Disability Services and Other Legislation (Worker Screening) Amendment Bill 2018

Explanatory Notes

Short title

The short title of the Bill is the *Disability Services and Other Legislation (Worker Screening) Amendment Bill 2018*.

Policy objectives and the reasons for them

On 9 December 2016, the Council of Australian Governments (COAG), agreed the National Disability Insurance Scheme (NDIS) Quality and Safeguards Framework (the Framework). The Framework will apply in Queensland at full scheme implementation of the NDIS. Under the Framework all jurisdictions agreed to a nationally consistent approach to worker screening, including the assessment of an expanded range of criminal history information.

An Intergovernmental Agreement on Nationally Consistent Worker Screening and the National Disability Insurance Scheme (IGA) has been developed to support the implementation of nationally consistent worker screening, including to provide for the exchange of expanded range of criminal history information.

Under the NDIS, the administration of worker screening and criminal history monitoring will remain the primary responsibility of states and territories with nationally consistent policies and principles agreed under the IGA to be adopted in each jurisdiction through appropriate legislation, policy and practice.

Each jurisdiction in Australia transitions to the full scheme implementation of the NDIS in accordance with individual bilateral agreements and at different stages. Although full scheme operation of the NDIS does not commence in Queensland until 1 July 2019, legislative amendments are required during the transition to enable Queensland to meet its information sharing obligations for worker screening as other jurisdictions (New South Wales and South Australia) commence full scheme implementation and the operation of their NDIS worker screening systems.

The *Disability Services and Other Legislation Amendment Act 2016* (DSOLAA) commenced on 1 April 2016. The DSOLAA redefined the jurisdiction and scope of the *Disability Services Act 2006* (DSA) so that the legislative safeguards under the DSA applied to non-government organisations providing specialist disability support services, irrespective of whether they are funded by DCDSS or through an NDIS participant's approved plan. The amendments made by DSOLAA ensure that during transition to full scheme, Queensland's legislative quality and safeguards continue to operate in relation to specialist disability support services funded by the Queensland Government and those funded through an NDIS participant's approved plan, including the worker screening provisions under the DSA (the yellow card system).

The objectives of the Bill are to amend:
1. The *Police Service Administration Act 1990* (PSAA) to enable Queensland to participate in national information sharing obligations for NDIS worker screening under the Framework and the IGA.
2. The DSA to clarify beyond doubt screening requirements for sole traders during the transition period until full scheme implementation of the NDIS in Queensland.

Achievement of policy objectives

The Bill will achieve its objective of enabling Queensland to exchange expanded criminal history information with worker screening units in other jurisdictions for the purposes of NDIS worker screening by expanding the existing framework in place under the PSAA that allows the sharing of expanded criminal history information with screening units in other jurisdictions for the purposes of working with children checks (WWCCs).

The PSAA contains provisions that implement the existing COAG IGA for the Exchange of Criminal History Information for People Working with Children (ECHIPWC Agreement). The ECHIPWC agreement provides for law enforcement agencies to share expanded criminal history information with WWCCs screening units in other jurisdictions, such as spent convictions, pending charges and non-conviction charge information, which would otherwise not be shared.

The Bill will amend the PSAA to extend this existing framework to allow the same range of information to be shared by the Queensland Police Service (QPS) with NDIS worker screening units in other jurisdictions for the purpose of NDIS worker screening.

The Bill will also achieve its objective of clarifying beyond doubt that sole traders operating as NDIS providers in Queensland during the transition to full scheme NDIS must undergo criminal history screening and have a positive notice and a yellow card. The Bill does this by:
- Clarifying that sole traders delivering prescribed disability services are required to be screened.
- Requiring a sole trader to have a yellow card before they can commence providing disability services, unless:
  - they have a current blue card that is not suspended and they have made an application for a yellow card exemption; or
  - they have applied for renewal of their yellow card 30 days prior to expiry (but the application has not been decided at the time of expiry).
- Ensuring that current exemptions apply to sole traders.
- Expanding identification requirements so that sole traders can have their identity certified by a prescribed person (a justice of the peace, commissioner for declarations, lawyer or police officer).Expanding the disclosure requirements so that sole traders are required to disclose any changes in criminal history to the chief executive of the department responsible for the administration of the DSA.
- Clarifying offence and penalty provisions for self-employed individuals who are sole traders under the yellow card system.

