

THIS PUBLIC BILL has this day been read a Third time and passed

The Clerk of the Parliament.

*Legislative Assembly Chamber,
Brisbane, May 2019*



Queensland

**No.
A BILL for**

An Act to amend the Disability Services Act 2006, the Public Service Act 2008, the Working with Children (Risk Management and Screening) Act 2000 and the legislation mentioned in schedule 2 for particular purposes



Queensland

Working with Children (Risk Management and Screening) and Other Legislation Amendment Bill 2019

Contents

		Page
Part 1	Preliminary	
1	Short title	14
2	Commencement	14
Part 2	Amendment of Working with Children (Risk Management and Screening) Act 2000	
3	Act amended	14
4	Insertion of new ch 1, pt 1, hdg	14
5	Insertion of new s 7	15
	7 Act applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986	15
6	Amendment of s 8 (Chief executive's main functions)	15
7	Insertion of new ch 1, pt 2, hdg	15
8	Relocation and renumbering of s 3 (Dictionary)	15
9	Amendment and renumbering of ch 8, hdg (Screening for regulated employment and regulated businesses)	15
10	Replacement of ss 156–157	16
	156 Regulated employment	16
	157 Regulated businesses	16
11	Omission of s 160 (Application of chapter to children)	17
12	Amendment of s 162 (What is employment when education provider arranges trainee student to carry out work for someone else)	17
13	Amendment of s 169 (Who is a disqualified person)	17
14	Amendment of s 170 (Who is a relevant disqualified person)	18
15	Relocation and renumbering of ss 161–170	18
16	Omission of ch 7, pt 2, hdg (Interpretation)	18
17	Replacement of ch 7, pt 4, hdg and div 1	18

Contents

	Part 4	Screening requirements	
	Division 1	Preliminary	
	173	Requirements for employer giving notice about employing person	19
	Division 2	Requirement for working with children clearance	
	174	Application of division	19
	175	Clearance required to employ person in regulated employment	19
	176	Employing person with suspended clearance prohibited	20
	176A	Person prohibited from regulated employment without clearance	21
	176B	Clearance required to carry on regulated business . .	22
	Division 3	Requirement for working with children exemption for police officers and registered teachers	
	176C	Exemption required to employ police officer or registered teacher in regulated employment	22
	176D	Employing police officer or registered teacher with suspended authority prohibited	23
	176E	Police officer or registered teacher prohibited from regulated employment without exemption	24
	176F	Exemption required for regulated employment if previous application withdrawn	25
	176G	Exemption required for police officer or registered teacher to carry on regulated business	25
	Division 4	Restricted persons prohibited from restricted employment	
	176H	Definitions for division	26
	176I	Employing restricted person in restricted employment prohibited	27
	176J	Restricted person prohibited from starting or continuing in restricted employment	27
18		Insertion of new ch 8, hdg and ch 8, pt 1, hdg	28
19		Insertion of new ch 8, pt 1, div 1	28
	Division 1	Prohibited applications	
	176K	Application by disqualified person prohibited	28
	176L	Application by negative notice holder prohibited	28
20		Amendment of s 177 (Purpose of div 2)	29
21		Amendment of s 178 (Application for an eligibility declaration) . .	29
22		Amendment of s 180 (Chief executive's decision on eligibility application)	29

23	Amendment of s 181 (Eligibility declaration taken to have been issued)	30
24	Replacement of s 182 (Withdrawing eligibility application generally)	31
	182 Chief executive may request further information	31
25	Omission of ss 183 and 184	31
26	Replacement of s 185 (Expiry of eligibility declaration)	31
	185 When eligibility declaration ends	31
26A	Amendment of s 208 (Deemed withdrawal of consent to employment screening if charged with disqualifying offence etc.)	32
26B	Amendment of s 217 (Deemed withdrawal of application if person charged with disqualifying offence etc.)	32
27	Omission of ch 8, pt 4, divs 3–8	32
28	Insertion of new ch 8, pts 2 and 3	33
	Part 2 Working with children check applications	
	187 Who may apply	33
	188 Form of application	33
	189 No application fee for volunteers	34
	190 Chief executive may request further information	34
	191 Working with children authority continues in force pending decision	35
	192 Effect of application by disqualified person	35
	193 Effect of application by negative notice holder	36
	Part 3 Withdrawal of application	
	194 Application of part	36
	195 Notice of withdrawal	37
	196 Withdrawal by applicant	37
	197 Deemed withdrawal—identity can not be established	37
	198 Deemed withdrawal—failure to comply with particular requests	38
	199 Deemed withdrawal—applicant charged with serious offence or disqualifying offence etc.	38
	200 Deemed withdrawal—applicant no longer police officer or registered teacher	39
29	Insertion of new ch 8, pt 4, hdg	39
30	Amendment of ch 8, pt 4, div 9, hdg (Deciding prescribed notice application)	40
31	Replacement of ss 219 and 220	40
	219 Application of division	40

Contents

	220	Deciding application—generally	40
32		Replacement of s 224 (Issuing negative notice to relevant disqualified person except because of temporary or interim order)	40
	224	Issuing notice to relevant disqualified person	40
33		Amendment of s 225 (Issuing prescribed notice to other persons)	41
34		Replacement of ss 230 and 231	41
	230	Chief executive to be notified of change in particular information	41
	231	Term of clearance and negative notice	42
35		Amendment of ch 8, pt 4, div 10, hdg (Steps after prescribed notice application decided)	42
36		Replacement of s 232 (Application of div 10)	42
	232	Application of division	43
	232A	Issuing working with children card	43
37		Amendment of s 234 (Notifiable person to be notified of decision)	43
37A		Amendment of s 240 (Suspension of a positive notice if charged with disqualifying offence or subject to temporary or interim order) . .	43
37B		Amendment of s 241 (Ending of suspension under s 240 and issue of further prescribed notice)	44
38		Omission of ch 8, pt 4, divs 11 and 12	44
39		Replacement of ch 8, pt 5, hdg (Exemption notices)	44
39A		Amendment of s 269 (Deemed withdrawal of consent to employment screening if charged with disqualifying offence etc.)	44
39B		Amendment of s 279 (Deemed withdrawal of application if charged with disqualifying offence etc.)	44
40		Omission of ch 8, pt 5, divs 1–7	45
41		Amendment of ch 8, pt 5, div 8, hdg (Deciding exemption notice application)	45
42		Replacement of ss 281 and 282	45
	281	Application of division	45
	282	Deciding application—generally	45
43		Replacement of s 285 (Issuing exemption notice if ss 283 and 284 do not apply)	46
	285	Deciding application if ss 283 and 284 do not apply .	46
44		Replacement of ss 288 and 289	46
	288	Chief executive to be notified of change in particular information	46
	289	Term of exemption and negative notice	47
45		Amendment of ch 8, pt 5, div 9, hdg (Steps after exemption notice	

	application decided)	47
46	Replacement of s 290 (Application of div 9)	48
	290 Application of division	48
	290A Issuing working with children card for exemption . . .	48
46A	Amendment of s 298 (Suspension of a positive exemption notice if charged with disqualifying offence or subject to temporary or interim order)	48
46B	Amendment of s 299 (Ending of suspension and issue of further exemption notice)	48
47	Omission of ch 8, pt 5, divs 10 and 11	48
48	Insertion of new ch 8, pt 5A	49
	Part 5A Suspension or cancellation of working with children authority	
	Division 1 Preliminary	
	294 Chief executive's decisions under this part	49
	Division 2 Suspension of working with children authority	
	295 Application of division	50
	296 Chief executive must suspend authority	51
	297 Notifiable persons and potential employers notified about suspension	51
	298 Effect of suspension of working with children authority	52
	299 When suspension of authority ends	53
	300 Chief executive's decision about suspended notice	53
	301 Chief executive decides to cancel suspended notice	54
	302 Chief executive decides not to cancel suspended authority	56
	Division 3 Cancelling working with children authority without suspension	
	303 Cancelling authority if relevant disqualified person	57
	304 Cancelling authority issued because of wrong or incomplete information	57
	304A Cancelling authority because of subsequent information	57
	304B Action after decision	58
	304C Notifiable persons and potential employers notified about cancellation	59
	Division 4 Cancelling working with children authority on holder's request	
	304D Request to cancel working with children authority	60
	304E Cancellation of working with children authority	60

Contents

	304F	Notifiable persons and potential employers notified about cancellation	61
	Division 5	Cancelling negative notice on holder's request	
	304G	Application to cancel negative notice	62
	304H	Form of application	62
	304I	Deciding application	63
	Division 6	Other cancellation of negative notice	
	304J	Chief executive may act on own initiative or application	64
	304K	No longer relevant disqualified person	64
	304L	Negative notice issued because of wrong or incomplete information	65
	304M	Subsequent information	65
	304N	Action after making decision	66
	Division 7	Return of working with children card	
	304O	Requirement to return suspended card	66
	304P	Requirement to return cancelled card	67
49		Replacement of s 310 (Application of div 2)	67
	310	Application of division	67
50		Replacement of s 323 (Effect of change in police information about employee)	69
	323	Notice of change in police information	69
51		Omission of ss 324 and 325	69
52		Amendment of s 339 (Chief executive to give notice to particular entities about a change in police information)	70
53		Insertion of new ss 344A and 344B	71
	344A	Chief executive may give authorised entities particular information	71
	344B	Use of information obtained under s 344A about a person	72
54		Amendment of ch 8, pt 7, hdg (Miscellaneous provisions about prescribed notices and exemption notices)	74
55		Replacement of ch 8, pt 7, div 1 (Replacement notice)	74
	Division 1	Replacement card	
	347	Replacement of lost or stolen card	74
	348	Replacement card for change of name or contact details	75
	348A	Requirement to return replaced card	76
	Division 1A	Change in regulated employment or regulated business	

	349	Holder must notify change of regulated employment or regulated business	76
	350	Holder must notify change and pay prescribed application fee—volunteer or business carried on other than for financial reward	77
	Division 1B	Holder of working with children exemption stops being police officer or registered teacher	
	350A	Holder and notifiable persons notified about expiry of working with children exemption	79
	350B	Effect of negative notice if holder no longer police officer or registered teacher	80
56		Replacement of s 351 (False or misleading disclosure)	81
	351	False or misleading disclosure	81
57		Amendment of s 352 (False or misleading documents)	81
58		Insertion of new s 354A	81
	354A	Stay of operation of particular decisions on application for review	81
59		Amendment of s 357 (Disqualification order)	82
60		Replacement of ch 8A (Criminal history checks, and assessing suitability, of persons employed in the department)	82
	Chapter 8A	Register of regulated persons who provide home-based care services	
	Part 1	Preliminary	
	357A	Definitions for chapter	83
	357B	Meaning of home-based care service	83
	357C	Meaning of regulated person	84
	357D	Meaning of associated adult of a regulated person	84
	357E	Who is an authorised user	85
	Part 2	Register	
	357F	Register of regulated persons who provide home-based care service to children	86
	357G	Contents of the register	86
	357H	Access to register	88
	357I	Use, disclosure and giving of access to confidential information	88
61		Replacement of s 375 (Positive notice blue card is evidence of holding positive notice)	89
	375	Working with children card is evidence of authority	89
62		Amendment of s 377 (Indictable and summary offences)	90
63		Amendment of s 378 (Proceedings for indictable offences)	90

Contents

64	Replacement of s 384 (Confidentiality of information about criminal history or related information)	90
	384 Confidentiality of police, disciplinary and mental health information	91
65	Insertion of new s 398A	92
	398A Chief executive may arrange for use of information system	92
66	Insertion of new ch 11, pt 19	93
	Part 19 Transitional provisions for Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019	
	Division 1 Preliminary	
	549 Definitions for part	93
	Division 2 Application of particular provisions before changes to employment screening	
	550 Particular references in ch 8A during transition period	94
	551 Stay of operation of particular decisions of QCAT . .	94
	552 New regulated employment	95
	552A Effect of pre-commencement charge for serious offence	95
	552B Applicant in paid employment convicted of serious offence	95
	Division 3 New serious offences and disqualifying offences	
	553 Definitions for division	97
	553A Effect of conviction or charge for new serious offence	98
	554 Effect of conviction or charge for new disqualifying offence	99
	554A Effect of conviction for new disqualifying offence on existing positive notice or positive exemption notice	100
	555 Existing eligibility application	100
	556 Expiry of eligibility declaration for new disqualifying offence	101
	557 Existing prescribed notice applications and exemption notice applications	101
	558 Existing positive notice or positive exemption notice held by person convicted of new serious offence or new disqualifying offence	102
	559 Existing application to cancel negative notice or negative exemption notice	103
	560 Existing application to cancel suspended positive notice or	

	positive exemption notice	104
561	Undecided reviews and appeals by new disqualified persons	104
562	Review of chapter 8 reviewable decision about new disqualified person	105
563	Appeal by new disqualified person against QCAT decision	105
564	Existing appeal by chief executive against QCAT decision	106
565	Existing right of appeal by chief executive against QCAT decision	107
Division 4	Changes to employment screening	
Subdivision 1	Preliminary	
566	Definitions for division	107
Subdivision 2	Existing eligibility declarations, prescribed notices, exemption notices and related applications	
567	Existing eligibility application or eligibility declaration	109
568	Existing prescribed notice application	109
568A	Transitioning to issuing working with children card for clearance that includes holder's photograph	110
569	Existing positive notice and positive notice blue card	111
570	Existing negative prescribed notice	112
571	Existing exemption notice application	112
571A	Transitioning to issuing working with children card for exemption that includes holder's photograph	112
572	Existing positive exemption notice and positive exemption notice card	113
573	Expiry of transitioned positive exemption notice	114
574	Existing negative exemption notice	115
575	Existing application to cancel positive notice or positive exemption notice	115
576	Existing application to cancel negative notice or negative exemption notice	116
577	Existing application to cancel suspended positive notice or positive exemption notice	116
Subdivision 3	Reviews and appeals	
578	Reviews not started on commencement	117
579	Appeals not started on commencement	117
580	Undecided reviews and appeals	118

Contents

	Subdivision 4	Other transitional provisions	
	581	Definitions for subdivision	118
	582	Things done before commencement in relation to eligibility declaration, prescribed notice or exemption notice . .	119
	583	Obligations or powers arising before commencement in relation to eligibility declaration, prescribed notice or exemption notice	120
	584	Existing employer notices about employment or proposed employment of a person	121
	585	Existing orders under s 357	122
	586	Particular references in Act or document	122
	587	Application withdrawn or taken to have been withdrawn before commencement	123
	588	Continuing obligation of confidentiality	124
	Division 5	Transitional regulation-making power	
	589	Transitional regulation-making power	124
67		Replacement of sch 1, ss 4 and 4A	125
	4	Education and care services and similar employment	125
	4A	Child care and similar employment	127
68		Amendment of sch 1, s 6 (Health, counselling and support services)	127
69		Insertion of new sch 1, s 28A	127
	28A	Employment of lawyers	127
69A		Amendment of sch 2 (Current serious offences)	128
69B		Amendment of sch 3 (Repealed or expired serious offences) . .	128
70		Amendment of sch 4 (Current disqualifying offences)	129
70A		Amendment of sch 5 (Repealed or expired disqualifying offences)	130
71		Amendment of sch 7 (Dictionary)	131
	Part 3	Amendment of other Acts	
	Division 1	Amendment of Disability Services Act 2006	
72		Act amended	137
73		Insertion of new s 109A	137
	109A	Stay of operation of particular decisions on application for review	137
	Division 2	Amendment of Public Service Act 2008	
74		Act amended	138
75		Amendment of s 150 (Definitions for pt 6)	138
76		Amendment of s 151 (Application of div 2)	139

77	Amendment of s 156 (Application of div 3)	139
78	Amendment of s 157 (Definitions for div 3)	139
79	Amendment of s 158 (Prescribed notice or exemption notice required for child-related duties)	140
80	Omission of s 159 (Chief executive to apply for prescribed notice or exemption notice)	140
81	Replacement of ss 161 and 162	140
	161 Engaging police officer or registered teacher who is a public service employee before exemption issued	140
	162 Engaging police officer or registered teacher who is not public service employee before exemption issued	141
82	Amendment of s 163 (Effect of suspension or cancellation of positive prescribed notice or positive exemption notice)	142
83	Amendment of ch 5, pt 6, div 3A, hdg (Further assessment of person to whom prescribed notice or exemption notice is issued)	143
84	Amendment of s 165A (Chief executive may decide to obtain criminal history)	143
85	Amendment of sch 4 (Dictionary)	143
Division 3	Other amendments	
86	Acts amended	144
Schedule 1	Amendment of Working with Children (Risk Management and Screening) Act 2000	145
Schedule 2	Acts amended	164
	Adoption Act 2009	164
	Child Protection Act 1999	164
	Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004	174
	Community Services Act 2007	175
	Disability Services Act 2006	176
	Education (Accreditation of Non-State Schools) Act 2017	180
	Education and Care Services Act 2013	181
	Education and Care Services National Law (Queensland) Act 2011	187
	Education (General Provisions) Act 2006	189
	Education (Queensland College of Teachers) Act 2005	190
	Grammar Schools Act 2016	191
	Police Powers and Responsibilities Act 2000	192
	Transport Operations (Passenger Transport) Act 1994	193

2019

A Bill

for

An Act to amend the *Disability Services Act 2006*, the *Public Service Act 2008*, the *Working with Children (Risk Management and Screening) Act 2000* and the legislation mentioned in schedule 2 for particular purposes

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019*.

2 Commencement

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

Part 2 Amendment of Working with Children (Risk Management and Screening) Act 2000

3 Act amended

This part amends the *Working with Children (Risk Management and Screening) Act 2000*.

Note—

See also the amendments in schedule 1.

4 Insertion of new ch 1, pt 1, hdg

Chapter 1—

insert—

Part 1 Introduction

5 Insertion of new s 7

After section 6—

insert—

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

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

6 Amendment of s 8 (Chief executive’s main functions)

Section 8—

insert—

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

7 Insertion of new ch 1, pt 2, hdg

After section 8—

insert—

Part 2 Interpretation

8 Relocation and renumbering of s 3 (Dictionary)

Section 3—

relocate to chapter 1, part 2, as inserted by this Act, and *renumber* as section 9.

9 Amendment and renumbering of ch 8, hdg (Screening for regulated employment and regulated businesses)

- (1) Chapter 8, heading, ‘Screening for regulated’—

omit, insert—

Regulated

- (2) Chapter 8—
renumber as chapter 7.

10 Replacement of ss 156–157

Sections 156 and 157—

omit, insert—

156 Regulated employment

- (1) Employment is *regulated employment* if it is employment of a type that is stated to be regulated employment in schedule 1, part 1.
- (2) However, employment is not regulated employment if—
 - (a) it is of a type of employment that schedule 1, part 1 states is not regulated employment; or
 - (b) schedule 1, part 3 states that this chapter does not apply to the employment.
- (3) Also, the unpaid employment of a child is not regulated employment unless the child is a trainee student of an education provider and the employment is part of the course undertaken by the trainee student with the education provider.
- (4) Further, the employment of a person is not regulated employment if the person is employed to work, and works, in the employment for not more than 7 days in a calendar year.

