
 - (d) in paragraph (d) after “offence” insert:

or relevant conduct
 - (e) in paragraph (e)(ii) delete “applicant;” and insert:

applicant; or
 - (f) after paragraph (e)(ii) insert:
 - (iii) any conduct review finding or outcome in relation to the applicant;
- (4) In section 12(8) after each of paragraphs (d) to (f) insert:

and

14. Section 13A amended

In section 13A(1)(b):

- (a) delete “that applicant” and insert:

the applicant

- (b) delete “person — the CEO is to give a copy of the notice to the other person.” and insert:

person, the CEO must —

- (i) if an assessment notice is issued — give details contained in the assessment notice to the other person in the manner or form the CEO thinks fit (including by giving a copy of the assessment notice to the other person); and
- (ii) if a negative notice is issued — give a copy of the negative notice to the other person.

15. Section 13 replaced

Delete section 13 and insert:

13. CEO to give notice of intention to issue negative notice

- (1) If the CEO proposes or is required to decide an application under section 12 by issuing a negative notice to the applicant, the CEO must give the applicant a written notice that —
- (a) informs the applicant of the proposal or requirement; and

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- (b) states the information about —
 - (i) the applicant’s criminal record of which the CEO is aware; and
 - (ii) any conduct review finding or outcome relating to the applicant of which the CEO is aware as a result of a notice under section 17A(3);and
 - (c) invites the applicant to make a submission to the CEO, in writing or in another form approved by the CEO, within a specified time about the information and about the applicant’s suitability to be issued with an assessment notice.
- (2) If the information stated in a notice under subsection (1) about an applicant’s criminal record includes a Class 1 offence (other than a Class 1 offence committed or allegedly committed by the applicant when a child) of which the applicant has been convicted, or for which the applicant has a pending charge, the applicant may make a submission to the CEO under this section only if the applicant reasonably believes that the applicant’s criminal record does not include that conviction or charge.
 - (3) The specified time referred to in subsection (1)(c) must be reasonable and, in any case, at least 28 days after the CEO gives the applicant the notice.
 - (4) Subsection (2) does not apply if the applicant has been granted a pardon in respect of the Class 1 offence.
 - (5) Before deciding the application, the CEO must consider any submission made by the applicant within the specified time.

13AA. Interim negative notice

- (1) Subsections (2) and (3) apply in relation to a person if the CEO —
 - (a) has received an application for an assessment notice made by the person and the application is pending; or
 - (b) has decided to act under section 17(3)(d) or 17B(2)(b) in respect of the person; or
 - (c) is acting under section 20 in respect of the person if the correct notice that would be substituted is a negative notice; or
 - (d) is given a notice that the CEO must treat under section 32(1) as an application by the person for an assessment notice.
- (2) The CEO may issue an interim negative notice to the person if the CEO is of the opinion that there is a reasonable likelihood that the circumstances will result in a negative notice being issued to the person.
- (3) The CEO must issue an interim negative notice to the person if the CEO is aware that the person —
 - (a) has been convicted of a Class 1 offence (other than a Class 1 offence committed by the person when a child or in respect of which the person has been granted a pardon); or
 - (b) has a pending charge in respect of a Class 1 offence (other than a Class 1 offence allegedly committed by the person when a child).
- (4) If the CEO is aware that the person to whom an interim negative notice is issued is employed, or is proposed to be employed, in child-related employment by another person, the CEO must give a copy of the interim negative notice to the other person.

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- (5) An interim negative notice ceases to have effect when an assessment notice or negative notice is issued to the person.

16. Section 17 amended

- (1) Before section 17(1) insert:

- (1A) In this section —

designated authority means —

- (a) the Commissioner; or
- (b) a department of the Public Service; or
- (c) a body (whether incorporated or not), or the holder of an office, post or position, that —
 - (i) is established, constituted or continued for a public purpose under a written law; and
 - (ii) under the authority of a written law, performs a statutory function on behalf of this State;

or

- (d) any other person or body, or person or body of a class, prescribed by the regulations for the purposes of this definition;

designated information means information given to the CEO by —

- (a) the Commissioner of the Australian Federal Police; or
- (b) the Commissioner (however designated) of the police force of another jurisdiction; or

(c) any other person or body, or person or body of a class, prescribed by the regulations for the purposes of this definition.

(2) In section 17(1):

(a) delete “the Commissioner” (1st occurrence) and insert:

a designated authority

(b) delete “Commissioner” (2nd and 3rd occurrences) and insert:

designated authority

(c) delete “notice of —” and insert:

notice of the following —

(d) in paragraph (c) delete “address; and” and insert:

any former name or alias;

(e) in paragraph (d) delete “birth; and” and insert:

birth;

(f) after paragraph (d) insert:

(da) the person’s address and other contact details;

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- (g) in paragraph (e) delete “convicted; and” and insert:

convicted;
 - (h) in paragraph (f) delete “offence; and” and insert:

offence;
 - (i) after paragraph (f) insert:
 - (fa) without limiting paragraph (f), whether a victim of the offence was a child at the time when the offence was committed or allegedly committed and, if so, the age of the victim at that time;
 - (j) in paragraph (g) delete “conviction.” and insert:

conviction;
 - (k) after paragraph (g) insert:
 - (h) any other information the designated authority thinks fit.
- (3) In section 17(2) delete “The Commissioner” and insert:

A designated authority

- (4) In section 17(3):
- (a) delete “subsection (1) or information under section 34 —” and insert:

subsection (1), information under section 33A or 34 or designated information —
 - (b) in paragraph (b) delete “offence, being a charge or conviction of which the CEO was not previously aware and the charge or conviction makes” and insert:

offence that may make
- (5) After section 17(3) insert:
- (3A) However, the CEO must not act under subsection (3) in relation to information about a charge or conviction if the CEO —
 - (a) was previously aware of the charge or conviction; and
 - (b) decided to issue an assessment notice under section 12(5) or (6) despite the existence of the charge or conviction.

17. Sections 17A to 17C inserted

After section 17 insert:

17A. Provision of information by conduct review authority

- (1) In this section —
designated conduct review authority, for a conduct review finding or outcome, means the conduct review

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authority prescribed by the regulations as the designated conduct review authority in relation to conduct review findings or outcomes of that kind.

- (2) This section applies if —
 - (a) a person is, or has been, the subject of a conduct review finding or outcome; and
 - (b) the conduct review authority that is the designated conduct review authority for that conduct review finding or outcome knows or reasonably believes that the finding or outcome is relevant to the performance of a function of the CEO under this Act.
- (3) The conduct review authority may give the CEO notice of the following —
 - (a) the person's name and any former name or alias;
 - (b) the person's date of birth;
 - (c) the person's address and other contact details;
 - (d) the conduct review finding or outcome;
 - (e) details of the relevant conduct;
 - (f) details of any person who employs the person in child-related employment, or of any child-related business carried on by the person (to the extent that these details are known to the conduct review authority);
 - (g) any other information of a kind prescribed by the regulations.
- (4) If a conduct review authority gives a notice to the CEO under subsection (3) and the conduct review finding or outcome to which the notice relates is subsequently quashed, set aside or withdrawn expressly or impliedly, or found to be unsubstantiated or incorrect, the conduct

review authority must give the CEO notice of this change in circumstances.

- (5) A conduct review authority may give a notice under subsection (3) or (4) despite another Act or law.
- (6) On receiving a notice from a conduct review authority under subsection (3) or (4), the CEO may request the conduct review authority to provide any further information to the CEO that the CEO reasonably requires for the purposes of this section.
- (7) A conduct review authority to which a request is made under subsection (6) is authorised to disclose the information to the CEO.
- (8) The information given by a conduct review authority under this section may include information about, or relating to, a finding or outcome that was made before —
 - (a) the finding or outcome became a conduct review finding or outcome under this Act; or
 - (b) the conduct review authority became the designated conduct review authority for the finding or outcome under this Act.
- (9) This section does not limit the powers of the CEO to request or obtain information under another provision of this Act.

17B. Action based on information received in relation to conduct review finding or outcome

- (1) The CEO may, on the basis of a notice given under section 17A, take action under subsection (2) if the

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CEO is satisfied that there are reasonable grounds for believing that the person to whom the notice relates —

- (a) carries out child-related work or has a current assessment notice; and
 - (b) is, or has been, the subject of a conduct review finding or outcome that may make it inappropriate for the person to continue to carry out child-related work or have an assessment notice.
- (2) The CEO may —
- (a) if the person does not have a current assessment notice, give the person a written notice requiring the person to apply, within 10 days after the date of the notice, for an assessment notice; or
 - (b) if the person has a current assessment notice, make a decision under section 12 as if —
 - (i) an application had been made by the person under section 9 or 10, as the case requires; and
 - (ii) a reference in section 12 to issuing an assessment notice were a reference to issuing an assessment notice or a further assessment notice.
- (3) A person must comply with a notice given to the person under subsection (2)(a) within the period referred to in that paragraph.
- Penalty for this subsection: a fine of \$1 000.
- (4) It is a defence to a charge of an offence under subsection (3) to prove that, at the time the offence is alleged to have been committed, the person was not carrying out child-related work.