These changes will ensure that screening takes place regardless of whether a person delivering disability services is self-employed or is engaged by a service provider. This will ensure consistency of safeguards for people with disability.

Alternative ways of achieving policy objectives

The proposed Bill is essential to implement measures to ensure appropriate quality and safeguards protections during Queensland's transition to the NDIS. There is no alternative way of achieving the policy objectives.

Estimated cost for government implementation

No significant financial or operational implications for sharing the expanded range of information under the amendments to the PSAA are expected for government as there are existing administrative processes in place for a similar arrangement for WWCCs.

Any financial implications associated with screening sole traders can be met within existing resources during Queensland's remaining transition period to the NDIS.

Consistency with fundamental legislative principles

Section 4(2) Legislative Standards Act 1992 – Whether legislation has sufficient regard to the rights and liberties of individuals

Clause 13 - Restriction on sole traders providing disability services and currency of prescribed notice for sole trader and Clauses 16 and 17 - Change in police information

New section 67A prohibits a sole trader from providing disability services unless they hold a current positive notice (yellow card) or exemption notice except in specified circumstances. A maximum penalty up to 250 penalty units applies if a sole trader breaches this provision.

The amendments to section 75 and 77 provide that a sole trader must disclose to the chief executive if there has been a change in their police information. A maximum penalty up to 100 penalty units applies if a sole trader breaches either of these provisions. These amendments may raise fundamental legislative principle issues relating to the rights and liberties of individuals (section 4(2)(a) *Legislative Standards Act 1992*).

These offences are necessary to ensure that the safety of people with disability is safeguarded and prioritised. The provisions recognise a sole trader operates independently without the opportunity for oversight which arises from an employment relationship. Therefore, it is appropriate that it give rise to an offence if a sole trader does not comply with these requirements.

The penalties under new section 67A and amended sections 75 and 77 are justified as they are proportionate to the penalties applied in comparable provisions of the DSA. New section 67A is consistent with the existing offence and penalty that applies to service providers who engage an individual in contravention of the DSA. The penalties for sole traders under amended sections 75 and 77 are consistent with existing penalties, under those sections, that apply to

engaged persons who fail to disclose a change in police information to their employer (the service provider).

Clauses 35-40 – Amendment of *Police Service Administration Act 1990*
The amendments to Part 10, Division 1B of the PSAA (clauses 34-38), to enable the QPS to supply charges and spent convictions information to interstate screening units (and override restrictions in the *Criminal Law (Rehabilitation of Offenders) Act 1986*), may breach the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals. Specifically, individuals' rights to rehabilitation, privacy, paid employment and the freedom to participate in the community as volunteers are potentially affected.

These rights are particularly affected when the expanded criminal history information relates to pending charges, which are yet to be dealt with by a court. This potential breach is justified given the information is being made available to worker screening units for the purposes of employment screening of people working with people with disability. Worker screening units have specialist expertise in assessing such information and the purpose is to safeguard persons vulnerable to abuse, neglect and exploitation.

Section 4(2) Legislative Standards Act 1992 – Whether legislation has sufficient regard to the rights and liberties of individuals or imposes obligations retrospectively

Clause 33 – Transitional provisions for *Disability Services and Other Legislation (Worker Screening) Amendment Act 2018*
The amendments to the DSA potentially breach the principle that legislation should not adversely affect rights and liberties, or impose obligations, retrospectively. Clause 33 inserts a new section 342 which provides that any prescribed notice or exemption notice issued prior to commencement remains valid. In this case, because clarifying amendments are being made, it is necessary to remove any doubt about the validity of yellow card screening decisions (including positive or negative notices) which have been made in relation to sole traders prior to the commencement of these legislative amendments. This provides certainty and fairness for sole traders who have undergone criminal history screening under the DSA. Importantly, the Bill does not impose any obligations retrospectively but merely ensures that decisions that have been made remain valid.

Consultation

Consultation has occurred with the Queensland Disability Advisory Council (the Council) that has a key role in providing advice to the Queensland Government and the Minister for Communities and Minister for Disability Services and Seniors. On the whole, members of the Council were broadly supportive of the policy objectives of the Bill but cautioned the need to ensure there are appropriate risk assessment frameworks in place to ensure worker screening is focused on identifying individuals who pose a risk of harm to people with disability.