157 Regulated businesses

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

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

11 Omission of s 160 (Application of chapter to children)

Section 160—

omit.

12 Amendment of s 162 (What is employment when education provider arranges trainee student to carry out work for someone else)

- (1) Section 162, ‘section 161’—

omit, insert—

section 10

- (2) Section 162(3) and (4)—

omit, insert—

- (3) Subsection (2) applies even if there is no express agreement between the person and the trainee student for the trainee student to carry out the work.

13 Amendment of s 169 (Who is a *disqualified person*)

- (1) Section 169(1)—

insert—

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

- (2) Section 169(2)—

omit, insert—

- (2) However, a person to whom subsection (1)(a) applies and subsection (1)(b) and (c) do not apply

is not a disqualified person if an eligibility declaration is in force for the person.

Note—

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

14 Amendment of s 170 (Who is a *relevant disqualified person*)

Section 170—

insert—

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

15 Relocation and renumbering of ss 161–170

Sections 161 to 170, as amended by this Act—

relocate to chapter 1, part 2, as inserted by this Act, and *renumber* as sections 10 to 18.

Editor's note—

See amendment of sections 161, 164 and 166 in schedule 1.

16 Omission of ch 7, pt 2, hdg (Interpretation)

Chapter 7, as renumbered by this Act, part 2, heading—

omit.

17 Replacement of ch 7, pt 4, hdg and div 1

Chapter 7, as renumbered by this Act, part 4, heading and division 1—

omit, insert—

Part 4 Screening requirements

Division 1 Preliminary

173 Requirements for employer giving notice about employing person

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

Examples of reasonable steps—

- the employer views the person's working with children card that includes the person's photograph
 - the employer views the person's driver licence that includes the person's photograph
- (2) The employer must give the notice in the approved form and in an approved way.

Division 2 Requirement for working with children clearance

174 Application of division

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

175 Clearance required to employ person in regulated employment

- (1) A person (the *employer*) must not employ, or

continue to employ, another person (the *employee*) in regulated employment unless—

- (a) the employee holds a working with children clearance; and
- (b) the employer has given the chief executive a notice, under section 173, about employing the employee in regulated employment.

Maximum penalty—

- (a) if an aggravating circumstance applies to the offence—200 penalty units or 2 years imprisonment; or
 - (b) otherwise—100 penalty units.
- (2) It is an *aggravating circumstance* for an offence against subsection (1) if—
- (a) the employee holds a negative notice and the employer knows, or ought reasonably to know, the employee holds the negative notice; or
 - (b) the chief executive has given the employer a notice under chapter 8, part 5A that states the employee's working with children authority has been cancelled; or
 - (c) the chief executive has given the employer a withdrawal notice for a working with children check application made by the employee because section 199 applies.

176 Employing person with suspended clearance prohibited

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

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

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

Maximum penalty—200 penalty units or 2 years imprisonment.

176A Person prohibited from regulated employment without clearance

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

Maximum penalty—

- (a) if an aggravating circumstance applies to the offence—500 penalty units or 5 years imprisonment; or
 - (b) otherwise—100 penalty units.
- (2) It is an ***aggravating circumstance*** for an offence against subsection (1) if the person—
 - (a) holds a negative notice; or
 - (b) is a disqualified person; or
 - (c) held a working with children authority that was cancelled on the person's request under chapter 8, part 5A, division 4; or
 - (d) made a working with children check application and the application was withdrawn because section 199 applies.
 - (3) However, if the person's working with children clearance was cancelled under chapter 8, part 5A, a court may not find the person contravened subsection (1) unless the court is satisfied the person was given written notice about the cancellation.

176B Clearance required to carry on regulated business

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

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

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

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

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

- (1) A person (the *employer*) must not employ, or continue to employ, a police officer or registered teacher (the *employee*) in regulated employment unless—
 - (a) either—
 - (i) the employee holds a working with children authority; or
 - (ii) the employee has made a working with children check (exemption) application and the application has not been decided or withdrawn; and
 - (b) the employer has given the chief executive a notice, under section 173, about employing the employee in regulated employment.

Maximum penalty—

- (a) if an aggravating circumstance applies to the offence—200 penalty units or 2 years imprisonment; or
 - (b) otherwise—100 penalty units.
- (2) It is an *aggravating circumstance* for an offence against subsection (1) if—
- (a) the employee holds a negative notice and the employer knows, or ought reasonably to know, the employee holds the negative notice; or
 - (b) the chief executive has given the employer a notice under chapter 8, part 5A that states the employee's working with children authority has been cancelled; or
 - (c) the chief executive has given the employer a withdrawal notice for a working with children check application made by the person because section 199 applies.

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

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

- (a) the employee holds a working with children authority that is suspended; and
- (b) the employer knows, or ought reasonably to know, the employee's authority is suspended.

Maximum penalty—200 penalty units or 2 years imprisonment.

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

- (1) A person who is a police officer or registered teacher must not start or continue in regulated employment unless—
 - (a) the person holds a working with children authority; or
 - (b) the person has made a working with children check (exemption) application and the application has not been decided or withdrawn.

Maximum penalty—

- (a) if an aggravating circumstance applies to the offence—500 penalty units or 5 years imprisonment; or
 - (b) otherwise—100 penalty units.
- (2) It is an *aggravating circumstance* for an offence against subsection (1) if the person—
 - (a) holds a negative notice; or
 - (b) for a person mentioned in subsection (1)(b)—is a disqualified person; or
 - (c) held a working with children authority that was cancelled on the person’s request under chapter 8, part 5A, division 4; or
 - (d) made a working with children check application that was withdrawn because section 199 applies.
- (3) However, if the person’s working with children authority was cancelled under chapter 8, part 5A, a court may not find the person contravened subsection (1) unless the court is satisfied the person was given written notice about the cancellation.

176F Exemption required for regulated employment if previous application withdrawn

- (1) This section applies if a person who is a police officer or registered teacher makes a working with children check (exemption) application that is withdrawn because section 196 or 199 applies.
- (2) The person must not start or continue in regulated employment unless the person holds a working with children authority.

Maximum penalty—

- (a) if the withdrawal notice is given because section 199 applies—500 penalty units or 5 years imprisonment; or
 - (b) otherwise—100 penalty units or 1 year's imprisonment.
- (3) Despite section 176E, subsection (2) applies even if the person makes another working with children check (exemption) application.

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

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

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

Maximum penalty—500 penalty units or 5 years imprisonment.

Note—

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

Division 4 Restricted persons prohibited from restricted employment

176H Definitions for division

In this division—

restricted employment means employment that is not regulated employment under—

- (a) section 156(3) or (4); or
- (b) schedule 1, part 1, section 3(2)(b), 4(4), 4A(2), 5(2), 6(3)(c)(i) or 11(2)(b).

restricted person means a person who—

- (a) holds a negative notice; or
- (b) holds a working with children authority that is suspended; or
- (c) is a disqualified person and does not hold a working with children authority; or

Note—

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

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

176I Employing restricted person in restricted employment prohibited

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

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

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

Maximum penalty—500 penalty units or 5 years imprisonment.

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

18 Insertion of new ch 8, hdg and ch 8, pt 1, hdg

After section 176J, as inserted by this Act—

insert—

**Chapter 8 Working with
children checks and
authorities**

**Part 1 Restrictions on making
working with children
check applications**

19 Insertion of new ch 8, pt 1, div 1

Chapter 8, part 1, as inserted by this Act—

insert—

Division 1 Prohibited applications

176K Application by disqualified person prohibited

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

Maximum penalty—500 penalty units or 5 years imprisonment.

**176L Application by negative notice holder
prohibited**

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

Maximum penalty—500 penalty units or 5 years imprisonment.

(2) However, if the person's negative notice was

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

20 Amendment of s 177 (Purpose of div 2)

Section 177, from 'is eligible'—

omit, insert—

is eligible to make a working with children check application.

21 Amendment of s 178 (Application for an eligibility declaration)

(1) Section 178(3)(a)—

omit, insert—

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

(2) Section 178(4)—

omit, insert—

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

22 Amendment of s 180 (Chief executive's decision on eligibility application)

(1) Section 180(2) and (3)—

omit, insert—

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

that purpose—

- (a) if the person is a police officer or registered teacher—part 5, division 8 applies; or
 - (b) otherwise—part 4, division 9 applies.
- (3) The division mentioned in subsection (2) applies as if—
- (a) a reference in the division to a working with children check application were a reference to an eligibility application; and
 - (b) a reference in the division to issuing a working with children authority were a reference to issuing an eligibility declaration; and
 - (c) a reference in the division to issuing a negative notice were a reference to refusing the eligibility application.

(2) Section 180(6)(c)—

omit, insert—

- (c) that, if the person is not a disqualified person for another reason, the person may make a working with children check application;

23 Amendment of s 181 (Eligibility declaration taken to have been issued)

Section 181(a) and (b)—

omit, insert—

- (a) issues a working with children authority to the person; or
- (b) cancels a negative notice issued to the person; or
- (c) decides not to cancel the person’s working with children authority under section 300.

24 Replacement of s 182 (Withdrawing eligibility application generally)

Section 182—

omit, insert—

182 Chief executive may request further information

- (1) On receiving an eligibility application, the chief executive may give the applicant a notice asking the applicant to give the chief executive, within a reasonable stated time—
 - (a) stated information that the chief executive reasonably needs to establish the applicant's identity; or
 - (b) stated information, including by way of a submission, about a stated matter that the chief executive reasonably believes is relevant to the application.
- (2) A request under subsection (1) must state that, if the applicant does not comply with the request within the stated time, the applicant's application will be withdrawn.

25 Omission of ss 183 and 184

Sections 183 and 184—

omit.

26 Replacement of s 185 (Expiry of eligibility declaration)

Section 185—

omit, insert—

185 When eligibility declaration ends

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

- (2) An eligibility declaration issued to a person ends if, after it is issued—
- (a) the person—
 - (i) is charged with a disqualifying offence;
or
 - (ii) is convicted of a serious offence; or
 - (iii) becomes a relevant disqualified person;
or
 - (b) a negative notice is issued to the person; or
 - (c) a working with children authority held by the person is cancelled.

26A Amendment of s 208 (Deemed withdrawal of consent to employment screening if charged with disqualifying offence etc.)

Section 208, before ‘disqualifying offence’—

insert—

serious offence or

26B Amendment of s 217 (Deemed withdrawal of application if person charged with disqualifying offence etc.)

Section 217, before ‘disqualifying offence’—

insert—

serious offence or

27 Omission of ch 8, pt 4, divs 3–8

Chapter 8, part 4, divisions 3 to 8—

omit.

28 Insertion of new ch 8, pts 2 and 3

After section 186—

insert—

**Part 2 Working with children
check applications**

187 Who may apply

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

188 Form of application

- (1) An application under this part must be—
 - (a) in the approved form; and
 - (b) made in an approved way; and
 - (c) signed by the applicant.
- (2) A working with children check (general) application must be accompanied by the prescribed fee for the application, unless section 189 applies to the applicant.
- (3) The approved form must provide for the applicant—
 - (a) to provide proof of the applicant's identity; and
 - (b) to consent to employment screening under this chapter; and
 - (c) if the application is a working with children check (exemption) application—to declare

that the applicant is a police officer or a registered teacher.

- (4) Also, the approved form must state—
 - (a) it is an offence for a disqualified person to make a working with children check application; and
 - (b) a disqualified person may apply for an eligibility declaration which, if issued, will allow the person to make a working with children check application.

189 No application fee for volunteers

- (1) This section applies if the chief executive is satisfied the applicant—
 - (a) has an agreement with another person (the *employer*) to be employed in regulated employment as a volunteer by the employer; or
 - (b) proposes to carry on, or to continue carrying on, a regulated business other than for reward.
- (2) The applicant is not required to pay the prescribed fee for the application.

190 Chief executive may request further information

- (1) On receiving an application under this part, the chief executive may give the applicant a notice asking the applicant to give the chief executive, within a reasonable stated time—
 - (a) stated information that the chief executive reasonably needs to establish the applicant's identity; or

- (b) stated information, including by way of a submission, about a stated matter that the chief executive reasonably believes is relevant to the application.
- (2) A request under subsection (1) must state that, if the applicant does not comply with the request within the stated time, the applicant's application will be withdrawn.

191 Working with children authority continues in force pending decision

- (1) This section applies if an applicant holds a working with children authority (the *current authority*).
- (2) Despite sections 231(1) and 289(1), the current authority remains in force from the day it would otherwise end until the earliest of the following things happens—
 - (a) the application is decided or withdrawn;
 - (b) the current authority is cancelled;
 - (c) if the application is a working with children check (exemption) application—the applicant stops being a police officer or registered teacher.

192 Effect of application by disqualified person

- (1) This section applies if the applicant is a disqualified person.
- (2) The application has no effect.
- (3) The chief executive must give a notice that states the following matters to the applicant and each notifiable person for the applicant—
 - (a) the chief executive is satisfied the applicant is a disqualified person;

- (b) the application has no effect because the applicant is a disqualified person;
- (c) it is an offence for the applicant to, or to allow the applicant to, start or continue in regulated employment, or restricted employment, or for the applicant to carry on a regulated business.

193 Effect of application by negative notice holder

- (1) This section applies if the applicant holds a negative notice.
- (2) The application has no effect.
- (3) The chief executive must give a notice that states the following matters to the applicant and each notifiable person for the applicant—
 - (a) the application has no effect because the applicant holds a negative notice;
 - (b) the day the negative notice was issued.
- (4) If the negative notice was issued to the applicant because the applicant is a relevant disqualified person, a notice given to the chief executive (child safety) under subsection (3) must also state the provision of the Act under which the negative notice was issued.

Part 3 Withdrawal of application

194 Application of part

This part applies to—

- (a) a working with children check application;
and

- (b) an eligibility application.

195 Notice of withdrawal

- (1) The chief executive withdraws an application by giving the applicant a notice (a *withdrawal notice*) that states the application is withdrawn.
- (2) The chief executive must give a withdrawal notice to the applicant if, before the application is decided—
 - (a) the applicant withdraws the application under section 196; or
 - (b) the chief executive is permitted or required, under this part, to withdraw the application.
- (3) If the application is a working with children check application, the chief executive must also give a withdrawal notice to each notifiable person for the applicant.
- (4) A withdrawal notice must state the reason for the withdrawal.

196 Withdrawal by applicant

- (1) The applicant may withdraw an application at any time before it is decided.
- (2) The applicant withdraws the application by giving the chief executive notice about the withdrawal.
- (3) The notice may be given orally or in writing.

197 Deemed withdrawal—identity can not be established

The chief executive must withdraw an application if—

- (a) the chief executive gives the applicant a notice under section 182(1)(a) or 190(1)(a)

asking the applicant to provide information to establish the applicant's identity within a stated time; and

- (b) the notice includes the warning mentioned in section 182(2) or 190(2); and
- (c) the applicant does not comply with the request; and
- (d) the chief executive can not establish the applicant's identity with certainty.

198 Deemed withdrawal—failure to comply with particular requests

The chief executive may withdraw an application if—

- (a) the chief executive gives the applicant—
 - (i) a notice under section 182(1)(b) or 190(1)(b) asking the applicant to provide stated information; or
 - (ii) a notice under section 330, 332, 333, 337 or 338 asking the applicant to give the consent, or take the other action, stated in the notice; and
- (b) the notice includes a warning that, if the applicant does not comply with the notice, the application will be withdrawn; and
- (c) the person does not comply with the notice.

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

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

-
- (2) A withdrawal notice given under section 195 because this section applies must state that—
- (a) for a notice given to the applicant—it is an offence for the applicant to start or continue in restricted employment; or
 - (b) for a notice given to a notifiable person for the applicant—it is an offence to employ, or continue to employ, the applicant in restricted employment.

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

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

29 Insertion of new ch 8, pt 4, hdg

After chapter 8, part 3, as inserted by this Act—

insert—

Part 4 Working with children clearances

30 Amendment of ch 8, pt 4, div 9, hdg (Deciding prescribed notice application)

Chapter 8, part 4, division 9, heading, ‘prescribed notice’—
omit.

31 Replacement of ss 219 and 220

Sections 219 and 220—

omit, insert—

219 Application of division

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

220 Deciding application—generally

- (1) The chief executive must decide to approve or refuse the application under this division.
- (2) If the chief executive approves the application, the chief executive must issue a written notice that states the application is approved (a *working with children clearance*) to the person.
- (3) If the chief executive refuses the application, the chief executive must issue a written notice that states the application is refused (a *negative notice*) to the person.

32 Replacement of s 224 (Issuing negative notice to relevant disqualified person except because of temporary or interim order)

Section 224—

omit, insert—

224 Issuing notice to relevant disqualified person

The chief executive must issue a negative notice

to the person if the chief executive is aware the person is a relevant disqualified person.

33 Amendment of s 225 (Issuing prescribed notice to other persons)

(1) Section 225, heading—

omit, insert—

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

(2) Section 225(1)(a)—

omit.

(3) Section 225(1)(b) and (c)—

renumber as section 225(1)(a) and (b).

(4) Section 225(2), ‘, (b) or (c)’—

omit, insert—

or (b)

(5) Section 225(2), from ‘positive notice, the’—

omit, insert—

working with children clearance, the chief executive must issue a working with children clearance to the person.

34 Replacement of ss 230 and 231

Sections 230 and 231—

omit, insert—

230 Chief executive to be notified of change in particular information

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

change)—

- (a) the person's name or contact details as stated in the application change;
 - (b) the person's employment, or proposed employment, as stated in the application changes;
 - (c) the person stops carrying on a business stated in the application;
 - (d) the person no longer intends to carry on a proposed business stated in the application.
- (2) The person must give a notice, in the approved form and in an approved way, about the relevant change to the chief executive within 7 days after the change happens.

Maximum penalty—10 penalty units.

231 Term of clearance and negative notice

- (1) A working with children clearance has a term of 3 years, unless it is cancelled earlier under part 5A.
- (2) A negative notice remains in force until it is cancelled under part 5A.

35 Amendment of ch 8, pt 4, div 10, hdg (Steps after prescribed notice application decided)

Chapter 8, part 4, division 10, heading, 'prescribed notice'—
omit.

36 Replacement of s 232 (Application of div 10)

Section 232—
omit, insert—

232 Application of division

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

232A Issuing working with children card

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

37 Amendment of s 234 (Notifiable person to be notified of decision)

- (1) Section 234, heading, 'Notifiable person'—

omit, insert—

Persons

- (2) Section 234(1)—

omit, insert—

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

- (3) Section 234, after note—

insert—

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

37A Amendment of s 240 (Suspension of a positive notice if charged with disqualifying offence or subject to temporary or interim order)

Section 240, before 'disqualifying offence'—

insert—

serious offence or

37B Amendment of s 241 (Ending of suspension under s 240 and issue of further prescribed notice)

Section 241(9), before ‘disqualifying offence’—

insert—

serious offence or

38 Omission of ch 8, pt 4, divs 11 and 12

Chapter 8, part 4, divisions 11 and 12—

omit.