17C. CEO may obtain further information about conduct review finding or outcome

- (1) In this section —
- related authority*, in relation to a conduct review finding or outcome, means a person or body (other than a conduct review authority) —
- (a) that made a finding, determination or decision that resulted in, led to or comprised the conduct review finding or outcome; or
 - (b) that —
 - (i) has been involved in any step or process connected with, or otherwise related to, the conduct review finding or outcome; and
 - (ii) is a person or body, or person or body of a class, prescribed by the regulations for the purposes of this paragraph.
- (2) This section applies in respect of a person —
- (a) who has a current assessment notice; or
 - (b) who has applied to the CEO for an assessment notice; or
 - (c) who has applied to the CEO for a negative notice to be cancelled; or
 - (d) in relation to whom the CEO has decided to act under section 17(3)(d) or 17B(2)(b); or
 - (e) in relation to whom the CEO is acting under section 20; or
 - (f) who has applied to the State Administrative Tribunal under section 26 or who is the subject

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of an appeal against a decision of the Tribunal on an application under that section; or

- (g) in relation to whom the CEO has been given a notice that the CEO must treat under section 32(1) as an application by the person for an assessment notice.
- (3) If the person is, or has been, the subject of a notice given under section 17A in respect of a conduct review finding or outcome, the CEO may request the conduct review authority that gave the notice or a related authority for any information relating to the person in its possession that is connected with, or otherwise related to, the conduct review finding or outcome.
- (4) A conduct review authority or related authority to which a request is made under subsection (3) is authorised to disclose the information to the CEO.
- (5) This section does not limit the powers of the CEO to request or obtain information under another provision of this Act.

18. Section 18 amended

In section 18(1) delete “section 16(3) or 17(3)(c)” and insert:

section 16(3), 17(3)(c) or 17B(2)(a)

Note: The heading to amended section 18 is to read:

CEO may issue negative notice if notice issued by CEO not obeyed

19. Section 19 amended

(1) In section 19(2):

(a) in paragraph (b) delete “the most recent previous application.” and insert:

the date of the CEO’s notice under subsection (10); or

(b) after paragraph (b) insert:

(c) if the person has applied, under section 26, for a review of a decision by the CEO and the State Administrative Tribunal has affirmed the CEO’s decision — the date of the Tribunal’s decision.

(2) In section 19(3):

(a) in paragraph (a) delete “or the previous application was made,” and insert:

the previous application was made, or the CEO’s decision was affirmed,

(b) in paragraph (b) delete “any” and insert:

an

(c) in paragraph (b) delete “or the previous application was made,” and insert:

the previous application was made, or the CEO’s decision was affirmed,

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(d) after paragraph (b) insert:

(ba) a Class 1 offence of which the person was convicted when the negative notice was issued, the previous application was made, or the CEO's decision was affirmed, is later the subject of a pardon granted to the person; or

(e) in paragraph (c) delete "conviction." and insert:

conviction; or

(f) after paragraph (c) insert:

(d) a conduct review finding or outcome of which notice was given under section 17A(3) and which was taken into account when the negative notice was issued, the previous application was made, or the CEO's decision was affirmed, is later quashed, set aside or withdrawn expressly or impliedly, or found to be unsubstantiated or incorrect.

(3) After section 19(4) insert:

(4A) Subsection (3)(d) does not apply if the conduct review finding or outcome is replaced by another conduct review finding or outcome.

Note: The heading to amended section 19 is to read:

Application for cancellation of negative notice

20. Section 21A amended

(1) In section 21A(1) after “section 17(1)” insert:

or 17A(3)

(2) In section 21A(2) after “section 17(3)(d)” insert:

or 17B(2)(b)

Note: The heading to amended section 21A is to read:

**Cancellation of assessment notices of certain people not involved
in child-related work**

21. Section 21C amended

In section 21C(1)(b):

(a) delete “he or she” and insert:

the person

(b) delete “work” and insert:

employment

Note: The heading to amended section 21C is to read:

**Cancellation of assessment notices of certain people to whom
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22. Section 25 amended

- (1) Delete section 25(2) and insert:
- (2) Subsection (1) does not apply to a person who, at the time the offence is alleged to have been committed —
- (a) has been convicted of a Class 1 offence (other than a Class 1 offence committed by the person when a child or in respect of which the person has been granted a pardon); or
 - (b) has a pending charge in respect of a Class 1 offence (other than a Class 1 offence allegedly committed by the person when a child).
- (2) In section 25(4):
- (a) delete paragraph (a) and insert:
 - (a) who —
 - (i) has been convicted of a Class 1 offence (other than a Class 1 offence committed by the person when a child); or
 - (ii) has a pending charge in respect of a Class 1 offence (other than a Class 1 offence allegedly committed by the person when a child);
- or
- (b) in paragraph (b) before “carrying out” insert:

who is

- (3) In section 25(6)(a) delete “section 16(3) or 17(3)(c); or” and insert:

section 16(3), 17(3)(c) or 17B(2)(a); or

- (4) In section 25(7) delete “section 17(3)(d).” and insert:

section 17(3)(d) or 17B(2)(b).

Note: The heading to amended section 25 is to read:

Defences for an offence under s. 24

23. Section 26 amended

- (1) In section 26(3A) delete “section 13(1)(a)(iii)” and insert:

section 13(1)(c)

- (2) In section 26(3B)(b) delete “section 13(1)(a)(ii) having been invited to do so by” and insert:

section 13(1)(c) having been invited to do so by the

- (3) After section 26(3) insert:

- (4) A decision by the State Administrative Tribunal under the *State Administrative Tribunal Act 2004* section 29 so as to provide for the issue of an assessment notice —

- (a) has effect as a decision of the CEO from the date of the Tribunal’s decision; and

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- (b) does not affect the operation of any other provision of this Act as it applies before the date of the Tribunal's decision.

24. Section 29 amended

In section 29(2) delete the Penalty.

25. Section 32A amended

In section 32A:

- (a) delete “If a person who has had his or her assessment notice cancelled (the *cancelled assessment notice*) under section 31(5) —” and insert:

If —

- (b) in paragraph (a) before “has applied” insert:

a person whose assessment notice has been cancelled (the *cancelled assessment notice*) under section 31(5)

- (c) in paragraph (b) delete “him or her” and insert:

the person

26. Section 33 replaced

Delete section 33 and insert:

33. Class 1 offence: pending charge or conviction prevents child-related work

If the relevant change in a person's criminal record is that the person is charged with or convicted of a

Class 1 offence (other than a Class 1 offence committed or allegedly committed by the person when a child), the person must not —

- (a) be employed in child-related employment; or
- (b) carry on a child-related business.

Penalty: imprisonment for 5 years and a fine of \$60 000.

27. Part 3 Division 1A inserted

After Part 3 Division 1 insert:

Division 1A — Designated changes in criminal record

33A. Commissioner may give information about change in criminal record

- (1) This section applies in respect of a person —
 - (a) who has a current assessment notice; or
 - (b) who has applied to the CEO for an assessment notice if the application is pending; or
 - (c) who has applied to the CEO for a negative notice to be cancelled if the application is pending; or
 - (d) in relation to whom the CEO has decided to act under section 17(3)(d) or 17B(2)(b); or
 - (e) in relation to whom the CEO is acting under section 20; or
 - (f) in relation to whom the CEO has been given a notice that the CEO must treat under section 32(1) as an application by the person for an assessment notice if the application is pending.

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- (2) For the purposes of this section, there is a *designated change* in the person's criminal record, whether or not the person has a criminal record, if —
 - (a) the person is charged with or convicted of an offence; or
 - (b) the person becomes subject to a non-conviction charge; or
 - (c) there is a change in any other information mentioned in the person's criminal record.
- (3) The Commissioner may give the CEO the following information in connection with a designated change in the person's criminal record —
 - (a) details of the change in the person's criminal record;
 - (b) information that is connected with, or otherwise related to, the change in the person's criminal record;
 - (c) any other information the Commissioner thinks fit.
- (4) The CEO may give the Commissioner any information that is reasonably required in connection with the exercise of the Commissioner's powers under this section.
- (5) This section does not limit the powers of the Commissioner to disclose information under another provision of this or any other Act.

28. Section 34 amended

(1) Delete section 34(1) and insert:

(1) In this section —

DPP means —

- (a) the Director of Public Prosecutions appointed under the *Director of Public Prosecutions Act 1991* section 5; or
- (b) a person or body exercising functions that substantially correspond to the functions of the Director of Public Prosecutions under a law of another jurisdiction.

(2) Delete section 34(2)(d) and insert:

- (d) in relation to whom the CEO has decided to act under section 17(3)(d) or 17B(2)(b); or
- (e) in relation to whom the CEO is acting under section 20; or
- (f) who has applied to the State Administrative Tribunal under section 26 or who is the subject of an appeal against a decision of the Tribunal on an application under that section; or
- (g) in relation to whom the CEO has been given a notice that the CEO must treat under section 32(1) as an application by the person for an assessment notice.