Broader consultation was not undertaken in relation to the Bill as the amendments provide for an expanded range of criminal history information being shared which is consistent with the current approach adopted for WWCCs. Also, the worker screening related information sharing provisions in the Bill are consistent with the Framework previously endorsed by COAG.

Similarly, the amendments in relation to sole traders are clarifying the existing legal position that screening is to be undertaken and ensuring the provisions operate appropriately for sole traders.

Consistency with legislation of other jurisdictions

On 15 February 2018, the Commonwealth Government introduced the Crimes Amendment (National Disability Insurance Scheme – Worker Screening Bill) 2018 (the Commonwealth Bill) to allow the Australian Criminal Intelligence Commission and the Australian Federal Police to disclose expanded criminal history information about people working under the NDIS to authorised worker screening units in states and territories. The purpose of the Bill is to ensure screening units can access criminal history information for the purpose of undertaking holistic checks. The amendments to the PSAA reciprocate the arrangements so that the Queensland Police Commissioner may share the expanded criminal history information with other jurisdictions.

All jurisdictions have agreed under the Framework to share this expanded range of information and are considering any necessary legislative amendments required in each jurisdiction to give effect to this agreement.

Each jurisdiction has committed to continue to operate their existing quality and safeguards framework throughout the NDIS transition period. Therefore, the approach adopted by Queensland with regard to worker screening checks for self-employed individuals (or sole traders) operating as NDIS providers in Queensland during transition is appropriate. However, it should be noted that the quality and safeguards system in each jurisdiction operates differently and each state and territory is subsequently required to adopt an individualised approach.

Notes on provisions

Part 1 Preliminary

Clause 1 states that the Bill, when enacted, may be cited as the *Disability Services and Other Legislation (Worker Screening) Amendment Act 2018*.

Clause 2 provides that Part 3 commences on a day to be fixed by proclamation.

Part 2 Amendment of *Disability Services Act 2006*

Clause 3 clarifies that this part amends the *Disability Services Act 2006* (the Act).

Clause 4 inserts a new section 44A, which provides a definition of the term sole trader. It clarifies that a sole trader is an individual who is an NDIS non-government service provider and provides disability services personally. This could include, for example, a support worker. It is intended that a sole trader means an individual operating independently. Where a person employs or engages other persons, it is intended that they will be covered by existing provisions of the Act.

Clause 5 amends section 46 to clarify when a sole trader is an engaged person. New subsection (2A) clarifies that additionally, for this part, an NDIS non-government service provider who is a sole trader is taken to be engaged by the service provider to carry out work at a service outlet of the service provider if the sole trader carries out, or is to carry out, the work at the outlet. The overall intent of deeming a sole trader to be an 'engaged person' is to clarify that the requirements, obligations and offences relating to screening under Part 5 of the Act apply to sole traders, as appropriate, to ensure that comprehensive safeguards are in place for people with disability.

Clause 6 amends section 52(1) to refer to 'a person' rather than 'another person'. This is to ensure that the provision can apply to a sole trader, who is taken to be engaged by an NDIS non-government service provider but does not engage 'other' persons. The clause also amends subsection 52(2)(c) to clarify that if a sole trader has already signed a prescribed notice application in their capacity as a service provider, they do not also have to sign the application in their capacity as the engaged person.

Clause 6 also replaces subsection 52(3)(b) with a new subsection to specify the means for certifying a sole trader's and other engaged person's identity when an application for a prescribed notice is made. The new subsection 52(3)(b) provides that for an application about an engaged person by a funded non-government service provider or an NDIS non-government service provider, other than a sole trader, the service provider may certify that prescribed identity documents have been sighted. This is appropriate where there is an agreement to work between the engaged person and the service provider. However, this approach is not suitable for individual sole traders as they are operating independently. Instead, for an application by a sole trader, the new subsection provides that a prescribed person may certify that prescribed identity documents have been sighted. A prescribed person means a justice, commissioner for declarations, lawyer or police officer (see clause 34, amendment to schedule 8).

This clause also inserts a new subsection 52(8) which provides that subsections 52(5) to (7) do not apply to sole traders. Subsection (5) will not apply as it would require a sole trader to warn themselves that it is an offence for a disqualified person to sign an application for a prescribed notice. Subsections (6) and (7) will not apply as they relate to the engaged person being liable to pay the service provider an application fee for a prescribed notice. This is redundant in the case of a sole trader, as the engaged person and the service provider are the same person.