39 Replacement of ch 8, pt 5, hdg (Exemption notices)

Chapter 8, part 5, heading—

omit, insert—

Part 5 Working with children exemptions

39A Amendment of s 269 (Deemed withdrawal of consent to employment screening if charged with disqualifying offence etc.)

Section 269, before ‘disqualifying offence’—

insert—

serious offence or

39B Amendment of s 279 (Deemed withdrawal of application if charged with disqualifying offence etc.)

Section 279, before ‘disqualifying offence’—

insert—

serious offence or

40 Omission of ch 8, pt 5, divs 1–7

Chapter 8, part 5, divisions 1 to 7—

omit.

41 Amendment of ch 8, pt 5, div 8, hdg (Deciding exemption notice application)

Chapter 8, part 5, division 8, heading, ‘exemption notice’—

omit.

42 Replacement of ss 281 and 282

Sections 281 and 282—

omit, insert—

281 Application of division

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

282 Deciding application—generally

- (1) The chief executive must decide to approve or refuse the application under this division.
- (2) If the chief executive approves the application, the chief executive must issue a written notice that states the application is approved (a *working with children exemption*) to the person.
- (3) If the chief executive refuses the application, the chief executive must issue a written notice that states the application is refused (a *negative notice*) to the person.

43 Replacement of s 285 (Issuing exemption notice if ss 283 and 284 do not apply)

Section 285—

omit, insert—

285 Deciding application if ss 283 and 284 do not apply

- (1) This section applies if neither section 283 nor 284 applies to the person.
- (2) The chief executive must decide the application as if the chief executive were deciding a working with children check (general) application under part 4, division 9.
- (3) For subsection (2), sections 221 to 229 apply for making the decision as if—
 - (a) a reference to issuing a working with children clearance were a reference to issuing a working with children exemption; and
 - (b) a reference to a working with children check (general) application were a reference to a working with children check (exemption) application.

44 Replacement of ss 288 and 289

Sections 288 and 289—

omit, insert—

288 Chief executive to be notified of change in particular information

- (1) This section applies if, before the chief executive decides the person's application, any of the following things happen (each a *relevant change*)—
 - (a) the person's name or contact details as stated in the application change;

- (b) the person's employment, or proposed employment, as stated in the application changes;
 - (c) the person stops carrying on a business stated in the application;
 - (d) the person no longer intends to carry on a proposed business stated in the application.
- (2) The person must give a notice, in the approved form and in an approved way, about the relevant change to the chief executive within 7 days after the change happens.

Maximum penalty—10 penalty units.

289 Term of exemption and negative notice

- (1) A working with children exemption has a term of 3 years, unless any of the following things happens earlier—
- (a) if the holder of the exemption is a police officer—the holder stops being a police officer;
 - (b) if the holder of the exemption is a registered teacher—the holder stops being a registered teacher;
 - (c) the exemption is cancelled under part 5A.
- (2) A negative notice remains in force until it is cancelled under part 5A.

45 Amendment of ch 8, pt 5, div 9, hdg (Steps after exemption notice application decided)

Chapter 8, part 5, division 9, heading, 'exemption notice'—
omit.

46 Replacement of s 290 (Application of div 9)

Section 290—

omit, insert—

290 Application of division

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

290A Issuing working with children card for exemption

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

46A Amendment of s 298 (Suspension of a positive exemption notice if charged with disqualifying offence or subject to temporary or interim order)

Section 298, before 'disqualifying offence'—

insert—

serious offence or

46B Amendment of s 299 (Ending of suspension and issue of further exemption notice)

Section 299(9), before 'disqualifying offence'—

insert—

serious offence or

47 Omission of ch 8, pt 5, divs 10 and 11

Chapter 8, part 5, divisions 10 and 11—

omit.

48 Insertion of new ch 8, pt 5A

Chapter 8—

insert—

**Part 5A Suspension or
cancellation of working
with children authority**

Division 1 Preliminary

294 Chief executive's decisions under this part

- (1) This section applies if a provision of this part requires the chief executive to decide—
 - (a) whether to cancel a person's working with children authority or negative notice; or
 - (b) whether it is appropriate to issue a working with children authority or negative notice to a person.
- (2) The chief executive must decide the matter as if it were a decision about a working with children check application and, for that purpose—
 - (a) if the person is a police officer or registered teacher—part 5, division 8 applies; or
 - (b) otherwise—part 4, division 9 applies.
- (3) The division mentioned in subsection (2) applies to the matter as if—
 - (a) a reference in the division to issuing a working with children clearance or working with children exemption were a reference to deciding—
 - (i) it is appropriate to issue a working with children authority to a person; or

- (ii) it is not appropriate to issue a negative notice to a person; or
 - (iii) not to cancel a person's working with children authority; or
 - (iv) to cancel a person's negative notice; and
- (b) a reference in the division to issuing a negative notice were a reference to deciding—
- (i) it is appropriate to issue a negative notice to a person; or
 - (ii) it is not appropriate to issue a working with children authority to a person; or
 - (iii) not to cancel a person's negative notice; or
 - (iv) to cancel a person's working with children authority.

Division 2 Suspension of working with children authority

295 Application of division

- (1) This division applies if a person who holds a working with children authority is charged with a serious offence or disqualifying offence.
- (2) Also, this division applies if a registered teacher holds a working with children clearance and the teacher's teacher registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 49.

296 Chief executive must suspend authority

- (1) The chief executive must suspend the person's working with children authority by giving the person a written notice (a *suspension notice*) about the suspension.
- (2) The suspension notice must state—
 - (a) the person's working with children authority is suspended; and
 - (b) the reason for the suspension; and
 - (c) how long the suspension will continue; and
 - (d) the effect of the suspension; and
 - (e) the person must return the person's working with children card to the chief executive immediately after the notice is given, unless the person has a reasonable excuse; and

Note—

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

- (f) the relevant review and appeal information.

297 Notifiable persons and potential employers notified about suspension

- (1) The chief executive must give each notifiable person for the person a written notice that states—
 - (a) the person's working with children authority is suspended; and
 - (b) how long the suspension will continue; and
 - (c) the effect of the suspension; and
 - (d) it is an offence to allow the person to perform work that is regulated employment

or restricted employment while the authority is suspended; and

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

Note—

See also sections 342, 343 and 344 for the chief executive's obligation to notify other persons about the suspension of a person's working with children authority.

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

298 Effect of suspension of working with children authority

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

Note—

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

- (2) The person must not—
 - (a) start employment in regulated employment; or
 - (b) if the person is employed in regulated employment—perform work that is regulated employment; or
 - (c) start or continue to carry on a regulated business.

Maximum penalty—500 penalty units or 5 years imprisonment.

- (3) A person given a notice about the suspension under section 297, 342 or 344 must not allow the person to perform work that is regulated

employment.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (4) A person's employer who is given a notice about the suspension under section 297 must not terminate the person's employment solely or mainly because the person's working with children authority is suspended.

Note—

See also section 356(4).

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

299 When suspension of authority ends

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

- (a) the chief executive decides to cancel the authority under section 300; or
(b) the suspension ends under section 302; or
(c) the authority is otherwise cancelled under this part.

300 Chief executive's decision about suspended notice

- (1) The chief executive may decide whether to cancel the person's working with children authority—
- (a) on the chief executive's own initiative; or
(b) on the person's application.

Note—

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

- (2) However, the chief executive is not required to decide a person's application mentioned in subsection (1)(b)—
 - (a) while a charge for a serious offence or disqualifying offence is pending against the person; or
 - (b) if the person has been convicted of a serious offence or disqualifying offence and either—
 - (i) the period allowed for an appeal relating to the person's conviction or sentence has not ended; or
 - (ii) an appeal relating to the conviction or sentence has started but has not been decided; or
 - (c) if the person is a registered teacher—while the person's teacher registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 49.

301 Chief executive decides to cancel suspended notice

- (1) If the chief executive decides to cancel the person's working with children authority under section 300, the chief executive must—
 - (a) cancel the authority; and
 - (b) issue a negative notice to the person; and
 - (c) give the person a written notice that states—
 - (i) the decision and reasons for the decision; and
 - (ii) if the person has not returned the person's working with children card to the chief executive—the person must

return the person's card to the chief executive immediately, unless the person has a reasonable excuse; and

Note—

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

- (iii) the relevant review and appeal information; and
 - (iv) unless the person is a relevant disqualified person, the circumstances in which the person may apply under section 304G for the negative notice to be cancelled; and
- (d) give each notifiable person for the person a written notice that states—
- (i) the person's authority has been cancelled; and
 - (ii) the person has been issued a negative notice; and
 - (iii) it is an offence to employ or continue to employ the person in regulated employment or restricted employment.

Note—

See sections 342, 343 and 344 for the chief executive's obligation to notify other persons about the cancellation of a person's working with children authority.

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

302 Chief executive decides not to cancel suspended authority

- (1) This section applies if the chief executive decides not to cancel the person's working with children authority under section 300.
- (2) The suspension of the person's working with children authority ends.
- (3) The chief executive must—
 - (a) give a written notice that states the suspension of the person's authority has ended to—
 - (i) the person; and
 - (ii) each notifiable person for the person; and
 - (iii) each potential employer for the person who was given a notice about the suspension under section 297; and
 - (b) if the chief executive has the person's working with children card and the person's authority did not expire while the authority was suspended—return the person's working with children card to the person; and
 - (c) if section 235 applied in relation to the person's working with children application—give the advice mentioned in that section to the other executive.

Note—

See also sections 342, 343 and 344 for the chief executive's obligation to notify other persons when the suspension of a person's working with children authority ends.

Division 3 C cancelling working with children authority without suspension

303 C cancelling authority if relevant disqualified person

- (1) This section applies—
 - (a) if a person who holds a working with children authority becomes a relevant disqualified person; and
 - (b) whether or not the person’s authority is suspended under section 296.
- (2) The chief executive must cancel the working with children authority.

304 C cancelling authority issued because of wrong or incomplete information

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

- (a) the decision to issue the authority was based on wrong or incomplete information; and
- (b) having considered the correct or complete information, it is appropriate to issue a negative notice to the person.

Note—

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

304A C cancelling authority because of subsequent information

- (1) This section applies if, after the chief executive

decides to issue a working with children authority to a person, the chief executive becomes aware of information (*further information*) that is—

- (a) disciplinary information, or information received under part 6, division 2, 3 or 4, about the person that was not known to the chief executive when the decision was made; or
 - (b) a decision about the person made by a court or tribunal after the authority was issued, including the reasons for the decision.
- (2) However, this section does not apply if the chief executive is required to suspend the person's working with children authority under section 296 because of the further information.
- (3) The chief executive may cancel the person's working with children authority if, after considering the further information, the chief executive is satisfied it is appropriate to issue a negative notice to the person.

Note—

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

304B Action after decision

- (1) If the chief executive is required, or decides, to cancel a person's working with children authority under this division, the chief executive must—
 - (a) cancel the person's authority; and
 - (b) issue a negative notice to the person; and
 - (c) give the person a written notice that states—
 - (i) the decision to cancel the authority and issue the negative notice and the reasons for the decision; and

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

Note—

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

- (iii) the relevant review and appeal information; and
 - (iv) unless the person is a relevant disqualified person, the circumstances in which the person may apply under section 304G for the negative notice to be cancelled.
- (2) If the chief executive's decision under section 304 or 304A is not to cancel the person's authority, the person's authority continues in force, subject to section 231(1) or 289(1).

304C Notifiable persons and potential employers notified about cancellation

- (1) If the chief executive cancels a person's working with children authority under this division, the chief executive must give each notifiable person for the person a written notice that states—
- (a) the person's authority has been cancelled; and
 - (b) the person has been issued a negative notice; and
 - (c) it is an offence to employ or continue to employ the person in regulated employment or restricted employment.

Note—

See sections 342, 343 and 344 for the chief executive's obligation to notify other persons about the cancellation of a person's working with children authority.

- (2) If the person's working with children authority was cancelled under section 303, a notice given to the chief executive (child safety) under subsection (1) must state that the person's authority was cancelled, and a negative notice was issued to the person, under that section.
- (3) Also, the chief executive may give a notice mentioned in subsection (1) to a potential employer of the person.

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

304D Request to cancel working with children authority

- (1) A person may ask the chief executive to cancel the person's working with children authority.
- (2) The person may make the request even if the person's working with children authority is suspended under section 296.
- (3) The request must be written.

304E Cancellation of working with children authority

After receiving the request, the chief executive must—

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

- (b) give the person a written notice that states—
 - (i) the authority has been cancelled; and
 - (ii) the person must return the person's working with children card to the chief executive immediately, unless the person has a reasonable excuse; and

Note—

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

- (iii) it is an offence for the person to perform work that is regulated employment, other than as allowed under section 176A or 176E; and
- (iv) it is an offence for the person to carry on a regulated business, other than as allowed under section 176B or 176G.

304F Notifiable persons and potential employers notified about cancellation

- (1) The chief executive must give a written notice to each notifiable person for the person that states—
 - (a) the person's working with children authority has been cancelled on the person's request; and
 - (b) it is an offence to employ, or continue to employ, the person in regulated employment other than as allowed under section 175 or 176C.

Note—

See sections 342, 343 and 344 for the chief executive's obligation to notify other persons about the cancellation of a person's working with children authority.

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

Division 5 C cancelling negative notice on holder's request

304G Application to cancel negative notice

- (1) This section applies to a person who—
 - (a) holds a negative notice; and
 - (b) is not a relevant disqualified person.
- (2) The person may apply to the chief executive to cancel the negative notice if—
 - (a) the application is made more than 2 years after—
 - (i) the notice was issued; and
 - (ii) if the person previously applied to cancel the notice under this section—
the previous application was made; or
 - (b) the decision to issue the notice was based on wrong or incomplete information; or
 - (c) the negative notice was issued because the person was a relevant disqualified person and the person is no longer a relevant disqualified person.

304H Form of application

- (1) The application must be—
 - (a) in the approved form; and
 - (b) made in an approved way; and
 - (c) signed by the person; and

- (d) if the person is not a police officer or registered teacher—accompanied by the prescribed fee for the application.
- (2) The person may state anything in the application that the person considers is relevant to the chief executive's decision, including, for example, a change in the person's circumstances since the negative notice was issued.

304I Deciding application

- (1) If the chief executive decides to cancel the person's negative notice, the chief executive must—
 - (a) cancel the negative notice; and
 - (b) give the person a notice about the cancellation.

Note—

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

- (2) If the chief executive decides not to cancel the person's negative notice, the chief executive must give the person a written notice that states—
 - (a) the application has been refused and the person's negative notice continues in effect subject to—
 - (i) if the person is a police officer or a registered teacher—section 289(2); or
 - (ii) otherwise—section 231(2); and
 - (b) the reasons for the chief executive's decision to refuse the application; and
 - (c) the relevant review and appeal information.

Division 6 Other cancellation of negative notice

304J Chief executive may act on own initiative or application

The chief executive may decide to—

- (a) act under this division on the chief executive's own initiative; or
- (b) if a person applies to cancel the person's negative notice under section 304G—act under section 304K or 304L instead of cancelling the person's negative notice under section 304G.

304K No longer relevant disqualified person

- (1) The chief executive may cancel a person's negative notice if the chief executive is satisfied—
 - (a) the negative notice was issued because the person was a relevant disqualified person; and
 - (b) the person is no longer a relevant disqualified person.
- (2) If the chief executive decides to cancel the person's negative notice, the chief executive may decide to substitute a working with children authority if the chief executive is satisfied it is appropriate to issue the authority to the person.

Note—

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

304L Negative notice issued because of wrong or incomplete information

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

- (a) the decision to issue the negative notice was based on wrong or incomplete information; and
- (b) having considered the correct or complete information, it is appropriate to issue a working with children authority to the person.

Note—

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

304M Subsequent information

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

- (a) the chief executive becomes aware of information that was not known to the chief executive when the decision to issue the notice was made; and
- (b) after considering the further information, the chief executive is satisfied it is appropriate to issue a working with children authority to the person.

Note—

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

304N Action after making decision

- (1) If the chief executive decides to cancel a person's negative notice under this division, the chief executive must cancel the notice.
- (2) If the chief executive decides under this division to substitute a working with children authority for a person's cancelled negative notice, the chief executive must issue to the person—
 - (a) if the person is a police officer or registered teacher—a working with children exemption; or
 - (b) otherwise—a working with children clearance.
- (3) If the chief executive decides to refuse an application mentioned in section 304J(b), the chief executive must give the person a written notice that states—
 - (a) the application has been refused and the person's negative notice continues in effect subject to—
 - (i) if the person is a police officer or registered teacher—section 289(2); or
 - (ii) otherwise—section 231(2); and
 - (b) the reasons for the chief executive's decision to refuse the application; and
 - (c) the relevant review and appeal information.

Division 7 Return of working with children card

304O Requirement to return suspended card

- (1) This section applies to a person if the chief executive gives the person a written notice that

states the person's working with children authority is suspended.

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

Maximum penalty—100 penalty units.

304P Requirement to return cancelled card

- (1) This section applies to a person if the chief executive gives the person a written notice that states the person's working with children authority is cancelled.
- (2) The person must give the person's working with children card for the authority to the chief executive immediately after the chief executive gives the notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

49 Replacement of s 310 (Application of div 2)

Section 310—

omit, insert—

310 Application of division

This division applies to a person if—

- (a) the person holds a working with children authority; or
- (b) the person has made a working with children check application that has not been decided or withdrawn; or
- (c) all of the following apply—

- (i) the person has purported to make a working with children check application;
 - (ii) the application has not been properly made, including, for example, because the application was not accompanied by the prescribed fee for the application;
 - (iii) the application, as made, contains sufficient information for the chief executive to establish the person's identity with certainty; or
- (d) the person has applied, under section 300, to the chief executive to decide whether or not to cancel the person's working with children authority that is suspended and the application has not been decided; or
- (e) the person has applied, under section 304G, to the chief executive to cancel the person's negative notice; or
- (f) the person has made an eligibility application that has not been decided or withdrawn; or
- (g) an eligibility declaration for the person is in force; or
- (h) for a person who holds a negative notice—
- (i) the person has made an application under section 309(3) or 354 that has not been decided; or
 - (ii) an appeal to an entity has been made in relation to an application under section 309(3) or 354 and the appeal has not been decided.

50 Replacement of s 323 (Effect of change in police information about employee)

Section 323—

omit, insert—

323 Notice of change in police information

- (1) This section applies—
 - (a) to a person who—
 - (i) holds a working with children authority; or
 - (ii) has made a working with children check application; and
 - (b) if the person becomes aware that the police information about the person has changed.
- (2) The person must immediately give a notice that complies with subsection (3) about the change to the chief executive.

Maximum penalty—100 penalty units.
- (3) The notice given to the chief executive under subsection (2) must—
 - (a) be given in the approved form and in an approved way; and
 - (b) if the person is employed in regulated employment—include information about the employment.

51 Omission of ss 324 and 325

Sections 324 and 325—

omit.