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- (3) In section 34(3) delete “the Commissioner or a criminal records agency for information or access to the respective records of the Commissioner or” and insert:

a criminal records agency for information or access to the records of

- (4) In section 34(4) delete “an authorised person or a criminal records agency for information about the circumstances of” and insert:

a criminal records agency or the DPP for any information relating to the person in their possession that is connected with, or otherwise related to,

- (5) Delete section 34(5) and insert:

(5) A person or body in this State to which a request is made by the CEO under this section is authorised to disclose the requested information to the CEO.

(6) This section does not limit the powers of the CEO to request or obtain information under another provision of this Act.

29. Parts 3A and 3B inserted

After section 34 insert:

Part 3A — Information gathering and sharing

34A. General power to obtain, use and disclose information

(1) In this section —

CEO (Education) means the chief executive officer of the department of the Public Service principally assisting in the administration of the *School Education Act 1999*;

CEO (Health) means the chief executive officer of the department of the Public Service principally assisting in the administration of the *Health Services Act 2016*;

relevant information means —

- (a) information that the CEO considers to be relevant to —
 - (i) a person to whom Part 2 applies (including a person who is subject to the application of section 32); or
 - (ii) a person who has applied to the State Administrative Tribunal under section 26;

or

- (b) information that the CEO considers to be relevant to whether —
 - (i) a person should be issued an assessment notice, a further assessment notice, a

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- negative notice or an interim negative notice; or
 - (ii) an assessment notice or a negative notice should be cancelled;
 - or
 - (c) any other information prescribed by the regulations for the purposes of this definition.
- (2) The CEO may request relevant information for a WWC purpose from any person or body that, in the opinion of the CEO, may possess relevant information.
- (3) A person or body in this State to which a request is made under subsection (2) is authorised to disclose relevant information to the CEO.
- (4) The following persons and bodies must comply with a request under subsection (2) —
- (a) the CEO (Education);
 - (b) the CEO (Health);
 - (c) a health service provider as defined in the *Health Services Act 2016* section 6.
- (5) The CEO may use relevant information obtained by the CEO from any source for a WWC purpose.
- (6) The CEO may disclose relevant information for a WWC purpose to —
- (a) a government agency; or
 - (b) a criminal records agency.
- (7) This section does not limit the powers of the CEO to request, obtain or disclose information under another provision of this Act.

34B. Disclosure of information to employer or proposed employer

- (1) The CEO may disclose the following information to an employer or proposed employer who employs or proposes to employ in child-related employment a person who is applying for an assessment notice or who holds a current assessment notice —
 - (a) information relevant to the identity of the person;
 - (b) information relevant to the employer or proposed employer verifying that they employ or propose to employ the person in child-related employment;
 - (c) any other information prescribed by the regulations for the purposes of this subsection.
- (2) This section does not limit the powers of the CEO to disclose information under another provision of this Act.

34C. Power to require reports from CEO (Justice)

- (1) In this section —

prescribed report means any of the following —

 - (a) a written pre-sentence report, or a record of an oral pre-sentence report, made under the *Sentencing Act 1995* Part 3 Division 3;
 - (b) a report prepared for the purposes of the *Sentence Administration Act 2003* section 11A, 17 or 51;
 - (c) a report prepared for the purposes of the *Young Offenders Act 1994* section 47, 48(1) or 159;

- (d) a report —
 - (i) made under, or prepared for the purposes of, the *Bail Act 1982*, the *Dangerous Sexual Offenders Act 2006* (repealed), the *High Risk Serious Offenders Act 2020*, the *Prisons Act 1981*, the *Sentence Administration Act 2003*, the *Sentencing Act 1995* or the *Young Offenders Act 1994*; and
 - (ii) of a kind prescribed by the regulations for the purposes of this definition.
- (2) The CEO may, for a WWC purpose, by written notice request the CEO (Justice) to give the CEO a copy of a prescribed report.
- (3) A request to the CEO (Justice) under this section may only relate to obtaining a report about an offender or alleged offender.
- (4) The CEO (Justice) must comply with a request under this section within a reasonable period after the request is received.
- (5) The CEO (Justice) is authorised to provide the requested report to the CEO.
- (6) This section does not limit the operation of section 34A.

34D. Exchange of information with corresponding authorities

- (1) The CEO may disclose to a corresponding authority information obtained or created under this Act that —
 - (a) relates to —
 - (i) a person’s criminal record; or

- (ii) a conduct review finding or outcome; or
 - (iii) an application made by a person under this Act; or
 - (iv) a decision to issue an assessment notice, a further assessment notice, a negative notice or an interim negative notice;
- or
- (b) may otherwise be relevant to the performance of a function of the corresponding authority that substantially corresponds to a function of the CEO under this Act.
- (2) The CEO may request a corresponding authority to disclose to the CEO information obtained or created by the corresponding authority that —
- (a) corresponds to the information referred to in subsection (1)(a) and relates to a person who has made an application, or has been issued with a notice, under this Act; or
 - (b) may otherwise be relevant to the performance of a function of the CEO under this Act.

34E. Exchange of information under *National Disability Insurance Scheme (Worker Screening) Act 2020*

- (1) In this section —
- CEO (NDIS)** means the chief executive officer of the department of the Public Service principally assisting in the administration of the *National Disability Insurance Scheme (Worker Screening) Act 2020*;
- interstate screening agency** means an interstate screening agency as defined in the *National Disability Insurance Scheme (Worker Screening) Act 2020* section 5(1).

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- (2) The CEO may disclose to the CEO (NDIS) or an interstate screening agency information obtained or created under this Act that —
- (a) relates to —
 - (i) a person’s criminal record; or
 - (ii) a conduct review finding or outcome; or
 - (iii) an application made by a person under this Act; or
 - (iv) a decision to issue an assessment notice, a further assessment notice, a negative notice or an interim negative notice;
 - or
 - (b) may otherwise be relevant to the performance of a function of —
 - (i) the CEO (NDIS) under a law of this State; or
 - (ii) the interstate screening agency under a law of another jurisdiction.
- (3) The CEO may request the CEO (NDIS) or an interstate screening agency to disclose to the CEO information obtained or created by the CEO (NDIS) or the interstate screening agency that —
- (a) corresponds to the information referred to in subsection (2)(a) and relates to a person who has made an application, or has been issued with a notice, under this Act; or
 - (b) may otherwise be relevant to the performance of a function of the CEO under this Act.
- (4) However, a prescribed report obtained from the CEO (Justice) under section 34C cannot be disclosed under subsection (2) without the approval of the CEO (Justice).

34F. Disclosure of information to authorised entities

- (1) In this section —
authorised entity means —
 - (a) a public authority prescribed by the regulations for the purposes of this definition; or
 - (b) a criminal records agency.
- (2) If the CEO considers it to be in the public interest to do so, the CEO may, by written notice, disclose the following information to an authorised entity —
 - (a) that an application for an assessment notice has been made by a person in respect of which no decision has yet been made under section 12;
 - (b) that an assessment notice has been issued to a person;
 - (c) that an application for an assessment notice has been withdrawn by a person;
 - (d) that a negative notice has been issued to a person;
 - (e) that an interim negative notice has been issued to a person;
 - (f) that an assessment notice issued to a person has been cancelled under section 21A or 21C;
 - (g) that a person does not have a current assessment notice.
- (3) If the CEO gives a notice to an authorised entity under subsection (2) that discloses information about a person and an assessment notice is subsequently issued to the person, the CEO must give notice of the issuing of the assessment notice to the authorised entity.
- (4) If the CEO gives a notice to an authorised entity under subsection (2) that discloses the information referred to

in subsection (2)(d) and the negative notice is subsequently cancelled without an assessment notice being issued, the CEO must give notice of the cancellation of the negative notice to the authorised entity.

- (5) This section does not limit the powers of the CEO to disclose information under another provision of this Act.

34G. Disclosure of information to Australian Crime Commission

- (1) In this section —
ACC means the Australian Crime Commission established under the *Australian Crime Commission Act 2002* (Commonwealth) section 7.
- (2) The CEO may disclose the following information to the ACC for inclusion in a national register or database established under the *Australian Crime Commission Act 2002* (Commonwealth) —
- (a) that a negative notice or an interim negative notice has been issued to a person;
 - (b) any other information relating to a negative notice or an interim negative notice prescribed by the regulations for the purposes of this subsection;
 - (c) in connection with the disclosure of information under paragraph (a) or (b) —
 - (i) the name, address and date of birth of the person to whom the information relates; and
 - (ii) any other identifying information the CEO considers to be relevant in the circumstances.

- (3) If the CEO discloses information to the ACC under subsection (2)(a) and the negative notice or interim negative notice is subsequently cancelled, the CEO must provide information about the cancellation to the ACC.
- (4) If the CEO discloses information to the ACC under subsection (2)(b) or (c) and the information is no longer up to date or found to be incorrect or inaccurate in some other respect, the CEO may disclose new or revised information to the ACC.
- (5) This section does not limit the powers of the CEO to disclose information under another provision of this Act.

