



New South Wales

Child Protection (Offenders Registration) Amendment Act 2008 No 71

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Child Protection (Offenders Registration) Amendment Act 2008 No 71

Act No 71, 2008

An Act to amend the *Child Protection (Offenders Registration) Act 2000* with respect to the collection, use and disclosure of information concerning registrable persons under that Act. [Assented to 28 October 2008]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Child Protection (Offenders Registration) Amendment Act 2008*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Child Protection (Offenders Registration) Act 2000 No 42

The *Child Protection (Offenders Registration) Act 2000* is amended as set out in Schedule 1.

4 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendments

(Section 3)

[1] Section 19BA

Insert after section 19B:

19BA Exemption of certain agencies from privacy protection legislation

- (1) A scheduled agency:
 - (a) may collect and use personal information about a registrable person, and
 - (b) may disclose personal information about a registrable person to another scheduled agency,
if the collection, use or disclosure accords with a written authorisation given by a senior officer of the agency.
- (2) An authorisation under this section must specify:
 - (a) the period (maximum 12 months) for which it has effect, and
 - (b) the agencies to which the personal information may be disclosed.
- (3) A senior officer of a scheduled agency may give an authorisation under this section only if the officer is satisfied that:
 - (a) there are reasonable grounds to suspect that there is a risk of substantial adverse impact on:
 - (i) the registrable person, or
 - (ii) some other person or class of persons,
if the collection or use of the personal information, or the disclosure of the personal information to one or more of the agencies specified in the authorisation, does not occur, or
 - (b) the collection or use of the personal information, or the disclosure of the personal information to one or more of the agencies specified in the authorisation, is likely to assist in developing or giving effect to a case management plan for the registrable person.
- (4) This section has effect despite anything to the contrary in the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002*.

(5) In this section:

personal information means anything that constitutes personal information for the purposes of both the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*, but does not include anything that is not personal information for the purposes of either of those Acts.

Note. The two Acts referred to in this definition define **personal information** in terms that differ only in relation to what they exclude: something that is personal information for the purposes of one Act, but not the other, is consequently not personal information for the purposes of this section.

scheduled agency means an agency listed in Schedule 1.

senior officer, in relation to a scheduled agency, means a member of staff of the agency whom the head of the agency has nominated in writing as being a senior officer for the purposes of this section.

substantial adverse impact includes, but is not limited to, serious physical or mental harm, sexual abuse, significant loss of benefits or other income, imprisonment, loss of housing or the loss of a carer.

(6) The regulations may amend or substitute Schedule 1.

[2] Schedule 1

Insert before Schedule 2:

Schedule 1 Scheduled agencies

(Section 19BA)

The NSW Police Force

The Department of Ageing, Disability and Home Care

The Department of Community Services

The Department of Corrective Services

The Department of Education and Training

The Department of Health

Housing NSW

The Department of Juvenile Justice

The Greater Southern Area Health Service

The Greater Western Area Health Service

The Hunter and New England Area Health Service
The North Coast Area Health Service
The Northern Sydney and Central Coast Area Health Service
The South Eastern Sydney and Illawarra Area Health Service
The Sydney South West Area Health Service
The Sydney West Area Health Service
The Children's Hospital at Westmead
Justice Health

[Agreement in principle speech made in Legislative Assembly on 29 August 2008
Second reading speech made in Legislative Council on 22 October 2008]

BY AUTHORITY