52 Amendment of s 339 (Chief executive to give notice to particular entities about a change in police information)

(1) Section 339(2)(c)—

omit.

(2) Section 339(3)(c), ‘or 11 or part 5, division 8 or 10’—

omit, insert—

or part 5, division 8

(3) Section 339(3)(g)—

omit, insert—

(g) if the change in police information is a conviction for a serious offence, it is an offence for an employer to allow the relevant person to perform work that is regulated employment unless and until a prescribed event under section 322 happens for the person.

(4) Section 339—

insert—

(4A) An employer to whom a notice is given under subsection (3) or (4) that states that the change in police information is a conviction for a serious offence must not allow the relevant person to perform work that is regulated employment unless and until a prescribed event under section 322 happens for the person.

Maximum penalty—200 penalty units or 2 years imprisonment.

(5) Section 339(6)—

omit, insert—

(6) In this section—

employer means a person who employs a relevant person.

relevant person means—

- (a) a person who holds a working with children authority, other than an authority that is suspended under section 296; or
 - (b) a person who has made a working with children check application that has not been decided or withdrawn.
- (6) Section 339(4A) to (6)—
renumber as section 339(5) to (7).

53 Insertion of new ss 344A and 344B

After section 344—

insert—

344A Chief executive may give authorised entities particular information

- (1) Each of the following is an *authorised entity* for a person—
 - (a) another person (the person's *employer*) if—
 - (i) the employer has notified the chief executive under this Act that the employer employs, or proposes to employ, the person; and
 - (ii) neither the employer nor the person has notified the chief executive otherwise;
 - (b) another person the chief executive accepts as an authorised representative of the person's employer;
 - (c) another person who is a notifiable person for the person;
 - (d) an entity to whom the chief executive is required to, or may, give a working with children notice about the person under this Act.

- (2) The chief executive may give the authorised entity information about—
 - (a) a working with children check application made by the person; or
 - (b) a working with children authority or negative notice held by the person; or
 - (c) a working with children notice about the person given, or required to be given, to the authorised entity under this Act.
- (3) The chief executive may give the information under subsection (2) by allowing the authorised entity to access the information electronically.
- (4) In this section—

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

 - (a) a working with children check application made by the person; or
 - (b) a working with children authority or negative notice held by the person.

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

- (1) This section applies to a person who is given, or accesses, information about a person under section 344A.
- (2) The person must not use the information, or disclose or give access to the information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (3).

Maximum penalty—100 penalty units.
- (3) The person may use the information, or disclose or give access to the information to another person, if the use, disclosure or giving of access—

- (a) is to identify, assess or monitor a risk, or potential risk, to the safety or welfare of a child in relation to the regulated employment of the person to whom the information relates; or
 - (b) is to establish whether or not the person to whom the information relates—
 - (i) has made a working with children check application; or
 - (ii) holds a working with children authority or a negative notice; or
 - (c) is to comply with an obligation under this Act; or
 - (d) happens with the consent of the person to whom the information relates; or
 - (e) is required to lessen or prevent a serious threat to the life, health, safety or welfare of an individual, or the health, safety or welfare of the public; or
 - (f) is required by a law enforcement agency to prevent, detect, investigate, prosecute or punish an offence; or
 - (g) is required for a proceeding in a court or a tribunal; or
 - (h) is authorised under a regulation or another law.
- (4) In this section—
- law enforcement agency*** means—
- (a) an entity mentioned in the *Information Privacy Act 2009*, schedule 5, definition *law enforcement agency*, paragraph (b); or
 - (b) an enforcement body within the meaning of the *Privacy Act 1988* (Cwlth).

54 Amendment of ch 8, pt 7, hdg (Miscellaneous provisions about prescribed notices and exemption notices)

Chapter 8, part 7, heading, from ‘about’—
omit.

55 Replacement of ch 8, pt 7, div 1 (Replacement notice)

Chapter 8, part 7, division 1—
omit, insert—

Division 1 Replacement card

347 Replacement of lost or stolen card

- (1) If a person’s working with children card is lost or stolen (the *lost or stolen card*), the person must, within 14 days after the loss or theft—
 - (a) give the chief executive a notice about the loss or theft in the approved form and in an approved way; and
 - (b) either—
 - (i) apply for a replacement card; or
 - (ii) ask the chief executive under section 304D to cancel the person’s working with children authority.

Maximum penalty—10 penalty units.

- (2) An application under subsection (1)(b)(i) must be—
 - (a) made in the approved form and in an approved way; and
 - (b) accompanied by the prescribed fee for the application.
- (3) The chief executive must—
 - (a) cancel the lost or stolen card; and

- (b) if the person applied for a replacement card under subsection (1)(b)(i)—issue a replacement working with children card to the person.
- (4) The chief executive must give written notice about the loss or theft of the lost or stolen card to the police commissioner.

Note—

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

348 Replacement card for change of name or contact details

- (1) This section applies to—
 - (a) a person who holds a working with children authority; or
 - (b) a person who holds a negative notice if the person has applied for the notice to be cancelled and the application has not been decided or withdrawn.
- (2) If the person does any of the following (each a **relevant change**), the person must give the chief executive a notice, in the approved form and in an approved way, about the relevant change within 14 days after it happens—
 - (a) changes a name the person has previously given to the chief executive;
 - (b) starts to use a different name to the name or names the person has given to the chief executive;
 - (c) changes contact details previously given to the chief executive.

Maximum penalty—10 penalty units.

- (3) If the chief executive considers it is appropriate to

do so, the chief executive may issue a replacement working with children card to the person.

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

348A Requirement to return replaced card

- (1) This section applies to a person who holds a working with children card (the *replaced card*) if the chief executive issues the person a further working with children card.
- (2) The person must give the replaced card to the chief executive within 7 days after the further working with children card is issued, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 1A Change in regulated employment or regulated business

349 Holder must notify change of regulated employment or regulated business

- (1) This section applies if a person who holds a working with children authority that is not suspended makes any of the following changes—
 - (a) the person ends regulated employment or changes the person's employment and the new employment is regulated employment;
 - (b) the person stops carrying on a regulated business;

- (c) the person starts carrying on another regulated business other than the regulated business the person was carrying on, or proposing to carry on, when the authority was issued.
- (2) The person must give the chief executive a notice about the change, in the approved form and in an approved way, within 14 days after the change happens.

Maximum penalty—10 penalty units.

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

- (1) This section applies if—
 - (a) a person holds a working with children clearance that is not suspended; and
 - (b) during the term of the clearance, the person is or was—
 - (i) employed in regulated employment only as a volunteer; or
 - (ii) carrying on a regulated business on a not-for-profit basis and not otherwise carrying on a regulated business; and
 - (c) either of the following changes happens—
 - (i) the person becomes employed in regulated employment other than as a volunteer;
 - (ii) the person starts carrying on a regulated business for financial reward.
- (2) The person must, within 14 days after the change happens—

- (a) give the chief executive a notice, in the approved form and in an approved way, about the change; and
- (b) if the person is required to pay the prescribed application fee under subsection (3)—pay the prescribed application fee to the chief executive.

Maximum penalty—10 penalty units.

- (3) The person must pay the prescribed application fee if the working with children check (general) application in relation to which the working with children clearance was issued was made on the basis that the person was—
 - (a) employed, or to be employed, in regulated employment as a volunteer; or
 - (b) carrying on, or proposing to carry on, a regulated business on a not-for-profit basis.
- (4) If the chief executive considers it is appropriate to do so, the chief executive may issue a replacement working with children card to the person.
- (5) If the chief executive issues a replacement working with children card, the chief executive must cancel the previously held card.

Note—

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

- (6) In this section—

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

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

- (a) for a person who gives a notice under subsection (2) for a change mentioned in subsection (1)(c)(i)—employment in regulated employment other than as a volunteer; or
- (b) for a person who gives a notice under subsection (2) for a change mentioned in subsection (1)(c)(ii)—carrying on a regulated business for financial reward.

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

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

- (1) This section applies if a person who holds a working with children exemption—
 - (a) if the person was a police officer when the exemption was issued—stops being a police officer; or
 - (b) if the person was a registered teacher when the exemption was issued—stops being a registered teacher, including because the person’s registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 48 or 49.
- (2) The chief executive must give the person a written notice that states—
 - (a) the term of the person’s working with children exemption has ended under section 289(1); and

- (b) the person must immediately return the person's working with children card to the chief executive; and
 - (c) the person may make a working with children check (general) application, unless the person is a disqualified person.
- (3) The person must give the person's working with children card to the chief executive immediately after the chief executive gives the notice, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

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

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

- (1) This section applies if a person who holds a negative notice—
- (a) if the person was a police officer when the negative notice was issued—stops being a police officer; or
 - (b) if the person was a registered teacher when the negative notice was issued—stops being a registered teacher, including because the person's registration is suspended under the *Education (Queensland College of Teachers) Act 2005*, section 48 or 49.
- (2) The person's negative notice continues in effect as if it were a notice issued under section 220(3).

56 Replacement of s 351 (False or misleading disclosure)

Section 351—

omit, insert—

351 False or misleading disclosure

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

Maximum penalty—100 penalty units or 2 years imprisonment.

57 Amendment of s 352 (False or misleading documents)

Section 352(1), after ‘document for’—

insert—

chapter 7 or

58 Insertion of new s 354A

After section 354—

insert—

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

- (1) This section applies to a decision of QCAT, on an application for a review of a chapter 8 reviewable decision under section 354, to set aside an exceptional case decision.
- (2) QCAT’s decision does not take effect until—
 - (a) the end of the period within which an appeal against QCAT’s decision may be started; or
 - (b) if an appeal against QCAT’s decision is started—the appeal is decided or withdrawn.
- (3) This section applies despite the QCAT Act,

sections 145 and 152.

(4) In this section—

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

- (a) issued a negative notice to the person; or
- (b) refused to cancel the person’s negative notice.

59 Amendment of s 357 (Disqualification order)

(1) Section 357(2)(a) and (b)—

omit, insert—

- (a) the person may not hold a working with children authority, or make a working with children check application, for a stated period; or
- (b) the person may never hold a working with children authority or make a working with children check application.

(2) Section 357(3), ‘positive notice or positive exemption notice’—

omit, insert—

working with children authority

60 Replacement of ch 8A (Criminal history checks, and assessing suitability, of persons employed in the department)

Chapter 8A—

omit, insert—

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

Part 1 Preliminary

357A Definitions for chapter

In this chapter—

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

authorised user see section 357E.

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

home-based care service see section 357B.

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

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

register means the register kept under section 357F.

regulated person see section 357C.

357B Meaning of *home-based care service*

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

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

- (b) care provided to a child as part of a family day care service provided in a family day care residence (*home-based family day care service*);
- (c) a stand-alone service provided to a child in the home of a carer in relation to the service (*home-based stand-alone care service*).

357C Meaning of *regulated person*

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

- (a) for foster or kinship care—the approved foster carer, or approved kinship carer, under the *Child Protection Act 1999* who provides the care; or
- (b) for a home-based family day care service—a family day care educator, or family day care educator assistant, under the Education and Care Services National Law (Queensland) who provides the service; or
- (c) for a home-based stand-alone care service—the carer, or a staff member, in relation to the service.

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

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

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

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

357E Who is an *authorised user*

Each of the following is an *authorised user*—

- (a) the chief executive (child safety);
- (b) the chief executive (education and care);
- (c) the police commissioner;
- (d) a police officer;
- (e) the public guardian under the *Public Guardian Act 2014*;
- (f) a person appointed under the *Public Guardian Act 2014*, section 109 as—
 - (i) a community visitor (child); or
 - (ii) both a community visitor (adult) and a community visitor (child); or
 - (iii) a child advocacy officer;
- (g) an appropriately qualified public service employee authorised to access the register by the chief executive or a person mentioned in paragraph (a), (b) or (e);
- (h) an appropriately qualified staff member under the *Police Service Administration Act*

1990 authorised to access the register by the police commissioner.

Part 2 Register

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

- (1) The chief executive must keep an up-to-date register of regulated persons who provide a home-based care service.
- (2) The purpose of the register is to promote the safety of children by enabling authorised users to access up-to-date information about—
 - (a) a regulated person who provides a home-based care service; and
 - (b) each person who is an associated adult of the regulated person for the home-based care service.
- (3) The chief executive may keep the register in the form the chief executive considers appropriate.

357G Contents of the register

- (1) The register must contain the following information, to the extent the information is known by the chief executive, about each regulated person for a home-based care service—
 - (a) the information that is reasonably necessary to identify and contact the person, including, for example—
 - (i) full name and any former names or aliases; and
 - (ii) contact details; and
 - (iii) date and place of birth;

- (b) the type of each home-based care service for which the person is, or has been, a regulated person;
 - (c) information about a working with children check application made by the person;
 - (d) information about a working with children authority the person holds or previously held;
 - (e) information about an associated adult of the person, including the information mentioned in paragraphs (a), (c) and (d) about the adult;
 - (f) other information prescribed by regulation about—
 - (i) the person; or
 - (ii) a home-based care service for which the person is, or has been, a regulated person; or
 - (iii) an associated adult of the person for a home-based care service mentioned in subparagraph (ii).
- (2) The register may also contain—
- (a) information mentioned in subsection (1) about a person who was, but is no longer—
 - (i) a regulated person for a home-based care service; or
 - (ii) an associated adult of a regulated person for a home-based care service; and
 - (b) other information the chief executive considers appropriate—
 - (i) to ensure the register is accurate, comprehensive and usable; or

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

357H Access to register

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

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

- (1) This section applies to a person—
 - (a) who is, or has been, an authorised user and, in that capacity was given, or given access to, confidential information in the register; or
 - (b) who is given, or given access to, confidential information in the register by a person mentioned in paragraph (a).
- (2) The person must not use the information, or disclose or give access to the information to anyone else, unless the use, disclosure or giving of access is allowed under subsection (3).

Maximum penalty—100 penalty units.

- (3) The person may use the information, or disclose or give access to the information to another person, if the use, disclosure or giving of access—
 - (a) is to identify, assess or monitor a risk, or potential risk, to the safety or welfare of a child being provided care through a home-based care service; or
 - (b) is to establish whether or not a regulated person—
 - (i) has made a working with children check application; or

-
- (ii) holds a working with children authority; or
 - (c) is to assess a person's suitability to be—
 - (i) a regulated person for a home-based care service; or
 - (ii) an associated adult of a regulated person for a home-based care service; or
 - (d) is reasonably required to discharge a function under a law; or
 - (e) is required for a proceeding in a court or tribunal; or
 - (f) is authorised under a regulation or another law; or
 - (g) is related to the operation of the register, including, for example, auditing access to the information in the register.

61 Replacement of s 375 (Positive notice blue card is evidence of holding positive notice)

Section 375—

omit, insert—

375 Working with children card is evidence of authority

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

62 Amendment of s 377 (Indictable and summary offences)

Section 377(1)—

omit, insert—

- (1) An offence against this Act is an indictable offence, and a crime, if the maximum penalty for the offence is—
 - (a) 500 penalty units or more; or
 - (b) 5 years imprisonment or more.

63 Amendment of s 378 (Proceedings for indictable offences)

(1) Section 378(2)(a) and (b)—

omit, insert—

- (a) the magistrate is satisfied, at any stage of the hearing and after hearing any submissions by the prosecution and defence, that because of the nature or seriousness of the offence or any other relevant consideration the defendant, if convicted, may not be adequately punished on summary conviction; or
 - (b) the magistrate is satisfied, on an application made by the defence, that because of exceptional circumstances the offence should not be heard and decided summarily.
- (2) Section 378(4), ‘150 penalty units or 2 years imprisonment’—

omit, insert—

100 penalty units or 3 years imprisonment

64 Replacement of s 384 (Confidentiality of information about criminal history or related information)

Section 384—

omit, insert—

384 Confidentiality of police, disciplinary and mental health information

- (1) This section applies to a person who—
 - (a) is or has been a public service employee employed in the department; and
 - (b) in that capacity, was given, or given access to, a document containing—
 - (i) information about another person’s police information; or
 - (ii) disciplinary information about another person; or
 - (iii) information about another person’s mental health, including, for example, information about a proceeding in the Mental Health Court or the Mental Health Review Tribunal about the person.
- (2) Also, this section applies to a person who is or has been—
 - (a) the Minister and, in that capacity, received a report under section 395 that contains information mentioned in subsection (1)(b); or
 - (b) a member of the Minister’s staff and, in that capacity, was given, or given access to, a report or information mentioned in paragraph (a).
- (3) The person must not use the information, or disclose or give access to the information to anyone else, unless the use, disclosure or giving or access is allowed under subsection (4).

Maximum penalty—100 penalty units or 2 years imprisonment.

- (4) The person may use the information, or disclose or give access to the information to another person if the use, disclosure or giving of access—
 - (a) is for the purpose of an employment-screening decision; or
 - (b) is for the purpose of obtaining advice for, or giving advice to the Minister, in relation to the information; or
 - (c) happens with the consent of the person to whom the information relates; or
 - (d) is permitted under section 395; or
 - (e) is otherwise required under a law.

65 Insertion of new s 398A

After section 398—

insert—

398A Chief executive may arrange for use of information system

- (1) The chief executive may approve a system (an *information system*) for—
 - (a) generating, sending, receiving, storing or otherwise processing electronic communications between the chief executive and another person; or
 - (b) generating a decision of the chief executive, other than—
 - (i) a decision about whether or not there is an exceptional case for a person; or
 - (ii) another decision prescribed by regulation.
- (2) The chief executive must take all reasonable steps to ensure that a decision generated by an information system is correct.

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

66 Insertion of new ch 11, pt 19

Chapter 11—

insert—

Part 19 **Transitional provisions for Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019**

Division 1 **Preliminary**

549 Definitions for part

In this part—

amended Act means this Act as in force after the commencement of the section in which the term is used.

amendment Act means the *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019*.

Division 2 Application of particular provisions before changes to employment screening

550 Particular references in ch 8A during transition period

From the commencement of this section until the commencement of the amendment Act, section 28—

- (a) a reference in chapter 8A to a working with children check application is taken to—
 - (i) be a reference to a prescribed notice application or an exemption notice application; and
 - (ii) include a reference to an application mentioned in subparagraph (i) that was decided, withdrawn or taken to have been withdrawn before the commencement; and
- (b) a reference in chapter 8A to a working with children authority is taken to be a reference to a positive notice or a positive exemption notice.

551 Stay of operation of particular decisions of QCAT

- (1) Section 354A applies to a decision of QCAT mentioned in that section made after the commencement, even if the proceeding for the review started before the commencement.
- (2) A reference in section 354A to a negative notice is taken to include a reference to a negative exemption notice.

552 New regulated employment

- (1) This section applies if, immediately before the commencement—
 - (a) a person was employed in employment, or was continuing in employment, mentioned in schedule 1, section 4(2); and
 - (b) the employee does not have a current positive notice or positive exemption notice.
- (2) Sections 188 and 251 do not apply in relation to the person until—
 - (a) 3 months after the commencement; or
 - (b) if a prescribed notice application or exemption notice application is made about the person within the period mentioned in paragraph (a)—the application is decided or withdrawn.