34H. Disclosure of information relevant to protection of children or other persons

- (1) In this section —
CEO (Children and Community Services) means the CEO as defined in the *Children and Community Services Act 2004* section 3;
prescribed authority means —
 - (a) a public authority; or
 - (b) the CEO (Children and Community Services); or
 - (c) a person or body in another jurisdiction with functions that substantially correspond to the functions of the CEO (Children and Community Services); or
 - (d) the Commissioner; or
 - (e) the Commissioner of the Australian Federal Police; or
 - (f) the Commissioner (however designated) of the police force of another jurisdiction; or

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- (g) an external government agency prescribed by the regulations for the purposes of this definition; or
 - (h) any other person or body, or person or body of a class, prescribed by the regulations for the purposes of this definition.
- (2) The CEO may disclose to a prescribed authority any information obtained or created as a result of the performance of a function or the exercise of a power under this Act —
- (a) that, in the opinion of the CEO, is, or is likely to be, relevant to the wellbeing of a child or a class or group of children; or
 - (b) without limiting paragraph (a), in the case of disclosure to the CEO (Children and Community Services) — that, in the opinion of the CEO, is, or is likely to be, relevant to —
 - (i) the wellbeing of a person who under the *Children and Community Services Act 2004* section 96 qualifies for assistance for the purposes of Part 4 Division 6 of that Act; or
 - (ii) the safety of a person who has been subjected to, or exposed to, family violence; or
 - (iii) the administration of the *Children and Community Services Act 2004*;
- or
- (c) that is information of a kind prescribed by the regulations for the purposes of this subsection.
- (3) However, a prescribed report obtained from the CEO (Justice) under section 34C cannot be disclosed

under subsection (2) without the approval of the CEO (Justice).

- (4) This section does not limit or derogate from any other Act or law relating to the disclosure of information for the protection of children or other persons.

34I. Sharing of police information

- (1) In this section —

relevant purpose means —

- (a) a WWC purpose; or
 - (b) a purpose that is for, or connected with, the operation or administration of, or compliance with, a corresponding law.
- (2) The Commissioner may disclose the following information about a person for a relevant purpose —
- (a) information relating to the person's criminal record;
 - (b) without limiting paragraph (a), information relating to —
 - (i) a person that is connected with, or otherwise related to, a conviction or charge mentioned in a criminal record; or
 - (ii) the investigation or circumstances of any conduct or alleged conduct.
- (3) A disclosure under this section is limited to the following —
- (a) the CEO;
 - (b) a corresponding authority;
 - (c) the Commissioner of the Australian Federal Police;

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- (d) the Commissioner (however designated) of the police force of another jurisdiction;
 - (e) a person or body that is —
 - (i) established or constituted under the law of another jurisdiction; and
 - (ii) prescribed by the regulations for the purposes of this subsection.
- (4) A person to whom information is disclosed under this section may disclose that information to a corresponding authority.
- (5) This section does not limit the powers of a person or body to disclose information under another provision of this Act.
- (6) This section does not limit the persons to whom, or the circumstances in which, information may be disclosed apart from under this Act.

Part 3B — Compliance and enforcement

Division 1 — Preliminary

34J. Terms used

In this Part —

authorised purpose means —

- (a) determining whether a person has complied with this Act; or
- (b) without limiting paragraph (a), investigating a suspected offence under this Act;

entry warrant has the meaning given in section 34V(1);

investigation means an investigation of a suspected offence under this Act;

record —

- (a) means a record of information, irrespective of how the information is recorded or stored or able to be recovered; and
- (b) includes —
 - (i) any thing from which images, sounds or writings can be reproduced, with or without the aid of anything else; and
 - (ii) any thing on which information is recorded or stored, whether electronically, magnetically, mechanically or by some other means;

relevant record means a record or document that contains information that is or may be relevant to —

- (a) determining whether a person has complied with this Act; or
- (b) without limiting paragraph (a), an offence under this Act.

Division 2 — Authorised officers

34K. Designation of authorised officers

The CEO may, in writing, designate officers of the Department to be authorised officers —

- (a) generally for the purposes of this Act; or
- (b) for the purposes of a provision of this Act specified in the designation.

34L. Identity cards

- (1) The CEO must ensure that each authorised officer is issued with an identity card in an approved form.
- (2) An authorised officer must display the authorised officer's identity card whenever dealing with a person

in respect of whom the officer has exercised, is exercising, or is about to exercise, a power under this Act.

- (3) In any proceedings the production by an authorised officer of the authorised officer's identity card is conclusive evidence of their designation under section 34K.

Division 3 — Powers of authorised officers

34M. Entry to places

- (1) An authorised officer may, for an authorised purpose, enter a place if —
- (a) its occupier gives informed consent to the entry; or
 - (b) the entry is authorised by an entry warrant.
- (2) An occupier gives informed consent to entry to a place if the occupier gives consent after being informed by an authorised officer —
- (a) of the powers the officer wants to exercise in respect of the place; and
 - (b) of the reasons why the officer wants to exercise those powers; and
 - (c) that the occupier can refuse to consent to the officer entering the place.

34N. Powers after entering place

An authorised officer who enters a place under section 34M(1) may, for an authorised purpose, do any of the following —

- (a) inspect the place and any thing at the place;
- (b) search the place and any thing at the place;

- (c) measure, test, photograph or film any part of, or any thing at, the place;
- (d) take any thing, or a sample of or from any thing, at the place for analysis or testing;
- (e) operate equipment or facilities at the place or direct a person at the place to do so;
- (f) make a copy of, or take an extract from, any record or document at the place;
- (g) seize any thing at the place that is or may afford evidence of an offence under this Act;
- (h) direct (orally or in writing) the occupier of the place, or a person at the place, to give the officer any assistance the officer reasonably requires.

340. Directions to provide information or documents

- (1) An authorised officer may, for an authorised purpose, do any of the following —
 - (a) direct a person —
 - (i) to give information; or
 - (ii) to answer a question put by the officer;
 - (b) direct a person to produce a record or document that is in the person's possession or under the person's control;
 - (c) make a copy of a record or document produced in response to a direction under paragraph (b).
- (2) A direction under subsection (1)(a) —
 - (a) must specify the time at or within which the information or answer must be given; and
 - (b) may require that the information or answer —
 - (i) be given orally or in writing; and

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- (ii) be given at, or sent or delivered to, a place specified in the direction; and
 - (iii) in the case of written information or a written answer — be sent or delivered by a means specified in the direction; and
 - (iv) be verified by statutory declaration.
- (3) A direction under subsection (1)(b) —
 - (a) must specify the time at or within which the record or document must be produced; and
 - (b) may require that the record or document be produced —
 - (i) at a place specified in the direction; and
 - (ii) by a means specified in the direction.
- (4) A person is not excused from complying with a direction under this section to give information, answer a question or produce a record or document on the ground that complying with the direction might tend to incriminate the person or render the person liable to a penalty.
- (5) However, any information or answer given by an individual in compliance with a direction under this section is not admissible in evidence against the individual in criminal or civil proceedings other than proceedings for perjury or for an offence under section 35.
- (6) In directing a person under this section, an authorised officer must explain to the person —
 - (a) that it is an offence to contravene the direction; and
 - (b) the effect of subsections (4) and (5).

- (7) A direction under this section may be given orally or in writing.

34P. Additional powers for relevant records

An authorised officer may, for an authorised purpose, do any of the following —

- (a) operate a computer or other thing on which the officer suspects on reasonable grounds a relevant record is or may be stored or direct a person who has the custody or control of the computer or thing to do so;
- (b) direct (orally or in writing) a person who is, or appears to be, in control of a record or document that the officer suspects on reasonable grounds is a relevant record to give the officer a translation, code, password or other information necessary to gain access to, or interpret and understand, the record or document;
- (c) make a copy of, take an extract from, download, print, photograph or film a record or document that the officer suspects on reasonable grounds is a relevant record;
- (d) seize a record or document that the officer suspects on reasonable grounds is a relevant record and retain it for as long as is necessary for the purposes of this Act;
- (e) seize a computer or other thing on which the officer suspects on reasonable grounds a relevant record is or may be stored and retain it for as long as is necessary for the purposes of this Act;

- (f) take reasonable measures to secure or protect a relevant record, or computer or other thing on which a relevant record is or may be stored, against damage or unauthorised removal or interference.

34Q. Offence to contravene direction

A person who, without reasonable excuse, fails to comply with a direction given to the person under this Division commits an offence.

Penalty: imprisonment for 12 months and a fine of \$12 000.

34R. Exercise of power may be recorded

An authorised officer may record the exercise of a power under this Division, including by making an audiovisual recording.

34S. Assistance and use of force to exercise power

- (1) An authorised officer exercising a power under this Division may authorise as many other people to assist in exercising the power as are reasonably necessary in the circumstances.
- (2) In exercising the power, an authorised officer, and a person authorised under subsection (1) to assist the officer, may use force that is reasonably necessary in the circumstances.