Clause 7 inserts a new subsection (4A) into section 56 to clarify that subsection 56(4) does not apply to sole traders. Existing section 56(1) provides that after making a decision about a prescribed notice application, the chief executive must issue a positive or negative prescribed notice to the engaged person. As a sole trader is both the engaged person and the service provider, the additional notice ordinarily required to be given from the chief executive to the service provider, under s56(4) about the outcome of the application, is not required in the context of sole traders. The clause also amends the penalty in subsection 56(5) to update a subsection cross reference.

Clause 8 amends subsection 59(2)(c) to clarify that if a sole trader has already signed an exemption notice application in their capacity as a service provider, the sole trader does not also have to sign the application in their capacity as the engaged person. The clause also replaces subsection 59(3)(b) with a new subsection to specify the means for certifying a sole trader's or other engaged person's identity when an application for an exemption notice is made. The new subsection 59(3)(b) provides that for an application about an engaged person by a funded non-government service provider or an NDIS non-government service provider, other than a sole trader, the service provider may certify that prescribed identity documents have been sighted. This is appropriate where there is an agreement to work between the engaged person and the service provider. However, this approach is not suitable for individual sole traders as they are operating independently. Instead, for an application by a sole trader, the new subsection provides that a prescribed person may certify that prescribed identity documents have been sighted. A prescribed person means a justice, commissioner for declarations, lawyer or police officer (see clause 29, amendment to schedule 8).

Clause 9 inserts a new subsection (4A) into section 63 to clarify that subsection 63(4) does not apply to sole traders. Existing section 63(1) provides that after making a decision about an exemption notice application, the chief executive must issue a positive or negative exemption notice to the engaged person. As a sole trader is both the engaged person and the service provider, the additional notice ordinarily required to be given from the chief executive to the service provider, under s63(4) about the outcome of the application, is not required in the context of sole traders. The clause also amends the penalty in subsection 63(5) to update a subsection cross reference.

Clause 10 inserts a new subsection (4) into section 65 to provide that section 65 does not apply to sole traders. This is because the new sections 67A and 67B apply to sole traders instead.

Clause 11 inserts a new subsection (4) into section 66 to provide that section 66 does not apply to sole traders. This is because the new sections 67A and 67B apply to sole traders instead.

Clause 12 inserts a new subsection (3) into section 67 to provide that section 67 does not apply to sole traders. This is because the new sections 67A and 67B apply to sole traders instead.

Clause 13 inserts new sections 67A and 67B which apply specifically to sole traders. New

section 67A provides that a person who is a sole trader must not provide disability services as an NDIS non-government service provider unless:

- the person has a current positive notice or current positive exemption notice; or
- the person holds a WWC positive notice that is not suspended under the Working with Children Act and the person has applied for an exemption notice.

The maximum penalty for non-compliance with this section is 250 penalty units.

The new section 67B applies if a sole trader providing disability services as an NDIS non-government service provider has a positive notice and has applied for a further prescribed notice or exemption notice at least 30 days before the original notice expires, and the application has not been decided. Section 67B clarifies that despite section 58(2), the original notice remains current from the day it would otherwise end under that subsection until the application is decided or withdrawn, unless the previous notice is earlier cancelled under division 8.

The combined effect of new sections 67A and 67B is that sole traders are required to have a current positive notice (yellow card) or current positive exemption notice before they can commence providing disability services unless one of the circumstances specified in new sections 67A or 67B apply.

Clause 14 amends the note in section 68(1) to update a cross reference to section 46.

Clause 15 inserts a new subsection (3) into section 70 to provide that section 70 does not apply to sole traders. Section 70 establishes an offence for a service provider to engage a person who does not have a current positive notice or current positive exemption notice in certain circumstances. Given the focus of section 70 is on service provider liability for knowingly engaging a person in certain circumstances after receiving notice or being made aware of a particular fact about the engaged person, it is not appropriate to apply this offence to a sole trader (as they are both the service provider and the engaged person).

Sole traders are already subject to offence provisions for the actual act of continuing to engage in work when they have withdrawn their consent to screening, had a change in their police information or they hold a current negative notice. Sections 71, 72, 75 and 77 of the Act will apply to sole traders in this regard.