552A Effect of pre-commencement charge for serious offence

For applying this Act in relation to a person the subject of a charge for a serious offence that has not been dealt with on the commencement, the person is taken to have been charged with the offence on the commencement.

552B Applicant in paid employment convicted of serious offence

- (1) This section applies if—
 - (a) before the commencement of the amendment Act, section 28, a prescribed notice application was made about a person under section 199; and
 - (b) the application relates to the person's employment, or proposed employment, in

- regulated employment other than as a volunteer; and
- (c) the application has not been decided or withdrawn; and
 - (d) the chief executive becomes aware that the person was convicted of a serious offence—
 - (i) if the person held a positive notice when the application was made—after the application was made; or
 - (ii) if the person held a positive notice that expired before the application was made—after the person’s notice expired; or
 - (iii) otherwise—before or after the application was made.
- (2) The chief executive must give the person a written notice that states—
- (a) the person is not allowed to perform work that is regulated employment before the person’s application is decided; and
 - (b) it is an offence for the person to perform work that is regulated employment, or to start in regulated employment, unless the person is issued a positive notice.
- (3) If the chief executive gives the person a notice under subsection (2), the person must not, unless the person is issued a positive notice—
- (a) if the employee is employed in regulated employment when given the notice under subsection (2)—perform work that is regulated employment; or
 - (b) otherwise—start in regulated employment.
- Maximum penalty—500 penalty units or 5 years imprisonment.

- (4) If the chief executive gives the person a notice under subsection (2), the chief executive must also give each notifiable person for the person a written notice that states—
 - (a) the person is not allowed to perform work that is regulated employment before the person's application is decided; and
 - (b) it is an offence for an employer to allow the person to start or continue to perform work that is regulated employment unless the person is issued a positive notice.
- (5) If the chief executive gives a person (an *employer*) a notice about another person (the *employee*) under subsection (4), the employer must not allow the employee to start or continue to perform work that is regulated employment unless the employee is issued a positive notice.

Maximum penalty—200 penalty units or 2 years imprisonment.
- (6) An employer may not dismiss the employee solely or mainly because the employer is given a notice under subsection (4).
- (7) Section 356 applies in relation to the employer as if a reference in that section to this chapter includes a reference to this section.
- (8) This section applies despite chapter 8, part 4, division 4.

Division 3 New serious offences and disqualifying offences

553 Definitions for division

In this division—

new disqualified person means a person who is a disqualified person only because—

- (a) the person has a conviction for a new disqualifying offence; or
- (b) the person is the respondent to an application for an offender prohibition order under the Offender Reporting Act.

new disqualifying offence means an offence that—

- (a) is a disqualifying offence; but
- (b) was not a disqualifying offence immediately before the commencement.

new relevant disqualified person means a person who is a relevant disqualified person only because—

- (a) the person has a conviction for a new disqualifying offence for which an imprisonment order was imposed; or
- (b) the person is the respondent to an application for an offender prohibition order under the Offender Reporting Act.

new serious offence means an offence that—

- (a) is a serious offence; but
- (b) was not a serious offence immediately before the commencement.

553A Effect of conviction or charge for new serious offence

- (1) For applying this Act in relation to a person convicted of a new serious offence, it is immaterial as to when the offence was committed or when the person was convicted of the offence.
- (2) This Act applies in relation to a person who is

charged with a new serious offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.

- (3) For applying this Act to a current positive notice or current positive exemption notice held by a person immediately before the commencement—
 - (a) a person convicted of a new serious offence before the commencement is taken to have been convicted of the offence on the commencement; and
 - (b) a person the subject of a charge for a new serious offence that has not been dealt with on the commencement is taken to have been charged with the offence on the commencement.

554 Effect of conviction or charge for new disqualifying offence

- (1) For applying section 169(1)(a) or 170(a) in relation to a person convicted of a new disqualifying offence, it is immaterial as to when the offence was committed or when the person was convicted of the offence.
- (2) This Act applies in relation to a person who is charged with a new disqualifying offence even if the charge, or the acts or omissions constituting the alleged offence, happened before the commencement.
- (3) For applying this Act to a current positive notice or current positive exemption notice held by a person immediately before the commencement, a person the subject of a charge for a new disqualifying offence that has not been dealt with on the commencement is taken to have been charged with the offence on the commencement.

554A Effect of conviction for new disqualifying offence on existing positive notice or positive exemption notice

- (1) This section applies if—
 - (a) a person held a current positive notice or current positive exemption notice immediately before the commencement; and
 - (b) the person was convicted of a new disqualifying offence before the commencement.
- (2) For applying this Act to the person's positive notice or positive exemption notice, the offence is taken to be, or to continue to be, a serious offence despite the enactment of the amending Act.
- (3) Without limiting subsection (2), if the person applies for another positive notice or positive exemption notice after the commencement, or section 557 or 558 applies in relation to the person—
 - (a) the person's conviction for the offence is taken to be, or to continue to be, a conviction for a serious offence; and
 - (b) the person is taken not to be a disqualified person or relevant disqualified person in relation to the person's conviction for the offence.

555 Existing eligibility application

- (1) This section applies if, immediately before the commencement—
 - (a) an eligibility application had not been decided or withdrawn; or
 - (b) an application mentioned in section 186(2) had not been decided.

- (2) The application must be decided under the amended Act.

556 Expiry of eligibility declaration for new disqualifying offence

An eligibility declaration in force for a person immediately before the commencement ends if, on the commencement—

- (a) the person is a new disqualified person, whether or not the person is also a new relevant disqualified person; or
- (b) the person is the subject of a charge for a new disqualifying offence that has not been dealt with.

557 Existing prescribed notice applications and exemption notice applications

- (1) This section applies if—
- (a) immediately before the commencement, a prescribed notice application or an exemption notice application made about a person had not been decided or withdrawn; and
 - (b) on the commencement, either—
 - (i) the person is a new disqualified person, whether or not the person is also a new relevant disqualified person; or
 - (ii) the person is the subject of a charge for a new disqualifying offence that has not been dealt with.
- (2) The person's application is taken to be withdrawn.
- (3) The chief executive must give a written notice about the withdrawal to—

- (a) the person; and
- (b) each notifiable person for the person; and
- (c) if the person is the director of a school's governing body—the accreditation board.

558 Existing positive notice or positive exemption notice held by person convicted of new serious offence or new disqualifying offence

- (1) This section applies if—
 - (a) immediately before the commencement, a person held a current positive notice or current positive exemption notice; and
 - (b) before the commencement, the person was convicted of—
 - (i) a new serious offence; or
 - (ii) a new disqualifying offence that is taken to be a serious offence under section 554A(2).
- (1A) Section 322 does not apply to the person in relation to the person's conviction for the offence.
- (1B) The chief executive must—
 - (a) consider whether it is appropriate to cancel the person's positive notice or positive exemption notice under this section because of the person's conviction for the offence; and
 - (b) give the person, and each notifiable person for the person, a notice stating that, because of the enactment of the amending Act, the chief executive is considering under this section whether the person should continue to hold the person's positive notice or positive exemption notice.
- (2) The chief executive may cancel the person's

positive notice and substitute a negative notice if the chief executive is satisfied that, if the chief executive were to decide a new prescribed notice application about the person under the amended Act, the chief executive would issue a negative notice to the person.

- (3) Section 237(2) to (6) applies to a decision under subsection (2).
- (4) The chief executive may cancel the person's positive exemption notice and substitute a negative exemption notice if the chief executive is satisfied that, if the chief executive were to decide a new exemption notice application about the person under the amended Act, the chief executive would issue a negative exemption notice to the person.
- (5) Section 295(2) to (6) applies to a decision under subsection (4).
- (6) If the chief executive decides not to cancel the person's positive notice or positive exemption notice under this section, the chief executive must give the person, and each notifiable person for the person, a notice stating that the chief executive is satisfied, having considered the enactment of the amending Act, the person should continue to hold the person's positive notice or positive exemption notice.

559 Existing application to cancel negative notice or negative exemption notice

- (1) This section applies if, immediately before the commencement—
 - (a) an application under section 236 to cancel a person's negative notice had not been decided or withdrawn; or

- (b) an application under section 294 to cancel a person's negative exemption notice had not been decided or withdrawn.
- (2) If the person is a new relevant disqualified person—
 - (a) the application is taken to be withdrawn; and
 - (b) the chief executive must give a written notice about the withdrawal to the person.
- (3) If the person is not a new relevant disqualified person, the amended Act applies for deciding the application.

560 Existing application to cancel suspended positive notice or positive exemption notice

- (1) This section applies if, immediately before the commencement—
 - (a) an application under section 241 or 243 to cancel a person's suspended positive notice had not been decided or withdrawn; or
 - (b) an application under section 299 to cancel a person's suspended positive exemption notice had not been decided or withdrawn.
- (2) The amended Act applies for deciding the application.

561 Undecided reviews and appeals by new disqualified persons

- (1) This section applies if—
 - (a) a person is a new disqualified person; and
 - (b) immediately before the commencement—
 - (i) an application, made by the person under section 354, for a review of a

chapter 8 reviewable decision had not been decided or withdrawn; or

- (ii) an appeal, started by the person under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision had not been decided or withdrawn.
- (2) The application or appeal, and any proceeding in relation to the application or appeal, must be dismissed.
 - (3) Subsection (2) applies to a proceeding before QCAT even if the dismissal would be contrary to a direction of the Court of Appeal.

562 Review of chapter 8 reviewable decision about new disqualified person

- (1) This section applies if—
 - (a) a person is a new disqualified person; and
 - (b) before the commencement—
 - (i) the chief executive made a chapter 8 reviewable decision about the person; and
 - (ii) the person had not applied for a review of the decision under section 354.
- (2) The amended Act applies for the chapter 8 reviewable decision.

Note—

A disqualified person may not apply for a review of a chapter 8 reviewable decision. See section 354(1).

563 Appeal by new disqualified person against QCAT decision

- (1) This section applies if—

- (a) a person is a new disqualified person; and
 - (b) before the commencement, the person had a right to appeal, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision about the person; and
 - (c) on the commencement, the time for starting an appeal had not ended.
- (2) Any appeal started by the person against the decision must be dismissed.
- (3) If a proceeding in relation to the appeal is before QCAT, subsection (2) applies even if the dismissal would be contrary to a direction of the Court of Appeal.

564 Existing appeal by chief executive against QCAT decision

- (1) This section applies if—
- (a) a person is a new disqualified person; and
 - (b) immediately before the commencement, an appeal against a decision of QCAT relating to a chapter 8 reviewable decision about the person started by the chief executive under the QCAT Act had not been decided or withdrawn.
- (2) The court or tribunal hearing the appeal must apply the amended Act in relation to the subject matter of the appeal.
- (3) In deciding the appeal, the court or tribunal must consider that, if the person was a disqualified person when the chief executive made the chapter 8 reviewable decision, the person would not have been permitted to apply for a review of the chapter 8 reviewable decision.

565 Existing right of appeal by chief executive against QCAT decision

- (1) This section applies if—
 - (a) a person is a new disqualified person; and
 - (b) before the commencement, the chief executive had a right to appeal, under the QCAT Act, against a decision of QCAT relating to a chapter 8 reviewable decision about the person; and
 - (c) on the commencement, the time for starting the appeal had not ended.
- (2) The chief executive may start an appeal under the amended Act even though the person is a disqualified person.
- (3) The court or tribunal hearing an appeal started under subsection (2) must apply the amended Act in relation to the subject matter of the appeal.
- (4) In deciding the appeal, the court or tribunal must consider that, if the person was a disqualified person when the chief executive made the chapter 8 reviewable decision, the person would not have been permitted to apply for a review of the chapter 8 reviewable decision.

Division 4 Changes to employment screening

Subdivision 1 Preliminary

566 Definitions for division

In this division—

amended, for a provision of this Act, means as in force after the commencement of the section in

which the provision is mentioned.

current—

- (a) for a prescribed notice—means current under previous section 231; or
- (b) for an exemption notice—means current under previous section 289.

exemption card, for a person's positive exemption notice, means a card issued to the person by the chief executive as evidence of the person's positive exemption notice.

exemption notice see previous schedule 7, definition *exemption notice*.

exemption notice application see previous schedule 7, definition *exemption notice application*.

negative exemption notice see previous schedule 7, definition *negative exemption notice*.

negative prescribed notice means a negative notice issued under previous section 220(b).

positive exemption notice see previous schedule 7, definition *positive exemption notice*.

positive notice see previous schedule 7, definition *positive notice*.

positive notice blue card see previous schedule 7, definition *positive notice blue card*.

prescribed notice see previous schedule 7, definition *prescribed notice*.

prescribed notice application see previous schedule 7, definition *prescribed notice application*.

previous, for a provision of this Act, means as in force before the commencement of the provision in which the term is used.

Subdivision 2 Existing eligibility declarations, prescribed notices, exemption notices and related applications

567 Existing eligibility application or eligibility declaration

- (1) The amended Act applies for deciding an eligibility application that, immediately before the commencement, had not been decided or withdrawn.
- (2) An eligibility declaration that, immediately before the commencement, was in force for a person continues in effect subject to amended section 185.

568 Existing prescribed notice application

- (1) This section applies if, immediately before the commencement, a prescribed notice application for a person had been made but not decided, withdrawn or taken to have been withdrawn.
- (2) The application is taken to be a working with children check (general) application.
- (3) The amended Act applies for deciding the application.
- (4) Subsection (5) applies if—
 - (a) the person is not a police officer or registered teacher; and
 - (b) immediately before the commencement, the person was employed in regulated employment under previous chapter 8, part 4 on the basis the prescribed notice application had been made but not decided,

- withdrawn or taken to have been withdrawn;
and
- (c) the person does not hold a negative notice or negative exemption notice.
- (5) Despite chapter 7, part 4, division 2 and until the working with children check (general) application is decided or withdrawn—
- (a) the person may continue to be employed in the regulated employment; and
 - (b) for that purpose, sections 175 and 176A do not apply in relation to the employment.
- (6) Subsection (7) applies if—
- (a) the person is not a police officer or registered teacher; and
 - (b) immediately before the commencement, the person was carrying on a regulated business under previous section 197(1)(b) on the basis the prescribed notice application had been made but not decided, withdrawn or taken to have been withdrawn; and
 - (c) the person does not hold a negative notice or negative exemption notice.
- (7) Despite chapter 7, part 4, division 2 and until the working with children check (general) application is decided or withdrawn—
- (a) the person may continue to carry on the regulated business; and
 - (b) for that purpose, section 176B does not apply in relation to the regulated business.

568A Transitioning to issuing working with children card for clearance that includes holder's photograph

- (1) This section applies if the chief executive

approves an application for a person to which section 568 applies.

- (2) The chief executive may comply with section 232A for the person's working with children clearance by issuing the person a positive notice blue card that the chief executive would have issued before the commencement to a person who holds a positive notice.
- (3) The document mentioned in subsection (2) is taken to be a working with children card issued to the person under section 232A for the person's working with children clearance.
- (4) Despite schedule 7, definition *working with children card*, it does not matter that a document issued under subsection (2) does not include a photograph of the person.

569 Existing positive notice and positive notice blue card

- (1) This section applies if, immediately before the commencement, a person holds a current positive notice.
- (2) The positive notice is taken to be a working with children clearance issued to the person under amended chapter 8, part 4, division 9.
- (3) If, immediately before the commencement, the positive notice was suspended under previous section 240 or 242—
 - (a) the person's working with children clearance under subsection (2) is taken to have been suspended under amended section 296; and
 - (b) the suspension may be dealt with under the amended Act.
- (4) A current positive notice blue card issued to the

person for the person's positive notice is taken to be a working with children card issued to the person under section 232A for the person's working with children clearance under subsection (2).

- (5) Despite schedule 7, definition *working with children card*, paragraph (b), it does not matter that the positive notice blue card does not include a photograph of the person.

570 Existing negative prescribed notice

- (1) This section applies if, immediately before the commencement, a person holds a current negative prescribed notice.
- (2) The negative prescribed notice is taken to be a negative notice issued to the person under amended chapter 8, part 4, division 9.

571 Existing exemption notice application

- (1) This section applies to an exemption notice application that, immediately before the commencement, had not been decided, withdrawn or taken to have been withdrawn.
- (2) The application is taken to be a working with children check (exemption) application.
- (3) The amended Act applies for deciding the application.

571A Transitioning to issuing working with children card for exemption that includes holder's photograph

- (1) This section applies if, within 6 months after the commencement, the chief executive approves an application for a person to which section 571 applies.

- (2) Despite section 289, a working with children exemption is issued to the person for the term that ends 3 years after the commencement.
- (3) The chief executive may comply with section 290A for the person's working with children exemption by issuing the person an exemption card that the chief executive would have issued before the commencement to a person who holds a positive exemption notice.
- (4) The document mentioned in subsection (3) is taken to be a working with children card issued to the person under section 290A for the person's working with children exemption.
- (5) Despite schedule 7, definition *working with children card*, it does not matter that a document issued under subsection (3) does not include—
 - (a) a photograph of the person; or
 - (b) the expiry date of the person's working with children exemption.

572 Existing positive exemption notice and positive exemption notice card

- (1) This section applies if, immediately before the commencement, a person holds a current positive exemption notice.
- (2) The positive exemption notice is taken to be a working with children exemption issued—
 - (a) to the person under amended chapter 8, part 5, division 8; and
 - (b) for the term that ends 3 years after the commencement.
- (3) If, immediately before the commencement, the positive exemption notice was suspended under previous section 298—

- (a) the person's working with children exemption under subsection (2) is taken to have been suspended under amended section 296; and
 - (b) the suspension may be dealt with under the amended Act.
- (4) An exemption card issued to the person for the person's positive exemption notice is taken to be a working with children card issued to the person under section 290A for the person's working with children exemption under subsection (2).
- (5) Despite schedule 7, definition *working with children card*, paragraph (b), it does not matter that the exemption card does not include—
- (a) a photograph of the person; or
 - (b) the expiry date of the person's working with children exemption.

573 Expiry of transitioned positive exemption notice

- (1) This section applies in relation to a current positive exemption notice that is taken to be a working with children exemption under section 572 (the *transitioned exemption*) if—
- (a) the term mentioned in section 572(2)(b) ends; and
 - (b) either—
 - (i) the holder of the transitioned exemption did not make a working with children check application before the term ended; or
 - (ii) the holder of the transitioned exemption made a working with children check application before the

term ended and the application was withdrawn before it was decided.

- (2) The chief executive must give a notice to the person who held the transitioned exemption that states—
 - (a) the transitioned exemption has expired; and
 - (b) the person must return the person's working with children card to the chief executive within 14 days after the notice is given, unless the person has a reasonable excuse.
- (3) The person must return the person's working with children card to the chief executive within 14 days after the notice is given, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

574 Existing negative exemption notice

- (1) This section applies if, immediately before the commencement, a person holds a current negative exemption notice.
- (2) The negative exemption notice is taken to be a negative notice issued to the person under amended chapter 8, part 5, division 8.