34T. Procedure for seizing things

- (1) If an authorised officer seizes any thing under this Division, the officer must give the person who was in possession of the thing a receipt for it in the approved form.

- (2) If an authorised officer seizes any thing under this Division, the officer must, if practicable, allow a person who is otherwise entitled to possession of the thing to have reasonable access to it.
- (3) An authorised officer who seizes any thing under this Division may take reasonable measures to prevent the thing being concealed, lost, damaged or destroyed.
- (4) If it is not practicable to move a thing that has been seized under this Division, an authorised officer may do whatever is reasonably necessary to secure the thing where it is situated and to notify people that it is under seizure.
- (5) A person must not, without the approval of an authorised officer, interfere or deal with any thing that the person knows, or ought reasonably to know, has been seized under this Division by an authorised officer.

Penalty for this subsection: imprisonment for
12 months and a fine of \$12 000.

34U. Application of *Criminal and Found Property Disposal Act 2006*

- (1) The *Criminal and Found Property Disposal Act 2006* applies to any thing that is seized under this Division.
- (2) For the purposes of the *Criminal and Found Property Disposal Act 2006*, the Department is a prescribed agency.

Division 4 — Entry warrants

34V. Application for entry warrant

- (1) An authorised officer may apply to a magistrate for a warrant (an *entry warrant*) authorising the entry of a place for an authorised purpose.
- (2) Subject to this section —
 - (a) an application for an entry warrant must be in writing and include the information prescribed by the regulations; and
 - (b) the grounds of the application must be verified by affidavit; and
 - (c) the applicant must appear in person before the magistrate to provide information in support of the application on oath.
- (3) An application for a warrant may be made by remote communication if a magistrate considers that such an application is reasonable in the circumstances.
- (4) If an application for an entry warrant is made by remote communication and it is not practicable to send the magistrate written material —
 - (a) the application may be made orally; and
 - (b) the magistrate must make a written record of the application and any information given in support of it; and
 - (c) if the warrant is issued — the applicant must, as soon as practicable, send the magistrate an affidavit verifying the application and any information given in support of it.

34W. Issue and content of entry warrant

- (1) On an application for an entry warrant, a magistrate may issue the warrant if satisfied that it is necessary for an authorised officer to enter a place for an authorised purpose.
- (2) An entry warrant must contain the following information —
 - (a) a reasonably particular description of the place to which the warrant relates;
 - (b) a reasonably particular description of the authorised purpose for which entry to the place is required;
 - (c) if the authorised purpose is the investigation of a suspected offence under this Act – the provision of the Act suspected of being contravened;
 - (d) the period, not exceeding 14 days, during which the warrant may be executed;
 - (e) the name of the magistrate who issued the warrant;
 - (f) the date and time when the warrant was issued.
- (3) An entry warrant must be in the form prescribed by the regulations.
- (4) If a magistrate issues an entry warrant on an application made by remote communication —
 - (a) if it is practicable to send a copy of the original warrant to the applicant by remote communication — the magistrate must do so;
or

- (b) if it is not practicable —
 - (i) the magistrate must provide the applicant, by remote communication, with the information that must be set out in the warrant; and
 - (ii) the applicant must complete a form of warrant with the information received and give the magistrate a copy of the form as soon as practicable after doing so; and
 - (iii) the magistrate must attach the copy of the form to the original warrant and any affidavit received from the applicant, and make them available for collection by the applicant.
- (5) The copy of the original warrant sent, or the form of the warrant completed, under subsection (4) has the same force and effect as the original warrant.

34X. Refusal of entry warrant

If a magistrate refuses to issue an entry warrant, the magistrate must record on the application, or the written record of the application, the fact of, the date and time of, and the reasons for, the refusal.

34Y. Effect of entry warrant

- (1) An entry warrant comes into force when it is issued by a magistrate.
- (2) An entry warrant may be executed according to its terms by an authorised officer entitled to enter the place for the authorised purpose specified in the warrant.

- (3) However, if an applicant for an entry warrant contravenes section 34V(4)(c) or 34W(4)(b)(ii), evidence obtained under the entry warrant is not admissible in proceedings in a court or tribunal.

Division 5 — Additional power to request or provide information

34Z. Additional power to request information

- (1) In this section —
prescribed entity means —
- (a) a public authority; or
 - (b) a criminal records agency; or
 - (c) a corresponding authority; or
 - (d) a Commonwealth agency or instrumentality; or
 - (e) a person or body, or person or body of a class, prescribed by the regulations for the purposes of this definition.
- (2) The CEO may request the following information from a prescribed entity —
- (a) information that is relevant to determining whether a person has complied with this Act, including in relation to the investigation or prosecution of a suspected or alleged offence under this Act;
 - (b) information that is relevant to the safety of an officer of the Department performing a function or exercising a power under this Act.
- (3) A person or body in this State to which a request is made by the CEO under subsection (2) is authorised to disclose the requested information to the CEO.

- (4) This section does not limit the powers of the CEO to request or obtain information under another provision of this Act.

34ZA. Provision of information to justice authorities

- (1) In this section —
justice authority means —
- (a) a public authority; or
 - (b) a government agency; or
 - (c) a criminal records agency; or
 - (d) a corresponding authority; or
 - (e) any other person or body that performs a function connected with the administration or operation of a law of this State or another jurisdiction that imposes a penalty or sanction; or
 - (f) a person or body, or person or body of a class, prescribed by the regulations for the purposes of this definition.
- (2) The CEO may give a notice as described in subsection (3) to a justice authority in relation to a particular person if the CEO considers that the information to be contained in the notice is relevant to —
- (a) determining or ensuring compliance with any law, including a law of another jurisdiction; or
 - (b) the investigation of a contravention (or alleged contravention) of any law, including a law of another jurisdiction; or
 - (c) any other matter prescribed by the regulations.

- (3) A notice under this section may include the following information —
- (a) contact details, employment details and identifying information about a person who has made an application under this Act;
 - (b) other information about the activities of a person who is employed, or proposed to be employed, in child-related employment or who is carrying on, or proposing to carry on, a child-related business;
 - (c) any other information prescribed by the regulations for the purposes of this subsection.
- (4) A notice under this section must be in writing.
- (5) This section does not limit the powers of the CEO to disclose information under another provision of this Act.

30. Section 35 amended

After section 35(b) insert:

- (ba) an authorised officer; or

Note: The heading to amended section 35 is to read:

False or misleading information

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31. Sections 35A to 35C inserted

After section 35 insert:

35A. Obstruction of authorised officer

A person must not obstruct or hinder an authorised officer who is performing or attempting to perform a function under this Act.

Penalty: imprisonment for 12 months and a fine of \$12 000.

35B. Impersonation of authorised officer

A person must not falsely represent, by words or conduct, that the person or another person is an authorised officer.

Penalty: imprisonment for 12 months and a fine of \$12 000.

35C. Change in particulars

- (1) This section applies to a person —
- (a) who has a current assessment notice; or
 - (b) who has applied to the CEO for an assessment notice and the application is pending; or
 - (c) who has applied to the CEO for a negative notice to be cancelled and the application is pending; or
 - (d) who is aware that the CEO is in the process of making a decision under section 12 in relation to the person because of the operation of section 17(3)(d) or 17B(2)(b); or
 - (e) who is aware that the CEO is acting under section 20 in relation to the person; or

- (f) who has given a notice to the CEO that the CEO must treat under section 32(1) as an application for an assessment notice and the application is pending; or
 - (g) in any other circumstances prescribed by the regulations.
- (2) The person must notify the CEO of a relevant change of particulars in accordance with this section as soon as practicable after the change occurs.
Penalty for this subsection: a fine of \$5 000.
- (3) For the purposes of subsection (2), a relevant change of particulars is any of the following —
- (a) a change in the person's name, residential address or contact details;
 - (b) the person starting child-related employment with a particular employer;
 - (c) the person not starting child-related employment with a particular proposed employer;
 - (d) the person ceasing child-related employment with a particular employer;
 - (e) the person starting to carry on a child-related business;
 - (f) the person deciding not to start to carry on a proposed child-related business;
 - (g) the person ceasing to carry on a child-related business;
 - (h) if the person is a student —
 - (i) the person completing or otherwise ceasing a course of study under which the person may or must undertake

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- child-related work as part of that course;
or
 - (ii) a change in the person's education provider with whom the person is completing a course of study under which the person may or must undertake child-related work as part of that course;
 - (i) a change prescribed by the regulations.
- (4) A notification under subsection (2) must be in the approved form.
- (5) The approved form may require the provision of any information the CEO thinks fit in connection with a relevant change of particulars.

32. Section 36 amended

In section 36(a):

- (a) after "person is" insert:

charged with or

- (b) after "committed" insert:

or allegedly committed

33. Sections 37, 37A and 38 deleted

Delete sections 37, 37A and 38.