Clause 16 amends section 75 to clarify that subsections (2) to (4) apply to a person engaged by a funded non-government service provider or an NDIS non-government service provider, other than a sole trader, if there is a change in the person's police information. Clause 16 then inserts new subsections 75(6) to (7) which apply specifically to sole traders who have had a change in their police information. The clause provides that the sole trader must immediately disclose to the chief executive that there has been a change in their police information. It provides a maximum penalty of 100 penalty units for non-compliance with this requirement.

The reason for having a different approach to disclosure requirements for sole traders is because the Act requires other engaged persons (e.g. employees) to immediately disclose any change in their criminal history to the service provider (their employer). This approach is not suitable for individual sole traders as they operate independently.

Clause 17 amends section 77 to clarify the approach for sole traders and other persons, who are not currently engaged by a service provider but have had a change in their police

information since their current positive notice or current exemption notice was issued. The clause inserts a new subsection (2A) into section 77 to clarify that subsection (2) does not apply if a person is a sole trader. Clause 17 then inserts new subsections 77(5) and (6) which apply if a person is a sole trader and provide that the sole trader must, before providing disability services as an NDIS non-government service provider, notify the chief executive that there has been a change in their police information since their current positive notice or current exemption notice was issued. There is a maximum penalty of 100 penalty units for non-compliance with this requirement.

Clause 18 inserts a new subsection (2A) into section 83 to clarify that subsection (2) does not apply if the person is a sole trader. Section 83 broadly relates to the chief executive's ability to cancel a prescribed notice and substitute it with another prescribed notice. The reason subsection (2) does not need to apply to sole traders is because it provides that if a person is engaged by a service provider at the time the notice is substituted, the chief executive must give notice of the substitution to the service provider. This additional requirement to notify the service provider is redundant in the context of sole traders as the sole trader and the service provider are the same person.

Clause 19 inserts a new subsection (2A) into section 84 to clarify that subsection (2) does not apply if the person is a sole trader. Section 84 broadly relates to the chief executive's ability to cancel an exemption notice and substitute it with another exemption notice. The reason subsection (2) does not need to apply to sole traders is because it provides that if a person is engaged by a service provider at the time the exemption notice is substituted, the chief executive must give notice of the substitution to the service provider. This additional requirement to notify the service provider is redundant in the context of sole traders as the sole trader and the service provider are the same person.

Clause 20 inserts a new subsection (5) into section 85 to clarify that subsection (4) does not apply if the person is a sole trader. Section 85 broadly relates to the chief executive's ability to cancel a positive notice, and substitute a negative notice, if a person becomes a relevant disqualified person. The reason subsection (4) does not need to apply to sole traders is because it provides that if the person is engaged by a service provider, the chief executive must give notice to the service provider stating the person was given a negative notice. This additional requirement to notify the service provider is redundant in the context of sole traders as the sole trader and the service provider are the same person.

Clause 21 inserts a new subsection (5A) into section 86 to clarify that subsection (5) does not apply if the person is a sole trader. Section 86 broadly relates to the chief executive's ability to suspend a positive notice if a person is charged with a disqualifying offence or becomes a relevant disqualified person because they are subject to a temporary offender order or interim sexual offender order. The reason subsection (5) does not need to apply to sole traders is because it relates to a requirement on the chief executive to notify the relevant service provider of the suspension and respective obligations on that service provider once that notice is received. These additional notification requirements and obligations regarding service providers are redundant in the context of sole traders as the sole trader and the service provider are the same person.

Clause 22 inserts a new subsection (6A) into section 88 to clarify that subsection (6) does not apply if the person is a sole trader. Section 88 broadly relates to the chief executive's ability to suspend a positive exemption notice if a WWC positive notice is suspended. The reason

subsection (6) does not need to apply to sole traders is because it relates to a requirement on the chief executive to notify the relevant service provider of the suspension and respective obligations on that service provider once that notice is received. These additional notification requirements and obligations regarding service providers are redundant in the context of sole traders as the sole trader and the service provider are the same person.

Clause 23 inserts a new subsection (8A) into section 89 to clarify that subsection (8) does not apply if the person is a sole trader. Section 89 broadly relates to the ending of a suspension of a positive exemption notice and the issue of a further exemption notice or prescribed notice. The reason subsection (8) does not need to apply to sole traders is because it provides that if the person is engaged by a service provider, the chief executive must give a respective notice to the service provider. This additional requirement to notify the service provider is redundant in the context of sole traders as the sole trader and the service provider are the same person.