575 Existing application to cancel positive notice or positive exemption notice

- (1) This section applies if, immediately before the commencement—
 - (a) an application under previous section 244 to cancel a person's positive notice had not been decided or withdrawn; or
 - (b) an application under previous section 302 to cancel a person's positive exemption notice had not been decided or withdrawn.

- (2) The application is taken to have been made under section 304D in relation to the person's working with children clearance under section 569(2) or working with children exemption under section 572(2).
- (3) The amended Act applies for deciding the application.

576 Existing application to cancel negative notice or negative exemption notice

- (1) This section applies if, immediately before the commencement—
 - (a) an application under previous section 236 to cancel a person's negative prescribed notice had not been decided or withdrawn; or
 - (b) an application under previous section 294 to cancel a person's negative exemption notice had not been decided or withdrawn.
- (2) The application is taken to have been made under section 304G in relation to the person's negative notice under section 570(2) or 574(2).
- (3) The amended Act applies for deciding the application.

577 Existing application to cancel suspended positive notice or positive exemption notice

- (1) This section applies if, immediately before the commencement—
 - (a) an application under previous section 241 or 243 to cancel a person's suspended positive notice had not been decided or withdrawn; or
 - (b) an application under previous section 299 to cancel a person's suspended positive

exemption notice had not been decided or withdrawn.

- (2) The application is taken to have been made under section 300(1)(b) in relation to the person's working with children clearance under section 569(2) or working with children exemption under section 572(2).
- (3) The amended Act applies for deciding the application.

Subdivision 3 Reviews and appeals

578 Reviews not started on commencement

- (1) This section applies if—
 - (a) before the commencement—
 - (i) the chief executive made a chapter 8 reviewable decision about a person; and
 - (ii) the person had not applied for a review of the decision under section 354; and
 - (b) on the commencement, the time for starting a review of the decision had not ended.
- (2) The person may apply for a review of the decision.
- (3) QCAT must apply the amended Act in relation to the subject matter of the review.

579 Appeals not started on commencement

- (1) This section applies if—
 - (a) before the commencement, the chief executive or another person had a right to appeal, under the QCAT Act, against a

- decision of QCAT relating to a chapter 8 reviewable decision; and
- (b) on the commencement, the time for starting an appeal had not ended.
- (2) The entity hearing the appeal must apply the amended Act in relation to the subject matter of the appeal.

580 Undecided reviews and appeals

- (1) This section applies if, immediately before the commencement—
 - (a) an application, made by a person under section 354, for a review of a chapter 8 reviewable decision had not been decided or withdrawn; or
 - (b) an appeal against a decision of QCAT relating to a chapter 8 reviewable decision, started by a person under the QCAT Act, had not been decided or withdrawn.
- (2) The entity hearing the review or appeal must apply the amended Act in relation to the subject matter of the review or appeal.

Subdivision 4 Other transitional provisions

581 Definitions for subdivision

In this subdivision—

transitioned application means—

- (a) for an eligibility application—an eligibility application under section 567; or

- (b) for a prescribed notice application—a working with children check application under section 568; or
- (c) for an exemption notice application—a working with children check (exemption) application under section 571.

transitioned authority means—

- (a) for an eligibility declaration—an eligibility declaration under section 567; or
- (b) for a positive notice—a working with children clearance under section 569; or
- (c) for a negative prescribed notice—a negative notice under section 570; or
- (d) for a positive exemption notice—a working with children exemption under section 572; or
- (e) for a negative exemption notice—a negative notice under section 574.

582 Things done before commencement in relation to eligibility declaration, prescribed notice or exemption notice

- (1) This section applies in relation to a thing done by the chief executive or another person under this Act before the commencement in relation to—
 - (a) an eligibility application, prescribed notice application or exemption notice application; or
 - (b) an eligibility declaration, prescribed notice or exemption notice.
- (2) The thing is taken to have been done under the amended Act in relation to—
 - (a) for a thing done in relation to an eligibility application, prescribed notice application or

- exemption notice application—the transitioned application for the application;
or
- (b) for a thing done in relation to an eligibility declaration, prescribed notice or exemption notice—the transitioned authority for the declaration or notice.
- (3) The amended Act applies for the purpose of subsection (2) with necessary changes.
 - (4) This section does not limit another provision of this division.

583 Obligations or powers arising before commencement in relation to eligibility declaration, prescribed notice or exemption notice

- (1) This section applies if—
 - (a) before the commencement, the chief executive or another person was required or permitted under this Act to do, but did not do, something in relation to—
 - (i) an eligibility application, prescribed notice application or exemption notice application; or
 - (ii) an eligibility declaration, prescribed notice or exemption notice; and
 - (b) on the commencement, the period within which the chief executive or other person was required or permitted to do the thing has not passed.
- (2) The chief executive or other person must or may do the thing under the amended Act in relation to—
 - (a) for a thing required or permitted to be done in relation to an eligibility application,

prescribed notice application or exemption notice application—the transitioned application for the application; or

- (b) for a thing required or permitted to be done in relation to an eligibility declaration, prescribed notice or exemption notice—the transitioned authority for the declaration or notice.
- (3) The amended Act applies for the purpose of subsection (2) with necessary changes.
- (4) This section does not limit another provision of this division.

584 Existing employer notices about employment or proposed employment of a person

- (1) A person, as the employer of another person, is taken to have given the chief executive a notice mentioned in section 175(1)(b) about employing the other person if, before the commencement, the person—
 - (a) gave the chief executive a notification about employing the other person under previous section 188(1)(a), 192(2)(a) or 193(2)(a); or
 - (b) applied for a prescribed notice about the other person.
- (2) A person, as the employer of a police officer or registered teacher, is taken to have given the chief executive a notice mentioned in section 176C(1)(b) about employing the police officer or teacher if, before the commencement, the person—
 - (a) gave the chief executive a notification about employing the police officer or teacher under previous section 251(a), 254(2)(a) or 255(2)(a) or (b); or

- (b) applied for an exemption notice about the police officer or teacher.

585 Existing orders under s 357

This Act applies in relation to a disqualification order made under section 357 before the commencement as if—

- (a) a reference to a positive notice were a reference to a working with children clearance; and
- (b) a reference to a positive exemption notice were a reference to a working with children exemption; and
- (c) a reference to applying for a prescribed notice were a reference to making a working with children check (general) application; and
- (d) a reference to applying for an exemption notice were a reference to making a working with children check (exemption) application.

586 Particular references in Act or document

In an Act or a document, to the extent the context permits—

- (a) a reference to a working with children check (general) application includes a reference to an application for a prescribed notice under previous chapter 8, part 4, division 6 or 7; and
- (b) a reference to a working with children check (exemption) application includes a reference to an application for an exemption notice under previous chapter 8, part 5, division 7 or 8; and

- (c) a reference to a working with children clearance includes a reference to a positive notice under previous section 220(a); and
- (d) a reference to a working with children exemption includes a reference to a positive exemption notice under previous section 282(a); and
- (e) a reference to a working with children authority includes a reference to—
 - (i) a positive notice under previous section 220(a); and
 - (ii) a positive exemption notice under previous section 282(a); and
- (f) a reference to a negative notice includes a reference to—
 - (i) a negative notice under previous section 220(b); and
 - (ii) a negative exemption notice under previous section 282(b).

587 Application withdrawn or taken to have been withdrawn before commencement

- (1) If, before the commencement, a person withdrew a prescribed notice application or exemption notice application the person made about another person—
 - (a) the application is taken to have been withdrawn under section 196; and
 - (b) a notice given by the chief executive about the withdrawal is taken to have been given under section 195 because section 196 applies.
- (2) A notice about the withdrawal of a prescribed notice application about a person given under

-
- (a) for which it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition—
 - (i) from the operation of this Act as in force before the commencement of a relevant amendment; and
 - (ii) to the operation of this Act as in force after the commencement of the relevant amendment; and
 - (b) for which this Act does not provide or sufficiently provide.
- (2) A transitional regulation may have retrospective operation to a day not earlier than the day the relevant amendment commenced.
 - (3) A transitional regulation must declare it is a transitional regulation.
 - (4) This section and any transitional regulation expire 18 months after the day this section commenced.
 - (5) In this section—
relevant amendment means an amendment of this Act by the amendment Act.

67 Replacement of sch 1, ss 4 and 4A

Schedule 1, sections 4 and 4A—

omit, insert—

4 Education and care services and similar employment

- (1) Employment is regulated employment if—
 - (a) it is employment as an educator or carer in, or staff member of, an education and care service or a QEC service; or
 - (b) any of the usual functions of the employment are carried out, or are likely to

- be carried out at education and care service premises or QEC service premises while children are being educated and cared for at the premises; or
- (c) the usual functions of the employment include, or are likely to include, providing education and care to children in the course of a commercial service other than an education and care service or a QEC service.
- (2) If an adult is an occupant of a home in which a home-based stand-alone care service that is employment mentioned in subsection (1) is provided—
- (a) the adult is taken to be a volunteer who is employed in regulated employment; and
- (b) the carer who provides the service is taken to be the person who employs the adult in the regulated employment.
- (3) If an adult is an occupant of a family day care residence in which employment mentioned in subsection (1) is provided—
- (a) the adult is taken to be a volunteer who is employed in regulated employment; and
- (b) the approved provider under the Education and Care Services National Law (Queensland) of the family day care service provided in the residence is taken to be the person who employs the adult in the regulated employment.
- (4) Employment mentioned in subsection (1) is not regulated employment if the employee is a volunteer who is a parent of a child to whom education and care is regularly provided—
- (a) in the course of the service; or

(b) at the premises.

4A Child care and similar employment

(1) Employment is regulated employment if any of the usual functions of the employment include or are likely to include providing child care in the course of a commercial service.

Examples—

- a babysitting service
- a nanny service
- a service conducted by a hotel or resort to provide child care to children who are short-term guests

(2) However, employment mentioned in subsection (1) is not regulated employment if the employee is a volunteer who is a parent of a child to whom child care is regularly provided in the course of the service.

68 Amendment of sch 1, s 6 (Health, counselling and support services)

(1) Schedule 1, section 6(3)(a)—

omit.

(2) Schedule 1, section 6(3)(b) to (d)—

renumber as schedule 1, section 6(3)(a) to (c).

69 Insertion of new sch 1, s 28A

After section 28—

insert—

28A Employment of lawyers

Chapter 7 of this Act does not apply to the employment of a person who is an Australian lawyer who may engage in legal practice in this

State under the *Legal Profession Act 2007*, to the extent the person is engaging in legal practice.

69A Amendment of sch 2 (Current serious offences)

- (1) Schedule 2, entry for the Criminal Code—

insert—

315A Choking, suffocation or strangulation in a domestic setting

- (2) Schedule 2, entry for the Criminal Code, section 300, all the words in column 3—

omit.

- (3) Schedule 2, entry for the Criminal Code (Cwlth), section 270.6 Sexual servitude offences—

omit.

- (4) Schedule 2, entry for the Criminal Code (Cwlth)—

insert—

270.5 Servitude offences

271.4 Offence of trafficking in children

271.7 Offence of domestic trafficking in children

69B Amendment of sch 3 (Repealed or expired serious offences)

Schedule 3—

insert—

3 Criminal Code (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
270.6	Sexual servitude offences	only if an offender was or could have been liable as mentioned in section 270.8, as the provisions were in force from time to time before their repeal by the <i>Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013</i> (Cwlth)

70 Amendment of sch 4 (Current disqualifying offences)

(1) Schedule 4, entry for the Criminal Code—

insert—

211	Bestiality	
306	Attempt to murder	
309	Conspiring to murder	
315A	Choking, suffocation or strangulation in a domestic setting	
320A	Torture	if the offence was committed against a child
354	Kidnapping	if the offence was committed against a child and the context in which the offence was committed was not familial
354A	Kidnapping for ransom	if the offence was committed against a child
363	Child-stealing	if the context in which the offence was committed was not familial
363A	Abduction of child under 16	if the context in which the offence was committed was not familial

364 Cruelty to children under
16

- (2) Schedule 4, entry for the Criminal Code, section 300, ‘and was committed against a child’—

omit.

- (3) Schedule 4, entries for the Criminal Code, sections 349, 350 and 351, ‘if the offence was committed against a child’—

omit.

- (4) Schedule 4, entry for the Criminal Code (Cwlth), section 270.6 Sexual servitude offences—

omit.

- (5) Schedule 4, entry for the Criminal Code (Cwlth)—

insert—

270.5 Servitude offences if the offence was committed against a child

271.4 Offence of trafficking in children

271.7 Offence of domestic trafficking in children

70A Amendment of sch 5 (Repealed or expired disqualifying offences)

Schedule 5—

insert—

3 Criminal Code (Cwlth)

Provision of Act	Relevant heading	Qualification relating to the provision of the Act
-------------------------	-------------------------	---

- 270.6 Sexual servitude offences only if an offender was or could have been liable as mentioned in section 270.8, as the provisions were in force from time to time before their repeal by the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013* (Cwlth)

71 Amendment of sch 7 (Dictionary)

- (1) Schedule 7, authorising provision—

omit, insert—

section 9

- (2) Schedule 7, definitions *alternative certifications, approved foster carer, cousin, current, employment, employment-screening decision, engage, exemption notice, exemption notice application, influence, issue, minimum frequency for regulated employment, negative exemption notice, negative notice, notice of deemed withdrawal, positive exemption notice, positive notice, positive notice blue card, prescribed notice, prescribed notice application, prescribed person, proof of identity documents, regulated business, regulated employment and transitioning person—*

omit.

- (3) Schedule 7—

insert—

associated adult, of a regulated person for a home-based care service, for chapter 8A, see section 357D.

authorised user, for chapter 8A, see section 357E.

family day care residence see the Education and Care Services National Law (Queensland), section 5(1).

family day care service see the Education and Care Services National Law (Queensland), section 5(1).

foster or kinship care, for chapter 8A, see section 357B(a).

home-based care service, for chapter 8A, see section 357B.

home-based family day care service, for chapter 8A, see section 357B(b).

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

occupant—

- (a) of a home in which a home-based stand-alone service is provided, see the *Education and Care Services Act 2013*, schedule 1; or
- (b) of a family day care residence, see the *Education and Care Services National Law (Queensland) Act 2011*, section 22(4).

register, for chapter 8A, see section 357A.

regulated person, for chapter 8A, see section 357C.

(4) Schedule 7—

insert—

applicant, for a working with children check application, see section 187.

approved way, for making an application or giving a notice, means a way for making the application, or giving the notice, approved by the chief executive and notified on a Queensland Government website.

employment—

- (a) in relation to a trainee student—see sections 10 and 11; or
- (b) in relation to regulated employment mentioned in schedule 1, section 4(2) or (3)—includes employment by the person mentioned in that section in the circumstances mentioned in the section; or
- (c) in relation to regulated employment mentioned in schedule 1, section 14(1) or (2)—includes employment by the State in the circumstances mentioned in section 12; or
- (d) otherwise—see section 10.

employment-screening decision, in relation to a person, means a decision about—

- (a) whether a working with children authority or negative notice should be issued to the person; or
- (b) whether a person’s working with children authority or negative notice should be cancelled; or
- (c) whether an eligibility declaration should be issued to a person.

issue—

- (a) a negative notice to a person includes issue a negative notice to the person when the person’s working with children authority is cancelled; and
- (b) a working with children authority to a person includes issue a working with children authority to the person when the person’s negative notice is cancelled.

negative notice means—

- (a) in relation to a person other than a police officer or registered teacher—a notice under section 220(3); or
- (b) in relation to a police officer or a registered teacher—a notice under section 220(3) or 282(3).

potential employer, of a person, means a person who—

- (a) the chief executive reasonably believes employs, or proposes to employ, the person; and
- (b) is not a notifiable person for the person.

Queensland Government website means a website with a URL that contains ‘qld.gov.au’, other than the website of a local government.

regulated business see section 157.

regulated employment see section 156.

restricted employment see section 176H.

restricted person, for chapter 7, part 4, division 4, see section 176H.

teacher registration, of a person, means the person’s full registration or provisional registration under the *Education (Queensland College of Teachers) Act 2005*.

withdrawal notice see section 195.

working with children authority means—

- (a) a working with children clearance; or
- (b) a working with children exemption.

working with children card means a document, in the form of a card, that—

- (a) evidences that a working with children authority has been issued to a person; and

(b) includes a photograph of the person and the following information—

- (i) the person's name;
- (ii) a registration number for the person;
- (iii) the expiry date of the person's authority.

working with children check application means—

- (a) a working with children check (general) application; or
- (b) a working with children check (exemption) application.

working with children check (exemption) application means an application for a working for children check for an exemption made under section 187(2).

working with children check (general) application means an application for a working for children check made under section 187(1).

working with children clearance see section 220(2).

working with children exemption see section 282(2).

- (5) Schedule 7, definition *notifiable person*, paragraph (a)(i) and (ii), after 'if'—

insert—

the chief executive is aware

- (6) Schedule 7, definition *notifiable person*, paragraph (a)(i), after 'employer'—

insert—

or proposed employer

- (7) Schedule 7, definition *notifiable person*, paragraph (a)—

insert—

- (ia) if the chief executive is aware the person is employed at a State school within the meaning of the *Education (General Provisions) Act 2006—*
 - (A) the principal of the State school; and
 - (B) the chief executive of the department in which the *Education (General Provisions) Act 2006* is administered; or
- (8) Schedule 7, definition *notifiable person*, paragraphs (a)(iii) to (vi)—

omit, insert—

- (iii) if the chief executive is aware that the person is an approved provider or staff member for a QEC service, or a volunteer who works in or as part of a QEC service, under the *Education and Care Services Act 2013*—the chief executive (education and care); or
- (iv) if the chief executive is aware that the person is an adult occupant of a home in which a home-based stand-alone care service is provided—the chief executive (child care); or
- (v) if the chief executive is aware that the person is an approved provider or staff member in relation to an education and care service under the *Education and Care Services National Law (Queensland)*—the chief executive (education and care); or
- (vi) if the chief executive is aware the person is an adult occupant of a family day care residence—the chief executive (education and care); or

- (9) Schedule 7, definition *notifiable person*, paragraph (b), ‘for chapter 8, part 5 other than sections 298 to 300—’—
omit.

Part 3 Amendment of other Acts

Division 1 Amendment of Disability Services Act 2006

72 Act amended

This division amends the *Disability Services Act 2006*.

Note—

See also the amendments in schedule 2.

73 Insertion of new s 109A

After section 109—

insert—

109A Stay of operation of particular decisions on application for review

- (1) This section applies to a decision of QCAT, on an application for a review of a part 5 reviewable decision under section 109, to set aside an exceptional case decision.
- (2) QCAT’s decision does not take effect until—
 - (a) the end of the period within which an appeal against QCAT’s decision may be started; or
 - (b) if an appeal against QCAT’s decision is started—the appeal is decided or withdrawn.
- (3) This section applies despite the QCAT Act, sections 145 and 152.
- (4) In this section—

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

- (a) issued a negative notice or negative exemption notice to the person; or
- (b) refused to cancel the person's negative notice or negative exemption notice.