34. Section 39 amended

In section 39:

(a) after “obtained” insert:

or created

(b) after paragraph (c) insert:

(ca) if the information relates to proceedings before a court or tribunal and the proceedings are or were open to the public; or

(cb) if the disclosure or use involves the provision of statistical information that could not reasonably be expected to identify a specific person; or

Note: The heading to amended section 39 is to read:

Use and disclosure of information obtained or created in course of official functions

35. Section 39A amended

(1) In section 39A(1) delete the definition of *external government agency*.

(2) Delete section 39A(2)(c).

(3) Delete section 39A(4)(a) and insert:

(a) section 34E(4) or 34H(3); or

36. Section 42 deleted

Delete section 42.

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37. Section 43A inserted

After section 43 insert:

43A. Protection of legal professional privilege

Nothing in this Act requires a person to disclose information that is the subject of legal professional privilege.

38. Sections 45A to 45D inserted

After section 45 insert:

45A. Delegation by public authority or other body

(1) In this section —

chief executive officer, in relation to a relevant authority, means the principal officer (however described) of that body;

relevant authority means —

- (a) a public authority; or
- (b) any other body prescribed by the regulations for the purposes of this definition.

(2) The chief executive officer of a relevant authority may delegate to an officer or employee of the relevant authority any power or duty of the relevant authority under this Act.

(3) The delegation must be in writing signed by the chief executive officer.

(4) A delegation may expressly authorise the delegate to further delegate the power or duty.

- (5) A person exercising or performing a power or duty that has been delegated to the person under this section or as authorised under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) Nothing in this section limits the ability of the relevant authority to perform a function through an officer of the relevant authority or an agent.

45B. Commencement of proceedings

- (1) Proceedings under this Act for an offence or in respect of any other matter may be commenced in the name of the CEO by —
 - (a) the CEO; or
 - (b) a person authorised to do so by the CEO.
- (2) In any proceedings no proof is required of —
 - (a) the appointment of the CEO; or
 - (b) the authorisation of a person under subsection (1)(b).
- (3) An averment in a prosecution notice that a person is authorised under subsection (1)(b) is taken to be proved unless the contrary is proved.
- (4) Subsection (1) does not limit the ability of a person to commence or conduct the prosecution of an offence if the person has authority at law to do so.

45C. Time for commencement of prosecution

Proceedings under this Act for an offence must be commenced —

- (a) if the penalty for the offence specified by this Act includes a term of imprisonment for 5 years — within 5 years after the day on which

the offence is alleged to have been committed;
or

- (b) if the offence is under section 9B(1) or (2) — within 5 years after the day on which the offence is alleged to have been committed; or
- (c) in any other case — within 2 years after the day on which the offence is alleged to have been committed.

45D. Service of documents

- (1) In this section —
document includes any written notice or decision;
give includes serve, send, issue and notify.
- (2) A document that is authorised or required by this Act to be given to a person may be given by any of the following methods —
 - (a) delivering the document to the person personally;
 - (b) leaving the document for the person at the person's last known principal place of residence or ordinary place of business;
 - (c) sending the document by post to the person's last known principal place of residence or ordinary place of business;
 - (d) sending the document by email to an email address specified by the person for giving documents under this Act;
 - (e) any other method to which the person agrees for giving documents under this Act;
 - (f) any other method (including electronic means) prescribed by the regulations.

- (3) The regulations may make provision for or in relation to the time at which a document that is given by a particular method is taken to have been given.

39. Section 46 amended

In section 46(2)(a) after “obtained” insert:

or created

40. Section 47 replaced

Delete section 47 and insert:

47. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review —
- (a) as soon as practicable after the 5th anniversary of the day on which the *Working with Children (Criminal Record Checking) Amendment Act 2022* section 40 comes into operation; and
 - (b) after that, at intervals of not more than 5 years.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5th anniversary or the expiry of the period of 5 years, as the case may be.

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41. Part 6 Division 1 heading inserted

At the beginning of Part 6 insert:

Division 1 — Transitional provisions for this Act

42. Section 56 amended

In section 56 delete “Part —” and insert:

Division —

43. Section 61 amended

In section 61(1) delete “Part” and insert:

Division

44. Part 6 Division 2 inserted

After section 61 insert:

Division 2 — Transitional provisions for *Working with Children (Criminal Record Checking) Amendment Act 2022*

Subdivision 1 — Preliminary

62. Terms used

In this Division —

2022 Amendment Act means the *Working with Children (Criminal Record Checking) Amendment Act 2022*;

commencement day means the day on which section 44 of the 2022 Amendment Act comes into operation;

former classification provisions means section 7, and Schedules 1 and 2, as in force immediately before commencement day;

new classification provisions means section 7, and Schedules 1 and 2, as in force on and after commencement day;

pre-commencement assessment application means an application for an assessment notice that is pending immediately before commencement day;

pre-commencement cancellation application means an application for the cancellation of a negative notice under section 19 that is pending immediately before commencement day.

Subdivision 2 — Classification of offences

63. Pre-commencement assessment applications

- (1) This section applies to a person who has a pre-commencement assessment application.
- (2) Subject to this Subdivision, the former classification provisions continue to apply to and in relation to the person until the CEO makes a decision under section 12 in relation to the application and then —
 - (a) if an assessment notice is issued — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first); or
 - (b) if a negative notice is issued —
 - (i) until all rights of review and appeal have been exhausted; and

- (ii) if an assessment notice is issued as a result of a review or appeal — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first).

64. Pre-commencement cancellation applications

- (1) This section applies to a person who has a pre-commencement cancellation application.
- (2) Subject to this Subdivision, the former classification provisions continue to apply to and in relation to the person until the CEO makes a decision on the application and then —
 - (a) if an assessment notice is issued — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first); or
 - (b) if the application is unsuccessful —
 - (i) until all rights of review and appeal have been exhausted; and
 - (ii) if an assessment notice is issued as a result of a review or appeal — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first).

65. Decision to act under s. 17(3)(d)

- (1) This section applies to a person if —
 - (a) the person is subject to a decision of the CEO to act under section 17(3)(d) made before commencement day; and

- (b) the CEO has not made a decision under section 12 in respect of the person before commencement day.
- (2) Subject to this Subdivision, the former classification provisions continue to apply to and in relation to the person until the CEO makes a decision under section 12 and then —
- (a) if an assessment notice is issued — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first); or
 - (b) if a negative notice is issued —
 - (i) until all rights of review and appeal have been exhausted; and
 - (ii) if an assessment notice is issued as a result of a review or appeal — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first).

66. Decision to act under s. 20

- (1) This section applies to a person if —
- (a) the person is subject to a decision of the CEO to act under section 20 made before commencement day; and
 - (b) the processes provided for, or referred to, in section 20 (the *relevant processes*) have not been completed in respect of the person immediately before commencement day.

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- (2) Subject to this Subdivision, the former classification provisions continue to apply to and in relation to the person until the relevant processes are completed and then —
 - (a) if an assessment notice is issued — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first); or
 - (b) if a negative notice is issued or is not cancelled —
 - (i) until all rights of review and appeal have been exhausted; and
 - (ii) if an assessment notice is issued as a result of a review or appeal — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first).

67. Processes associated with s. 32

- (1) This section applies to a person if —
 - (a) the person is the subject of a notice given to the CEO before commencement day that the CEO must treat under section 32(1) as an application for an assessment notice; and
 - (b) the CEO has not made a decision under section 12 in respect of the person before commencement day.
- (2) Subject to this Subdivision, the former classification provisions continue to apply to and in relation to the

person until the CEO makes a decision under section 12 and then —

- (a) if an assessment notice is issued — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first); or
- (b) if a negative notice is issued —
 - (i) until all rights of review and appeal have been exhausted; and
 - (ii) if an assessment notice is issued as a result of a review or appeal — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first).

68. Proceedings before State Administrative Tribunal or court

- (1) Subject to this Subdivision, the former classification provisions continue to apply (to the extent relevant) to and in relation to a person who is the subject of proceedings before the State Administrative Tribunal or a court under or in respect of this Act that were commenced —
 - (a) before commencement day; or
 - (b) on or after commencement day if the proceedings relate to —
 - (i) any proceedings commenced before commencement day; or
 - (ii) any matter where the right to commence those proceedings arose before commencement day and the period for

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- commencing those proceedings had not expired before commencement day; or
- (iii) any matter where the right to commence those proceedings expired before commencement day but the State Administrative Tribunal or a court grants an extension of time to commence those proceedings; or
 - (iv) any matter to which subsection (4) or any of sections 63 to 67 apply.
- (2) Subsection (1)(b)(i) and (ii) extend to a case where the period for commencing proceedings expires and the State Administrative Tribunal or a court grants an extension of time to commence the proceedings.
 - (3) The former classification provisions apply under subsection (1) pending the outcome of the proceedings (and subject to subsection (4) and the other provisions of this Subdivision).
 - (4) Subject to this Subdivision —
 - (a) if, as a result of proceedings referred to in subsection (1), an assessment notice is issued to the person who was the subject of the proceedings, the former classification provisions continue to apply to and in relation to the person until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first); and
 - (b) if, as a result of proceedings referred to in subsection (1), a negative notice still applies in relation to the person who was the subject of the proceedings, the former classification

provisions continue to apply to and in relation to the person —

- (i) until all rights of review and appeal have been exhausted; and
- (ii) if an assessment notice is issued as a result of a review or appeal — until that assessment notice ceases to have effect or the person applies for a further assessment notice under Part 2 Division 1 (whichever occurs first).