Clause 24 inserts a new subsection (4A) into section 90 to clarify that subsection (4) does not apply if the person is a sole trader.

Clause 25 inserts a new subsection (4A) into section 91 to clarify that subsection (4) does not apply if the person is a sole trader.

Clause 26 amends subsection 96(3) to update a subsection cross reference.

Clause 27 inserts a new subsection (3A) into section 98 to clarify that subsection (3) does not apply if the person is a sole trader.

Clause 28 omits subsection 99(6) as the definition of prescribed person is now provided in the dictionary.

Clause 29 inserts a new subsection (4A) into section 131 to clarify that this section does not apply to a sole trader.

Clause 30 inserts a new subsection (9A) into section 132 to clarify that for the purposes of this section, if the engaged person is a sole trader, a notice of deemed withdrawal given to the sole trader as the engaged person is also taken to be given to the service provider. This amendment is necessary to ensure that notices provided under this section do not need to be provided twice to a sole trader (in their capacity as engaged person and service provider). This clause also amends section 132(8)(b) to clarify that the chief executive does not need to give notice of an engaged person's withdrawal of consent to screening to the service provider, if the engaged person is a sole trader.

Clause 31 amends section 133(1) to refer to 'a person' rather than 'another person'. This is to ensure that the provision can apply to a sole trader, who themselves is taken to be engaged by an NDIS non-government service provider but does not engage 'other' persons.

Clause 32 amends section 138(2) to provide that the chief executive's register of information about engaged persons must include information about whether a person is a sole trader.

Clause 33 inserts transitional provisions through the inclusion of Part 9, Division 11 (Transitional provisions for Disability Services and Other Legislation (Worker Screening) Amendment Act 2018).

Section 341 inserts definitions for this division, which include amending Act and unamended Act.

Section 342 applies where a sole trader applied for, and the chief executive issued, a prescribed notice or exemption notice prior to commencement. The prescribed notice or exemption notice is taken to remain valid. This provides certainty and fairness for sole traders who have already undergone criminal history screening and obtained a notice prior to the commencement of the amending Act.

Section 343 applies where a sole trader applied for a prescribed notice or an exemption notice, and a prescribed person had sighted documents relating to proof of the sole trader's identity, prior to commencement. The chief executive may accept this certification by the prescribed person for the sole trader and the application, prescribed notice or exemption notice issued by the chief executive (whether before or after commencement) remains valid. This is to ensure that where a sole trader has their identity certified by a prescribed person prior to commencement of the amending Act, the validity of their application is not affected.

Section 344 applies where a sole trader was providing disability services and had applied for a prescribed notice under section 52 of the Act or section 199 of the *Working with Children (Risk Management and Screening) Act 2000*, and the application had not been decided, prior to commencement. In this situation, new sections 67A and 67B do not apply to the sole trader until four months after the commencement of the amending Act. This provision will enable sole traders who have made an application prior to commencement that has not been decided, to continue providing services under the Act for a period of four months to allow sufficient time to process applications for sole traders.

Clause 34 amends existing definitions by inserting definitions for prescribed person and sole trader.

Part 3 Amendment of *Police Service Administration Act 1990*

Clause 35 states this part amends the *Police Service Administration Act 1990* (the PSAA).

Clause 36 inserts a new definition in section 1.4 (Definitions) for disability-related employment screening, for part 10, division 1B and refers to section 10.2S.

Clause 37 amends Part 10 division 1B, heading, by omitting the reference to 'child-related' employment screening and inserting a reference to 'particular' employment screening. This enables the provisions about exchange of criminal history to apply to both child-related and disability-related employment screening.

Clause 38 amends section 10.2S by inserting a definition for part 10, division 1B for the term disability-related employment screening.

Clause 39 amends section 10.2T to insert references to disability-related employment screening. This extends the existing provisions of the PSAA by allowing the police commissioner to share expanded criminal history information with disability-related worker

screening units, as well as child-related worker screening units. An interstate screening unit means an entity established under a law of another State or the Commonwealth and can be prescribed under a regulation.

Clause 40 inserts a transitional provision through the inclusion of part 11, division 11 to provide that the police commissioner's power to share a person's criminal history to an interstate screening unit or approved agency for disability-related employment screening extends to charges for an offence alleged to have been committed before the commencement of the amending Act.