Division 2 Amendment of Public Service Act 2008

74 Act amended

This division amends the *Public Service Act 2008*.

75 Amendment of s 150 (Definitions for pt 6)

- (1) Section 150, definitions *positive exemption notice* and *positive prescribed notice*—

omit.

- (2) Section 150—

insert—

working with children authority means a working with children authority under the Working with Children Act.

- (3) Section 150, definition *child-related duties*, 'section 156'—
omit, insert—

section 156(2)

- (4) Section 150, definition *relevant duties*, 'section 151'—
omit, insert—

section 151(2)

76 Amendment of s 151 (Application of div 2)

- (1) Section 151(1), note, paragraph (a), ‘chapter 8’—
omit, insert—
chapter 7
- (2) Section 151(2)—
omit.
- (3) Section 151(3) and (4)—
renumber as section 151(2) and (3).

77 Amendment of s 156 (Application of div 3)

- (1) Section 156(1), note, ‘chapter 8’—
omit, insert—
chapter 7
- (2) Section 156(2)—
omit.
- (3) Section 156(3)—
renumber as section 156(2).

78 Amendment of s 157 (Definitions for div 3)

- (1) Section 157, definitions *current, exemption notice, negative exemption notice, negative prescribed notice* and *prescribed notice*—
omit.
- (2) Section 157—
insert—

negative notice means a negative notice under the Working with Children Act.

79 Amendment of s 158 (Prescribed notice or exemption notice required for child-related duties)

- (1) Section 158, heading, ‘Prescribed notice or exemption notice’—

omit, insert—

Working with children authority

- (2) Section 158(1)(a) and (b)—

omit, insert—

- (a) the person holds a working with children authority; or
- (b) if the person is a police officer or registered teacher—the person has made a working with children check (exemption) application under the Working with Children Act.

- (3) Section 158(3), definition *volunteer*—

omit.

80 Omission of s 159 (Chief executive to apply for prescribed notice or exemption notice)

Section 159—

omit.

81 Replacement of ss 161 and 162

Sections 161 and 162—

omit, insert—

161 Engaging police officer or registered teacher who is a public service employee before exemption issued

- (1) This section applies if—

- (a) the chief executive of a department engages a person who is a police officer or a

- registered teacher to perform child-related duties on the basis the person made an application mentioned in section 158(1)(b); and
- (b) when the chief executive engages the person, the person is also a public service employee; and
 - (c) either—
 - (i) the person’s application is withdrawn under the Working with Children Act; or
 - (ii) the person is issued a negative notice.
- (2) The chief executive must ensure the person does not continue to perform child-related duties.

162 Engaging police officer or registered teacher who is not public service employee before exemption issued

- (1) This section applies if—
- (a) the chief executive of a department engages a person who is a police officer or a registered teacher to perform child-related duties on the basis the person has made an application mentioned in section 158(1)(b); and
 - (b) when the chief executive engages the person, the person is not a public service employee.
- (2) The chief executive—
- (a) may only appoint the person on probation under section 126 for a period that does not end before a working with children exemption is issued to the person; and

- (b) may confirm the person's appointment under section 126 only if the person is issued a working with children exemption; and
- (c) must not confirm the person's appointment under section 126 if either of the following happens—
 - (i) the person's application is withdrawn under the Working with Children Act;
 - (ii) the person is issued a negative notice.
- (3) Subsection (2) does not limit the power under section 126 to have a longer probationary period or to terminate the person's employment.
- (4) In this section—

working with children exemption means a working with children exemption under the Working with Children Act.

82 Amendment of s 163 (Effect of suspension or cancellation of positive prescribed notice or positive exemption notice)

- (1) Section 163, 'positive prescribed notice or positive exemption notice'—

omit, insert—

working with children authority
- (2) Section 163(1), 'the notice'—

omit, insert—

the authority

83 Amendment of ch 5, pt 6, div 3A, hdg (Further assessment of person to whom prescribed notice or exemption notice is issued)

Chapter 5, part 6, division 3A, heading, ‘prescribed notice or exemption notice’—

omit, insert—

working with children authority

84 Amendment of s 165A (Chief executive may decide to obtain criminal history)

(1) Section 165A(1)(a), ‘positive prescribed notice or positive exemption notice’—

omit, insert—

working with children authority

(2) Section 165A(1)(b), from ‘(including’ to ‘section 159)’—

omit.

85 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions *current, exemption notice, negative exemption notice, negative prescribed notice, positive exemption notice, positive prescribed notice* and *prescribed notice*—

omit.

(2) Schedule 4—

insert—

negative notice, for chapter 5, part 6, division 3, see section 157.

working with children authority, for chapter 5, part 6, see section 150.

(3) Schedule 4, definition *child-related duties*, ‘section 150’—

omit, insert—

section 156(2)

- (4) Schedule 4, definition *relevant duties*, ‘section 150’—
omit, insert—

section 151(2)

Division 3 Other amendments

86 Acts amended

- (1) Schedule 1 amends the *Working with Children (Risk Management and Screening) Act 2000*.
- (2) Schedule 2 amends the Acts it mentions.

Schedule 1 **Amendment of Working with Children (Risk Management and Screening) Act 2000**

section 86(1)

1 Section 158(2), example—

omit.

2 Sections 161(1), 164(2) and (3) and 166(2), ‘this chapter’—

omit, insert—

this Act

3 Section 161(4), ‘section 162’—

omit, insert—

section 11

4 Section 166, note—

omit.

5 Section 171(2), definition *employees in regulated employment*, paragraphs (a), (b) and (c)—

omit, insert—

- (a) persons who made a working with children check (exemption) application;
- (b) persons who hold a working with children authority;
- (c) persons who are not required to hold a working with children authority;

6 Section 221, heading—

omit, insert—

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

7 Section 221, ‘positive notice’—

omit, insert—

working with children clearance

8 Section 221(1)(b)(iv), note, from ‘sections 208’—

omit, insert—

chapter 7, part 4, division 4 and sections 199, 295(1) and 296.

9 Section 222, heading—

omit, insert—

222 Deciding application—previous holder of working with children exemption

10 Section 222, ‘positive notice’—

omit, insert—

working with children clearance

11 Section 222(1), ‘positive exemption notice’—

omit, insert—

working with children exemption

12 Section 223, heading and subsection (1)—

omit, insert—

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

- (1) This section applies if—
- (a) the chief executive has, under section 304I, cancelled a negative notice issued to the person; or
 - (b) an eligibility declaration is in force for the person.

13 Section 223(2), ‘positive notice’—

omit, insert—

working with children clearance

14 Section 223(4), from ‘to issue’—

omit, insert—

to issue a working with children clearance, the chief executive must issue a working with children clearance to the person.

15 Section 229(1)(b), ‘prescribed notice’—

omit, insert—

working with children check (general)

16 Section 229(2)(b)(ii), ‘positive notice’—

omit, insert—

working with children clearance

17 Section 233(c), from ‘current negative notice’—

omit, insert—

negative notice to—

- (i) make a working with children check application; or
- (ii) start or continue in regulated employment or restricted employment; or
- (iii) carry on a regulated business.

18 Section 235(1)(a) and (b)—

omit, insert—

- (a) the chief executive issues a working with children clearance to a person; and
- (b) the chief executive of another department (the *other executive*) proposes to start employing, or continue employing, the person in regulated employment; and

19 Section 247, heading, ‘Prescribed notices’

omit, insert—

Clearances

20 Section 247(1)(a)—

omit, insert—

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

21 Section 247(2), ‘positive notice or negative notice’—

omit, insert—

working with children clearance

22 Section 247(3), from ‘positive notice’—

omit, insert—

working with children clearance while it is in

force.

23 Section 247(4) to (6)—

omit, insert—

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

24 Section 283, heading, ‘Issuing positive exemption notice to’—

omit, insert—

Deciding application—

25 Section 283, ‘positive exemption notice’—

omit, insert—

working with children exemption

26 Section 284, heading, ‘Issuing positive exemption notice to’—

omit, insert—

Deciding application—

27 Section 284, ‘positive exemption notice’—

omit, insert—

working with children exemption

28 Sections 286(1) and 287(1), ‘exemption notice application’—

omit, insert—

working with children check (exemption)
application

29 Section 287(6)(b), ‘or negative exemption notice’—

omit.

30 Section 291, ‘exemption’—

omit.

31 Section 291(c), from ‘current negative’—

omit, insert—

negative notice to—

- (i) make a working with children check application; or
- (ii) start or continue in regulated employment or restricted employment; or
- (iii) carry on a regulated business.

32 Section 292(1)—

omit, insert—

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

33 Section 292(2), ‘negative exemption notice’—

omit, insert—

negative notice

**34 Section 292(2), note, from ‘exemption notice applications’
to ‘exemption notice’—**

omit, insert—

working with children check (exemption) applications
under section 285) for circumstances in which a
negative notice

35 Section 293(1)(a) and (b)—

omit, insert—

- (a) the chief executive issues a working with children exemption to a person; and
- (b) the chief executive of another department (the *other executive*) proposes to start employing, or continue employing, the person in regulated employment; and

36 Chapter 8, part 6, hdg, from ‘relating to—

omit.

37 Section 307(1)(c)—

omit, insert—

- (c) after the investigative information is given to the chief executive—
 - (i) the person is issued a negative notice, whether or not the negative notice was issued because a working with children authority held by the person was cancelled; or
 - (ii) an eligibility application made by the person is refused.

38 Section 307(3), ‘of the relevant event’—

omit, insert—

about the issue of the negative notice or refusal of
the eligibility application

39 Section 309(2)—

omit, insert—

- (2) If the court sets aside the decision appealed against, the person may—
 - (a) if the person was issued a negative notice because of the information—apply under section 304G for the negative notice to be cancelled on the grounds the decision to issue the notice was based on wrong information; or
 - (b) if an eligibility application made by the person was refused because of the information—apply under section 186 for revocation of the refusal on the grounds it was based on wrong information.

40 Section 309(5)—

omit.

41 Section 311(2)(d) and (e)—

omit, insert—

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

42 Section 316(4), definition *withdrawal*, paragraphs (a) to (d)—

omit, insert—

- (a) a working with children check application;
- (b) an eligibility application.

43 Section 317(1), '(a) to (i)'—

omit.

44 Section 317(7)—

omit, insert—

- (7) If the person is a person mentioned in section 323(1), the chief executive, on receiving notice under subsection (2) or (3), may write to the person to inform the person about the person's obligations under section 323(2).

Note—

Section 323 imposes obligations on particular persons to notify particular entities of changes in police information.

45 Section 322(1)—

omit, insert—

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

Note—

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

46 Section 322(2), from ‘positive notice’ to ‘exemption notice’—

omit, insert—

person’s working with children card

47 Section 322(4)(a) and (b)—

omit, insert—

- (a) the person gives the person’s working with children card to the chief executive under subsection (2) and the chief executive returns the card to the person; or
- (b) the person is issued a new working with children authority.

48 Section 322(5)—

omit.

49 Section 326(1)(a)(i) and (ii)—

omit, insert—

- (i) the person has made a working with children check (exemption) application; or
- (ii) the person holds a working with children exemption; and

50 Section 327(2), note, ‘part 4, divisions 3 to 5’—

omit, insert—

chapter 7, part 4, division 2

51 Section 328(2), note, ‘part 4, divisions 3 to 5’—

omit, insert—

chapter 7, part 4, division 2

52 Section 330(2)(f)—

omit, insert—

- (f) that the person may withdraw the person's working with children check application or eligibility application;

53 Section 330(2)(g)(i)—

omit, insert—

- (i) the chief executive may withdraw the person's working with children check application or eligibility application;

54 Section 330(3), note—

omit, insert—

Note—

See also part 3 about the withdrawal of working with children check applications and eligibility applications.

55 Sections 332(3)(b) and 333(3)(b)—

omit, insert—

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

56 Section 342(1)(a) and (b)—

omit, insert—

- (a) whether the person holds a working with children authority or a negative notice;
- (b) whether the person has made a working with children check application.

57 Section 342(2)(d), ‘positive notice’—

omit, insert—

working with children authority

58 Section 342(3) and (4)—

omit, insert—

- (3) The chief executive must give the accreditation board a notice about each of the following events that happen—
- (a) a prescribed person is issued a negative notice;
 - (b) a prescribed person’s working with children authority—
 - (i) is suspended under section 296; or
 - (ii) is cancelled under section 301 or 304E;
 - (c) the suspension of a prescribed person’s working with children authority ends under section 302;
 - (d) the term of a prescribed person’s working with children authority ends;
 - (e) a prescribed person’s working with children check application is withdrawn.
- (4) Also, if a prescribed person who holds a negative notice makes a working with children check application, the chief executive must give the accreditation board a notice that states that the application has no effect.

Note—

See section 193.

59 Section 342(5), definition *issue*—

omit.

60 Section 343(1)(a), ‘positive notice’—

omit, insert—

working with children authority

61 Section 343(2) and (3)—

omit, insert—

- (2) The chief executive must give the college a notice about each of the following events that happen—
- (a) the person’s working with children authority—
 - (i) is suspended under section 296; or
 - (ii) is cancelled under section 301 or 304E;
 - (b) the suspension of the person’s working with children authority ends under section 302;
 - (c) the term of the person’s working with children authority ends;
 - (d) the person is issued a negative notice.

62 Section 343(4)—

renumber as section 343(3).

63 Section 344(2) and (3)—

omit, insert—

- (2) The chief executive must give the chief executive (disability services) a notice about each of the following events that happen—
- (a) the person’s working with children authority—
 - (i) is suspended under section 296; or
 - (ii) is cancelled under section 301 or 304E;

- (b) the suspension of the person's working with children authority ends under section 302;
- (c) the term of the person's working with children authority ends;
- (d) the person is issued a negative notice.

64 Section 344(4)—

renumber as section 344(3).

65 Section 345(2)—

omit.

66 Section 353, definition *chapter 8 reviewable decision*, paragraph (a)(i) and (ii)—

omit, insert—

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

67 Section 353, definition *chapter 8 reviewable decision*, paragraph (b)(i)—

omit, insert—

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

68 Section 353, definition *chapter 8 reviewable decision*, paragraph (b)(iii)—

omit, insert—

- (iii) the person has applied under section 300(1)(b) for the chief executive to decide whether to cancel the person's suspended

working with children authority and that application has been refused; or

69 Section 353, definition *chapter 8 reviewable decision*, paragraph (c)(i)—

omit, insert—

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

70 Section 353, definition *chapter 8 reviewable decision*, paragraph (c)(iii)—

omit, insert—

- (iii) the person has applied under section 300(1)(b) for the chief executive to decide whether to cancel the person's suspended working with children authority and that application has been refused; or

71 Section 353, definition *chapter 8 reviewable decision*, paragraph (d)(i), 'or negative exemption notice'—

omit.

72 Section 353, definition *chapter 8 reviewable decision*, paragraph (d)(iii)—

omit, insert—

- (iii) the person has applied under section 304G for the chief executive to cancel the negative notice and that application has been refused.

73 Section 353, definition *issue*—

omit.

74 Section 353, definition *prescribed period*, paragraphs (b) to (f)—

omit, insert—

- (b) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (b) or (c)—the decision on the application mentioned in section 300(1)(b) about the suspension;
- (c) for a chapter 8 reviewable decision mentioned in definition *chapter 8 reviewable decision*, paragraph (d)—the decision on the application under section 304G about the negative notice.

75 Section 353, definition *relevant disqualified person decision*—

insert—

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

76 Section 354(3), from ‘issue’ to ‘a person’—

omit, insert—

issue a negative notice to a person, or refuse to cancel a person’s negative notice,

76A Section 356(1), after ‘provision of’—

insert—

chapter 7 or

77 Section 356(4), from ‘positive notice’ to ‘section 298,’—

omit, insert—

working with children authority is suspended
under section 296

78 Section 385(1), '(2)(b)'—

omit, insert—

(2)

79 Schedule 1, part 3, heading, 'chapter 8'—

omit, insert—

chapter 7

80 Schedule 1, sections 26, 27, 28, 29(1) and 30, 'Chapter 8'—

omit, insert—

Chapter 7

81 Schedule 1, section 29(2), 'chapter 8'—

omit, insert—

chapter 7

82 Schedules 2 and 3, authorising provision—

omit, insert—

section 15

83 Schedules 4 and 5, authorising provision—

omit, insert—

section 16

84 Schedule 7, definitions *adjunct care, amended Act, amending Act, child safety department, commencement, disability services regulated business, disability services regulated employment, health student regulated business, health student regulated employment, new disqualified person, new disqualifying offence, new local government regulated business, new local government regulated employment, new relevant disqualified person, new serious offence, other new regulated business, other new regulated employment, prescribed police information, previous section 97* and *unamended Act*—

omit.

85 Schedule 7, definition *chief executive (child safety), ‘child safety department’*—

omit, insert—

department in which the *Child Protection Act 1999* is administered

86 Schedule 7, definition *disqualified person, ‘section 169’*—

omit, insert—

section 17

87 Schedule 7, definition *disqualifying offence, ‘section 168’*—

omit, insert—

section 16

88 Schedule 7, definition *relevant disqualified person, ‘section 170’*—

omit, insert—

section 18

Schedule 2 Acts amended

section 86(2)

Adoption Act 2009

1 Schedule 3, definition *disqualifying offence*, ‘section 168’—

omit, insert—

section 16

2 Schedule 3, definition *serious offence*, ‘section 167’—

omit, insert—

section 15

Child Protection Act 1999

1 Section 125(1)(d)(ii) to (iv)—

omit, insert—

- (ii) states whether or not, for each person mentioned in section 126(b)(i) or (ii), the person has a working with children authority or negative notice; and
- (iii) if the person has a working with children authority—states the expiry date for the authority; and
- (iv) if the person does not have a working with children authority—states whether or not the person has made a working with children check application and whether the application has been decided or withdrawn; and

- 2 Section 126(c), from ‘current positive prescribed’—**
omit, insert—
working with children authority; and
- 3 Section 126(d), ‘chapter 8’—**
omit, insert—
chapter 7
- 4 Section 129(2)(c), ‘current positive prescribed notice or current positive exemption notice’—**
omit, insert—
working with children authority
- 5 Section 129A(c), ‘chapter 8’—**
omit, insert—
chapter 7
- 6 Section 133(3)(d)(i) and (ii)—**
omit, insert—
- (i) a working with children authority or negative notice; or
 - (ii) made a working with children check application;
- 7 Section 133(3)(e), from ‘current positive’—**
omit, insert—
working with children authority—the expiry date for the authority.

8 Section 134(3)(d)(i) and (ii)—

omit, insert—

- (i) a working with children authority or negative notice; or
- (ii) made a working with children check application;

9 Section 134(3)(e), from ‘current positive’—

omit, insert—

working with children authority—the expiry date for the authority.

10 Section 135(1)(a)(iii) and (b)(iv), ‘current positive prescribed notice or current positive exemption notice’—

omit, insert—

working with children authority

11 Section 136(2)(c), ‘current positive prescribed notice or current positive exemption notice’—

omit, insert—

working with children authority

12 Section 137(5)(b)(i) and (ii)—

omit, insert—

- (i) a working with children authority; or
- (ii) made a current working with children check application.