69. Rights of review and appeal: related provision

- (1) This section applies if a provision of this Subdivision provides that the former classification provisions continue to apply to and in relation to a person until all rights of review and appeal have been exhausted.
- (2) Subject to this Subdivision, if the State Administrative Tribunal or a court grants an extension of time to commence review or appeal proceedings, the former classification provisions continue to apply to and in relation to the person pending the outcome of those proceedings.

70. Rights of review and appeal no longer apply if application made under s. 19 or 20

If a person to whom a negative notice has been issued applies to the CEO on or after commencement day for the notice to be cancelled under section 19 or 20 —

- (a) all rights of review and appeal in relation to the negative notice are taken to have been exhausted for the purposes of this Subdivision; and
- (b) the former classification provisions cease to apply to and in relation to the person.

71. Application of new classification provisions

- (1) Despite any other section in this Subdivision, the new classification provisions apply to and in relation to a person if the person is charged with, or convicted of, an offence on or after commencement day that is classified as a Class 1 offence or a Class 2 offence under those provisions.
- (2) Despite any other section in this Subdivision, the new classification provisions apply to and in relation to a person if the person is subject to a decision of the CEO to act under section 17(3)(d) or 17B(2)(b) made on or after commencement day.
- (3) If the new classification provisions apply to a person by operation of subsection (1) or (2), a classification of an offence by virtue of those provisions applies to and in relation to the person even if the offence was not a Class 1 offence or a Class 2 offence (as the case may be) at the time when the offence was committed or allegedly committed.

Subdivision 3 — Other provisions

72. Application of amended s. 12

Section 12, as in force on and after commencement day, applies to and in relation to a person who is subject to Subdivision 2.

73. Processes associated with interim negative notice

- (1) Section 13, as in force immediately before commencement day, continues to apply in relation to an interim negative notice issued before commencement day.

- (2) Unless subsection (1) applies, section 13AA applies to and in relation to the following —
- (a) a pre-commencement assessment application;
 - (b) a decision of the CEO to act under section 17(3)(d) if the CEO has not made a decision under section 12 before commencement day;
 - (c) a decision by the CEO to act under section 20 before commencement day if the correct notice to be substituted would be a negative notice and the CEO has not made a decision under that section before commencement day;
 - (d) a notice that the CEO must treat under section 32(1) as an application for an assessment notice if the CEO has not made a decision under section 12 before commencement day.

74. Application of Part 3B

The powers conferred by Part 3B may be exercised in relation to a suspected offence under this Act, or other conduct, whether occurring before, on or after commencement day.

75. Disclosure of information by CEO

- (1) This section applies if the CEO has given a notice to a person under section 38(2) or (3) before commencement day.
- (2) Despite the repeal of section 38 by the 2022 Amendment Act, the CEO must comply with subsection (4) of that section if circumstances referred to in that subsection occur on or after commencement day.

76. Transitional regulations

- (1) In this section —
specified means specified or described in the regulations;
transitional matter —
- (a) means a matter or issue of a transitional nature that arises as a result of any of the amendments to this Act made by the 2022 Amendment Act; and
 - (b) includes a saving or application matter.
- (2) If there is not sufficient provision in this Division for dealing with a transitional matter, the regulations may prescribe all matters that are required, necessary or convenient to be prescribed for dealing with the matter.
- (3) If regulations made under subsection (2) provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than commencement day, the regulations have effect according to their terms.
- (4) If regulations made under subsection (2) contain a provision of a kind described in subsection (3), the provision does not operate so as —
- (a) to affect in a manner prejudicial to any person (other than the State or an authority of the State) the rights of that person existing before the day of publication of those regulations; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

45. Schedules 1 and 2 replaced

Delete Schedules 1 and 2 and insert:

Schedule 1 — Class 1 offences

[s. 7(1)]

Enactment	Description of offence	Conditions
<i>The Criminal Code</i>		
s. 181	Carnal knowledge of animal	
s. 186(1)	Occupier or owner allowing child to be on premises for unlawful carnal knowledge	
s. 187(2)	Facilitating sexual offence against child outside Western Australia	
s. 191	Procuring person to be prostitute	The victim is a child
s. 192	Procuring person to have unlawful carnal knowledge by threat, fraud or administering drug	The victim is a child
s. 204A(2)	Showing offensive material to child under 16	The offensive material is child exploitation material as defined in <i>The Criminal Code</i> section 217A The offence does not fall within the ambit of section 7(3)
s. 204B	Using electronic communication to procure, or expose to indecent matter, child under 16	The offence does not fall within the ambit of section 7(3)

Working with Children (Criminal Record Checking) Amendment Act 2022**Part 2**Working with Children (Criminal Record Checking) Act 2004
amended**s. 45**

Enactment	Description of offence	Conditions
s. 217	Involving child in child exploitation	The offence does not fall within the ambit of section 7(3)
s. 218	Producing child exploitation material	The offence does not fall within the ambit of section 7(3)
s. 219	Distributing child exploitation material	The offence does not fall within the ambit of section 7(3)
s. 220	Possession of child exploitation material	The offence does not fall within the ambit of section 7(3)
s. 279	Murder	The victim is a child
s. 294	Act intended to cause grievous bodily harm or prevent arrest	The victim is a child
s. 305	Setting dangerous thing	The intended victim is a child
s. 306(2)	Female genital mutilation	The victim is a child
s. 306(4)	Female genital mutilation – taking or arranging for child to be taken from the State	
s. 317A(b)	Assault with intent to do grievous bodily harm	The victim is a child
s. 320	Sexual offences against child under 13	
s. 321	Sexual offences against child of or over 13 and under 16	The offence does not fall within the ambit of section 7(3)
s. 321A(4)	Persistent sexual conduct with child under 16	The offence does not fall within the ambit of section 7(3)

Enactment	Description of offence	Conditions
s. 322	Sexual offences against child of or over 16 by person in authority etc.	
s. 323	Indecent assault	The victim is a child The offence does not fall within the ambit of section 7(3)
s. 324	Aggravated indecent assault	The victim is a child The offence does not fall within the ambit of section 7(3)
s. 325	Sexual penetration without consent	The victim is a child The offence does not fall within the ambit of section 7(3)
s. 326	Aggravated sexual penetration without consent	The victim is a child The offence does not fall within the ambit of section 7(3)
s. 327	Sexual coercion	The victim is a child
s. 328	Aggravated sexual coercion	The victim is a child
s. 329(2)	Sexually penetrating child known to be lineal relative or de facto child	
s. 329(3)	Procuring, inciting or encouraging child known to be lineal relative or de facto child to engage in sexual behaviour	
s. 329(4)	Indecently dealing with child known to be lineal relative or de facto child	

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Enactment	Description of offence	Conditions
s. 329(5)	Procuring, inciting or encouraging child known to be lineal relative or de facto child to do indecent act	
s. 329(6)	Indecently recording child known to be lineal relative or de facto child	
s. 330	Sexual offences against incapable person	
s. 331B	Sexual servitude	The victim is a child or an incapable person
s. 331C(2)	Conducting business involving sexual servitude	The victim is a child or an incapable person
s. 331D	Deceptive recruiting for commercial sexual services	The victim is a child or an incapable person
s. 332	Kidnapping	The victim is a child and the offence is committed by a person other than a relative of the child
s. 343	Child stealing	The offence is committed by a person other than a relative of the child
repealed s. 278 (as read with repealed s. 282)	Wilful murder	The victim is a child
repealed s. 281A (as read with repealed s. 287A)	Infanticide	

Enactment	Description of offence	Conditions
<i>Children and Community Services Act 2004</i>		
s. 192	Employing child, or permitting child to be employed, to perform in indecent, obscene or pornographic manner	
<i>Classification (Publications, Films and Computer Games) Enforcement Act 1996</i>		
s. 59(1)	Possessing or copying indecent or obscene article with intent to sell or supply, or selling or supplying, or offering to sell or supply, indecent or obscene article	The article is child exploitation material as defined in <i>The Criminal Code</i> section 217A
s. 59(3) or (4)	Displaying, exhibiting or demonstrating indecent or obscene article in specified circumstances	The article is child exploitation material as defined in <i>The Criminal Code</i> section 217A
s. 59(5)	Possessing or copying indecent or obscene article	The article is child exploitation material as defined in <i>The Criminal Code</i> section 217A The offence does not fall within the ambit of section 7(3)
s. 101(1)	Using computer service to transmit, obtain, demonstrate, advertise or request objectionable material	The material is child exploitation material as defined in <i>The Criminal Code</i> section 217A
repealed s. 60	Child pornography	The offence does not fall within the ambit of section 7(3)

s. 45

Enactment	Description of offence	Conditions
<i>Prostitution Act 2000</i>		
s. 16	Causing, permitting or seeking to induce child to act as prostitute	
s. 17(1)	Obtaining payment for prostitution by child	
s. 18(1)	Agreement for prostitution of child	