13 Section 139(5), ‘current positive prescribed notice or current positive exemption notice’—

omit, insert—

working with children authority

14 Section 140AB, definitions *prescribed provision* and *prohibiting event*—

omit.

15 Section 140AB—

insert—

prescribed provision means the Working with Children Act, section 224 (including as applied under section 285) or 303.

prohibiting event, for a person, means—

- (a) the person is issued with a negative notice other than—
 - (i) under a prescribed provision; or
 - (ii) on cancellation of a working with children authority that is suspended; or
- (b) the person's working with children authority is suspended; or
- (c) the person's working with children check application is withdrawn.

16 Section 140AB, definition *apply for a review*, from 'or give' to 'exemption notice'—

omit, insert—

a negative notice

17 Section 140AC, 'or given a negative prescribed notice or negative exemption notice'—

omit, insert—

a negative notice

- 18 Section 140AC(4), ‘the negative prescribed’ to ‘given’—**
omit, insert—
the negative notice is issued
- 19 Section 140AF(1), from ‘or given’—**
omit, insert—
a working with children authority.
- 20 Section 140AF(2), ‘or given a negative prescribed notice or negative exemption notice’—**
omit, insert—
a negative notice
- 21 Section 140AG, ‘or given a negative prescribed notice or negative exemption notice’—**
omit, insert—
a negative notice
- 22 Section 140AG, ‘issued or given’—**
omit, insert—
issued
- 23 Section 140AG, ‘or give’—**
omit.
- 24 Section 140AH, ‘or given a negative prescribed notice or negative exemption notice’—**
omit, insert—
a negative notice

25 Section 140AH(1), ‘issued or given’—

omit, insert—

issued

26 Section 140AH(2), ‘or give’—

omit.

27 Section 140A(4)(b)—

omit, insert—

(b) notifies the chief executive that the person holds a working with children authority or has made a working with children check application.

28 Section 141B(1), ‘current positive prescribed notice or current positive exemption notice’—

omit, insert—

working with children authority

29 Section 141H(1)(a)—

omit, insert—

(a) the nominee has made a working with children check application and the application is withdrawn;

30 Section 141H(1)(c) to (e)—

omit, insert—

(c) the nominee must, under the Working with Children Act, section 323, notify the chief executive (employment screening) of a change in police information under that Act;

- (d) the nominee becomes aware a working with children check application made by a relevant person for the licence is withdrawn;
- (e) the nominee becomes aware a relevant person for the licence—
 - (i) is charged with a disqualifying offence or convicted of a serious offence; or
 - (ii) is issued with a negative notice.

31 Section 141H(3)(b)—

omit, insert—

- (b) if the person has a working with children authority—the registration number for the person’s working with children card.

32 Section 141I(1)(a)—

omit, insert—

- (a) the director makes a working with children check application and the application is withdrawn;

33 Section 141I(1)(c)—

omit, insert—

- (c) the director must, under the Working with Children Act, section 323, notify the chief executive (employment screening) of a change in police information under that Act.

34 Section 142, definition *police information*, ‘current positive prescribed notice or current positive exemption notice’—

omit, insert—

working with children authority

35 Section 148A(1)—

omit, insert—

- (1) This section applies if—
 - (a) for a person who has applied for a certificate of approval—
 - (i) the person stops being an applicant for the certificate; or
 - (ii) a person stops being an adult member of the person's household; or
 - (iii) the chief executive refuses the person's application for the certificate; or
 - (b) for a person who is an approved carer—the person stops being an approved carer; or
 - (c) for a person who is an adult member of an approved carer's household—
 - (i) the person stops being a member of the household; or
 - (ii) the approved carer stops being an approved carer.

36 Section 148A(3)(b)—

omit, insert—

- (b) if the person has a working with children authority—the registration number for the person's working with children card.

37 Section 148B(1)—

omit, insert—

- (1) The chief executive may ask the chief executive (employment screening) for the following information—

- (a) information about whether a relevant person—
 - (i) has a working with children authority or negative notice; or
 - (ii) has a working with children authority that is suspended under the Working with Children Act; or
 - (iii) has made a working with children check application;
- (b) if the relevant person has a working with children authority—the expiry date for the authority;
- (c) if the relevant person has a negative notice—the date of issue of the notice.

38 Section 148D—

omit, insert—

148D Pending working with children check application

- (1) Subsection (2) applies if, when a person turns 18 years—
 - (a) the person is a member of the household of an approved carer or an applicant for a certificate of approval; and
 - (b) the person does not hold a working with children authority; and
 - (c) the person has made a working with children check application.
- (2) The Working with Children Act, sections 175 and 176A do not apply in relation to the person as an adult member of the household until the application is decided or withdrawn.

Note—

See the Working with Children Act, schedule 1, section 14(2) in relation to an adult member of an approved carer's household being taken to be engaged in regulated employment for that Act.

- (3) Subsection (4) applies if—
- (a) a corporation holds a licence; and
 - (b) a person becomes the nominee for the licence or a director of the corporation; and
 - (c) the person does not hold a working with children authority; and
 - (d) the person is an applicant for a working with children check application.
- (4) The Working with Children Act, section 176B does not apply in relation to the person as the nominee for the licence or a director of the corporation until the application is decided or withdrawn.

Note—

See section 148C of this Act and the Working with Children Act, section 14 and schedule 1, section 24 in relation to a nominee or director of a corporation carrying on the business of a licensed care service being taken to be carrying on a regulated business under the Working with Children Act.

39 Schedule 2, 'current positive prescribed notice or current positive exemption notice'—

omit, insert—

working with children authority

40 Schedule 3, definitions *application, current, exemption notice, negative exemption notice, negative prescribed notice, positive exemption notice, positive prescribed notice* and *prescribed notice*—

omit.

41 Schedule 3—

insert—

negative notice see the Working with Children Act, schedule 7.

working with children authority see the Working with Children Act, schedule 7.

working with children check application see the Working with Children Act, schedule 7.

Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004

1 Section 13T(2)(a) and (b)—

omit, insert—

(a) hold a working with children authority; or

(b) make a working with children check application.

2 Section 13T(3), ‘positive notice or positive exemption notice’—

omit, insert—

working with children authority

3 Section 13W(4), ‘positive notice or positive exemption notice’—

omit, insert—

working with children authority

4 Schedule 5, definition *appearance notice*, paragraph (e)(ii), ‘applying for a prescribed notice or exemption notice’—

omit, insert—

making a working with children check application

5 Schedule 5, definition *appearance notice*, paragraph (e)(iii), ‘positive notice, positive notice blue card or positive exemption notice’—

omit, insert—

working with children authority or working with children card

6 Schedule 5, definitions *exemption notice, positive exemption notice, positive notice, positive notice blue card and prescribed notice*—

omit.

7 Schedule 5—

insert—

working with children authority see the Working with Children Act, schedule 7.

working with children card see the Working with Children Act, schedule 7.

working with children check application see the Working with Children Act, schedule 7.

Community Services Act 2007

1 Section 107, note, paragraph (a), ‘chapter 8’—

omit, insert—

chapter 7

Disability Services Act 2006

1 Section 42, note—

omit, insert—

Notes—

- 1 See the *Public Service Act 2008*, chapter 5, part 6 for employment screening of persons engaged or to be engaged as public service employees to provide disability services only to children.
- 2 See also the Working with Children Act, chapter 7 for employment screening for other persons engaged or to be engaged to provide disability services only to children.

2 Section 50(1), note—

omit, insert—

Note—

See also the *Public Service Act 2008*, chapter 5, part 6 for employment screening for the engagement of public service employees.

3 Section 50, ‘WWC positive notice’—

omit, insert—

working with children clearance

4 Section 51, ‘WWC positive notice’—

omit, insert—

working with children clearance

- 5 Section 59, ‘WWC positive notice’—**
omit, insert—
working with children clearance
- 6 Section 61(3)(b)(i), from ‘is the holder’ to ‘WWC positive notice is’—**
omit, insert—
holds a working with children clearance that is
- 7 Section 61(3), note, ‘WWC positive notice’—**
omit, insert—
working with children clearance
- 8 Section 62(1), ‘be the holder of a WWC positive notice’—**
omit, insert—
hold a working with children clearance
- 9 Section 62(2)(a) to (c)—**
omit, insert—
- (a) whether or not the person holds a working with children clearance and, if so, the expiry date for the clearance; and
 - (b) if the person holds a working with children clearance—
 - (i) whether or not the person’s working with children clearance has been suspended under the Working with Children Act; and
 - (ii) whether the chief executive may need to undertake further screening under this part.
- 10 Section 62(3)(d), ‘WWC positive notice’—**
omit, insert—
-

working with children clearance

11 Section 64(2), ‘WWC positive notice’—

omit, insert—

working with children clearance

12 Section 67A(b), ‘WWC positive notice’—

omit, insert—

working with children clearance

13 Section 68(1)(b), ‘WWC positive notice’—

omit, insert—

working with children clearance

14 Section 88, ‘WWC positive notice’—

omit, insert—

working with children clearance

15 Section 89, ‘WWC positive notice’—

omit, insert—

working with children clearance

16 Section 90(1)(b)—

omit, insert—

(b) the person no longer holds a working with children clearance.

17 Section 90(3) and (4)(b), ‘WWC positive notice’—

omit, insert—

working with children clearance

18 Part 5, division 9, heading, ‘WWC positive notice’—

omit, insert—

working with children clearance

19 Section 95, ‘WWC positive notice’—

omit, insert—

working with children clearance

20 Section 96, ‘WWC positive notice’—

omit, insert—

working with children clearance

**21 Section 108, definition *part 5 reviewable decision*,
paragraph (c), ‘WWC positive notice’—**

omit, insert—

working with children clearance

22 Section 132(7)(a), ‘WWC positive notice’—

omit, insert—

working with children clearance

23 Schedule 8, definition *WWC positive notice*—

omit.

24 Schedule 8—

insert—

working with children clearance see the

Working with Children Act, section 220(2).

Education (Accreditation of Non-State Schools) Act 2017

1 Section 19(1)(c)(ii), ‘current positive notices or current positive exemption notices’—

omit, insert—

the working with children cards

2 Section 26(3), from ‘has’—

omit, insert—

has a working with children authority.

3 Section 39(4), ‘current positive notices or current positive exemption notices’—

omit, insert—

the working with children cards

4 Section 130(2), ‘current positive notice or current positive exemption notice’—

omit, insert—

working with children authority

5 Section 169, ‘current positive notice or current positive exemption notice’—

omit, insert—

working with children card

**6 Schedule 1, definitions *negative exemption notice*,
negative notice, *positive exemption notice* and *positive
notice*—**

omit.

7 Schedule 1—

insert—

working with children authority means a working with children authority under the *Working with Children (Risk Management and Screening) Act 2000* that is not suspended under that Act.

Education and Care Services Act 2013

1 Section 15(1)(a) to (c)—

omit, insert—

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

2 Section 39(9)(a) and (b)—

omit, insert—

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

3 Section 39(10), ‘section 197’—

omit, insert—

section 176B

4 Section 39(10), ‘current positive notice’—

omit, insert—

working with children clearance

5 Section 39(10)(b), ‘applies for a prescribed notice’—

omit, insert—

makes a working with children check application

6 Section 39(11), ‘section 259’—

omit, insert—

section 176G

7 Section 39(11), ‘current positive exemption notice’—

omit, insert—

working with children exemption

8 Section 91(4)(b), from ‘provider’—

omit, insert—

provider—

- (i) holds a working with children authority or negative notice; or
- (ii) has made a working with children check application.

9 Section 126(1)(b), ‘, stops having a current positive notice or current positive exemption notice’—

omit, insert—

stops holding a working with children authority

10 Section 133(1)(a)—

omit, insert—

(a) the carer knows, or ought reasonably to know, that a prohibition notice is in force for an occupant of the home; or

11 Section 178(1)(c), ‘a current positive notice or current positive exemption notice’—

omit, insert—

a working with children authority

12 Section 190(1) to (3)—

omit, insert—

(1) An authorised officer may ask a carer who provides stand-alone education and care in a home to ensure a person makes a working with children check application if the officer knows, or reasonably suspects, the person is an occupant of the home.

Note—

See also the Working with Children Act, schedule 1, section 4(2).

(2) When asking the carer to ensure the person makes the application, the authorised officer must warn the carer that, if the person does not make the working with children check application within 14 days, the officer may give a direction that education and care must not be provided in the home.

(3) Subsection (4) applies if—

- (a) the person does not make the working with children check application within 14 days; or
- (b) the person makes the working with children check application within 14 days but it is withdrawn before it is decided.

13 Section 190(5), ‘has a current positive notice or current positive exemption notice’—

omit, insert—

holds a working with children authority

14 Section 191(1)(f), from ‘apply for’—

omit, insert—

ensure the adult makes a working with children check application.

15 Section 191(2)(a) to (c)—

omit, insert—

- (a) whether the individual has made a working with children check application and, if so—
 - (i) the date of the application; and
 - (ii) if the application has been withdrawn—the date of the withdrawal;
- (b) whether the individual holds a working with children authority and, if so, the date of issue of the authority;
- (c) whether a negative notice is in force for the individual and, if so, the date of issue of the notice;

- (d) whether a working with children authority held by the individual has been cancelled and, if so, the date of the cancellation.

16 Section 200(2)(b), from ‘person’—

omit, insert—

person holds a working with children authority or negative notice or has made a working with children check application.

17 Section 200(3)(a)(ii), from ‘person’—

omit, insert—

person holds a working with children authority or negative notice or has made a working with children check application; and

18 Section 238, heading, ‘application for a prescribed notice or exemption notice’—

omit, insert—

working with children check application

19 Section 238(1)(b) and (c)—

omit, insert—

- (b) an individual who does not hold a working with children authority becomes an executive officer of the corporation or a person with management or control of the service; and
- (c) the individual makes a working with children check application.

20 Section 238(2), ‘, is withdrawn or lapses’—

omit, insert—

or is withdrawn

21 Section 239—

omit.

22 Schedule 1, definitions *apply for an exemption notice, apply for a prescribed notice, negative exemption notice, positive exemption notice, positive notice and prescribed notice*—

omit.

23 Schedule 1—

insert—

working with children authority see the Working with Children Act, schedule 7.

working with children check application see the Working with Children Act, schedule 7.

working with children check (exemption) application see the Working with Children Act, schedule 7.

working with children clearance see the Working with Children Act, section 220(2).

24 Schedule 1, definition *disqualified person*, ‘, a negative exemption notice’—

omit.

Education and Care Services National Law (Queensland) Act 2011

1 Section 19, definitions *exemption notice* and *prescribed notice*—

omit.

2 Section 19—

insert—

working with children authority see the Working with Children Act, schedule 7.

working with children check application see the Working with Children Act, schedule 7.

3 Section 20(4)(b), from ‘person is’—

omit, insert—

person—

(i) holds a working with children authority; or

(ii) has made a working with children check application.

4 Section 21(4)(b), from ‘person is’—

omit, insert—

person—

(i) holds a working with children authority; or

(ii) has made a working with children check application.

5 Section 22(2)(a) to (c)—

omit, insert—

- (a) whether the individual has made a working with children check application and, if so—
 - (i) the date of the application; and
 - (ii) if the application has been withdrawn—the date of the withdrawal;
- (b) whether a working with children authority or negative notice is in force for the individual and, if so, the date the authority or notice was issued;
- (c) whether a working with children authority or negative notice held by the individual has been cancelled and, if so, the date of the cancellation.

6 Section 22(4), definitions *negative exemption notice*, *negative prescribed notice*, *positive exemption notice* and *positive prescribed notice*—

omit.

7 Section 22(4)—

insert—

negative notice see the Working with Children Act, schedule 7.

8 Section 25—

omit.

9 Section 26(2), ‘section 197’—

omit, insert—

section 176B

-
- 10 Section 26(2), ‘current positive prescribed notice’—**
omit, insert—
working with children clearance
- 11 Section 26(2)(b), ‘applies for a prescribed notice’—**
omit, insert—
makes a working with children check application
- 12 Section 26(3), ‘section 259’**
omit, insert—
section 176G
- 13 Section 26(3), ‘current positive exemption notice’—**
omit, insert—
working with children exemption
- 14 Section 26(5)—**
insert—
working with children clearance see the
Working with Children Act, section 220(2).
working with children exemption see the
Working with Children Act, section 282(2).

Education (General Provisions) Act 2006

- 1 Schedule 4, definition *serious offence*, ‘section 167’—**
omit, insert—
section 15

Education (Queensland College of Teachers) Act 2005

1 Section 14, ‘positive notice’—

omit, insert—

working with children clearance

2 Section 15(9)(a)(i), from ‘a positive notice’ to ‘whose positive notice’—

omit, insert—

a working with children clearance under the Working with Children Act that

3 Section 15D, ‘positive notice’—

omit, insert—

working with children clearance

4 Section 285(4)(b)—

omit, insert—

(b) notifies the college that, under the Working with Children Act, the approved teacher—

(i) is the holder of a working with children authority or negative notice; or

(ii) has made a working with children check application.

5 Section 285AA(4)(b)(ii)—

omit, insert—

(ii) notifies the college that, under the Working with Children Act, the approved teacher—

(A) is the holder of a working with children authority or negative notice; or

(B) has made a working with children check application.

6 Section 285A(1)(b)—

omit, insert—

- (b) the chief executive (employment screening) has notified the college that, under the Working with Children Act, the registered teacher—
 - (i) is the holder of a working with children exemption or negative notice; or
 - (ii) has made a working with children check (exemption) application.

7 Schedule 3, definition *serious offence*, ‘section 167’—

omit, insert—

section 15

Grammar Schools Act 2016

1 Section 40(4), ‘chapter 8’—

omit, insert—

chapter 7

Police Powers and Responsibilities Act 2000

1 Section 789A, heading, ‘employment-screening document’—

omit, insert—

working with children card

2 Section 789A(1)(a), ‘an employment-screening document’—

omit, insert—

a working with children card

3 Section 789A(2), (4), (5) and (6), ‘employment-screening document’—

omit, insert—

working with children card

4 Section 789A(4), ‘the document’—

omit, insert—

the card

5 Section 789A(8), definition *employment-screening document*—

omit.

6 Section 789A(8)—

insert—

working with children card see the Working with Children Act, schedule 7.

Transport Operations (Passenger Transport) Act 1994

1 Section 28B(4B), from ‘current positive’—

omit, insert—

working with children clearance under the *Working with Children (Risk Management and Screening) Act 2000* that is not suspended under that Act.

2 Schedule 3, definition *category A driver disqualifying offence*, ‘section 170(b)’—

omit, insert—

section 18(b)

3 Schedule 3, definition *category B driver disqualifying offence*, paragraph (b)(i) and (ii)(B), ‘section 170(b)’—

omit, insert—

section 18(b)

4 Schedule 3, definition *relevant order*, paragraph (b), ‘section 170(b)’—

omit, insert—

section 18(b)

© State of Queensland 2019