Schedule 2 — Class 2 offences

[s. 7(2)]

Enactment	Description of offence	Conditions
<i>The Criminal Code</i>		
s. 192	Procuring person to have unlawful carnal knowledge by threat, fraud or administering drug	The victim is a person other than a child
s. 204A(2)	Showing offensive material to child under 16	The offensive material is child exploitation material as defined in <i>The Criminal Code</i> section 217A The offence falls within the ambit of section 7(3)
s. 204B	Using electronic communication to procure, or expose to indecent matter, child under 16	The offence falls within the ambit of section 7(3)
s. 217	Involving child in child exploitation	The offence falls within the ambit of section 7(3)
s. 218	Producing child exploitation material	The offence falls within the ambit of section 7(3)

Enactment	Description of offence	Conditions
s. 219	Distributing child exploitation material	The offence falls within the ambit of section 7(3)
s. 220	Possession of child exploitation material	The offence falls within the ambit of section 7(3)
s. 221BD(2)	Distribution of intimate image	The image is of a child
s. 279	Murder	The victim is a person other than a child
s. 280	Manslaughter	
s. 281	Unlawful assault causing death	
s. 284(3)(c)	Culpable driving (not of motor vehicle) causing death	
s. 284(3)(d)	Culpable driving (not of motor vehicle) causing grievous bodily harm	
s. 288	Procuring, counselling or aiding another to commit suicide	
s. 290	Preventing birth of live child	
s. 292	Disabling in order to commit indictable offence	
s. 293	Stupefying in order to commit indictable offence	
s. 294	Act intended to cause grievous bodily harm or prevent arrest	The victim is a person other than a child
s. 297	Grievous bodily harm	
s. 298	Suffocation and strangulation	

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s. 45

Enactment	Description of offence	Conditions
s. 300	Persistent family violence	One or more of the prescribed offences under <i>The Criminal Code</i> section 299 are offences listed in Schedule 1 or this Schedule
s. 301	Wounding and similar acts	
s. 305	Setting dangerous thing	The intended victim is a person other than a child
s. 306(2)	Female genital mutilation	The victim is a person other than a child
s. 317A(b)	Assault with intent to do grievous bodily harm	The victim is a person other than a child
s. 321	Sexual offences against child of or over 13 and under 16	The offence falls within the ambit of section 7(3)
s. 321A(4)	Persistent sexual conduct with child under 16	The offence falls within the ambit of section 7(3)
s. 323	Indecent assault	The victim is a person other than a child or The offence falls within the ambit of section 7(3)
s. 324	Aggravated indecent assault	The victim is a person other than a child or The offence falls within the ambit of section 7(3)
s. 325	Sexual penetration without consent	The victim is a person other than a child or The offence falls within the ambit of section 7(3)

Enactment	Description of offence	Conditions
s. 326	Aggravated sexual penetration without consent	The victim is a person other than a child or The offence falls within the ambit of section 7(3)
s. 327	Sexual coercion	The victim is a person other than a child
s. 328	Aggravated sexual coercion	The victim is a person other than a child
s. 329(7)	Sexually penetrating person of or over 18 known to be lineal relative	
s. 329(8)	Consenting to being sexually penetrated by person known to be lineal relative	
s. 331B	Sexual servitude	The victim is a person other than a child or an incapable person
s. 331C(2)	Conducting business involving sexual servitude	The victim is a person other than a child or an incapable person
s. 331D	Deceptive recruiting for commercial sexual services	The victim is a person other than a child or an incapable person
s. 332	Kidnapping	The victim is a person other than a child or The victim is a child and the offence is committed by a relative of the child
s. 343	Child stealing	The offence is committed by a relative of the child

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Part 2 Working with Children (Criminal Record Checking) Act 2004
amended

s. 45

Enactment	Description of offence	Conditions
repealed s. 278 (as read with repealed s. 282)	Wilful murder	The victim is a person other than a child
<i>Animal Welfare Act 2002</i>		
s. 19	Cruelty to animals	This item does not apply if the CEO is satisfied that the offence did not involve serious cruelty to an animal
<i>Children and Community Services Act 2004</i>		
s. 101(1)	Failing to protect child from significant harm	
s. 102	Leaving child unsupervised in vehicle	
<i>Classification (Publications, Films and Computer Games) Enforcement Act 1996</i>		
s. 59(5)	Possessing or copying indecent or obscene article	The article is child exploitation material as defined in <i>The Criminal Code</i> section 217A The offence falls within the ambit of section 7(3)
repealed s. 60	Child pornography	The offence falls within the ambit of section 7(3)
<i>Disability Services Act 1993</i>		
s. 53	Offence of ill-treatment	
<i>Misuse of Drugs Act 1981</i>		
s. 7B(4)	Selling drug paraphernalia to child	

Enactment	Description of offence	Conditions
repealed s. 19A(2)	Selling, or offering to sell, cannabis smoking paraphernalia to child	
repealed s. 19B(2)	Selling, or offering to sell, ice pipe to child	
<i>Road Traffic Act 1974</i>		
s. 59	Dangerous driving causing death	
s. 59	Dangerous driving causing grievous bodily harm	

46. Various penalties amended

In the provisions listed in the Table delete “Penalty:” and insert:

Penalty for this subsection:

Table

s. 9B(1), (2), (3), (4) and (5)	s. 16(5)
s. 17(4)	s. 22(2), (3), (4), (5) and (6)
s. 28(2)	s. 29(1)
s. 31(2), (3) and (4)	

Notes:

1. The heading to amended section 31 is to read:

**Duties and employment of people with assessment notice who
have relevant change in criminal record**

s. 46

2. The heading to section 20 is to read:
Cancellation of assessment notice or negative notice as result of wrong or incomplete information
3. The heading to section 21B is to read:
Cancellation of assessment notice on person's request

Part 3 — Consequential amendments to other Acts

Division 1 — *National Disability Insurance Scheme (Worker Screening) Act 2020* amended

47. Act amended

This Division amends the *National Disability Insurance Scheme (Worker Screening) Act 2020*.

48. Section 34 amended

In section 34(5)(b) delete “(*Criminal Record Checking*)” and insert:

(Screening)

49. Section 51 amended

In section 51(8)(d) delete “(*Criminal Record Checking*)” and insert:

(Screening)

50. Section 72 amended

Delete section 72(4) and insert:

(4) Subsection (3) does not derogate from the operation of —

- (a) section 34(6); or
- (b) the *Working with Children (Screening) Act 2004* section 34E(4).

Division 2 — *Spent Convictions Act 1988* amended

51. Act amended

This Division amends the *Spent Convictions Act 1988*.

52. Schedule 3 amended

(1) In Schedule 3 clause 2(6) in the Table:

(a) after item 2 insert:

2A. A person making, or giving effect to, a request for a report, documents or information under the *Working with Children (Screening) Act 2004* section 9, 10, 13, 33A, 34A, 34C, 34E or 34I.

(b) in item 3 after “section” insert:

33A, 34I or

(2) In Schedule 3 clause 2(7) delete “section 37(2) of that Act if the disclosure is to a corresponding authority as defined in section 37(1) of that Act and that authority is” and insert:

section 34D of that Act if the person or body to whom or to which the information is disclosed is

(3) In Schedule 3 clause 2(8)(b) delete “section 37(1) and that agency” and insert:

section 4 and that corresponding authority

- (4) In Schedule 3 clause 3(3) delete “section 37A” and insert:

section 34E

- (5) In the provisions listed in the Table delete “(*Criminal Record Checking*)” and insert:

(*Screening*)

Table

Sch. 3 cl. 2(6) Table it. 1, 2 and 3	Sch. 3 cl. 2(7)
Sch. 3 cl. 2(8)(a) and (b)	Sch. 3 cl. 3(3)

Division 3 — Other Acts amended

53. Various references to short title of Act amended

- (1) This section amends the Acts listed in the Table.
- (2) In the provisions listed in the Table delete “(*Criminal Record Checking*)” and insert:

(*Screening*)

Table

<i>Adoption Act 1994</i>	<p>s. 4(1) def. of <i>Class 1 offence</i></p> <p>s. 4(1) def. of <i>Class 2 offence</i></p> <p>s. 4(1) def. of <i>conviction</i></p> <p>s. 4(1) def. of <i>pending charge</i></p>
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Working with Children (Criminal Record Checking) Amendment Act 2022

Part 3 Consequential amendments to other Acts

Division 3 Other Acts amended

s. 53

<i>Child Care Services Act 2007</i>	s. 29(2)(d) s. 41A(c)
<i>Education and Care Services National Law (WA) Act 2012</i>	s. 14
<i>Teacher Registration Act 2012</i>	s. 27(2)(b) and (3)(b) s. 40(1)



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