



New South Wales

Commission for Children and Young People Amendment Act 2009 No 82

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Commission for Children and Young People Amendment Act 2009 No 82

Act No 82, 2009

An Act to amend the *Commission for Children and Young People Act 1998* and the *Criminal Records Act 1991* with respect to the disclosure of information relating to criminal history; and for other purposes. [Assented to 19 November 2009]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Commission for Children and Young People Amendment Act 2009*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Commission for Children and Young People Act 1998 No 146

[1] Section 15 Referral of matters to police and other investigative agencies

Omit “Department of Community Services” from section 15 (2).

Insert instead “Department of Human Services”.

[2] Section 15A Reports under Children and Young Persons (Care and Protection) Act 1998

Omit “Department of Community Services” from section 15A (1).

Insert instead “Department of Human Services”.

[3] Section 33 Definitions

Omit “Department of Community Services” from section 33 (3).

Insert instead “Department of Human Services”.

[4] Section 38 Notification of information relating to relevant criminal records or other orders

Omit “Police Service” from section 38 (1). Insert instead “NSW Police Force”.

[5] Section 38 (5)

Omit the subsection.

[6] Section 38A

Insert after section 38:

38A Notification of information relating to criminal history for interstate child-related employment screening

- (1) The Commissioner of Police may disclose (or arrange for a member of the NSW Police Force to disclose) information relating to any criminal history of persons to the following persons for the purposes of interstate child-related employment screening:
 - (a) CrimTrac,
 - (b) a police force or service of the Commonwealth or another State or Territory,
 - (c) an approved interstate screening agency.
- (2) A person to whom information is disclosed under subsection (1) may disclose that information to an approved interstate screening

agency for the purposes of interstate child-related employment screening undertaken by the agency.

- (3) The Commissioner of Police may disclose (or arrange for a member of the NSW Police Force to disclose) to an approved interstate screening agency, at the request of the agency, information relating to the circumstances of an offence or alleged offence disclosed under this section for the purposes of interstate child-related employment screening.
- (4) Subsection (3) applies:
 - (a) for the period of 12 months after the commencement of this section, or
 - (b) for such further period or periods as may be prescribed by the regulations.
- (5) Information that may be disclosed under this section includes:
 - (a) information relating to convictions, including spent convictions, quashed convictions and offences for which a pardon has been given, despite anything to the contrary in the *Criminal Records Act 1991*,
 - (b) information relating to criminal charges, whether heard or not heard, proven, dismissed, withdrawn or discharged,
 - (c) information relating to offences, despite anything to the contrary in section 579 of the *Crimes Act 1900*.
- (6) This section does not limit the persons to whom, or the circumstances in which, information relating to the criminal history, including the criminal record of persons, may be disclosed apart from this Act.
- (7) In this section:

approved interstate screening agency means:

 - (a) a person or body prescribed by the regulations, or
 - (b) a body that is authorised under a law of the Commonwealth, another State or a Territory to conduct interstate child-related employment screening and is approved by the Minister for the purposes of this section.

interstate child-related employment screening means using information about persons who work, or seek to work with children, in a way that is authorised or required under a law of the Commonwealth, another State or a Territory, for the purpose of estimating the risk to the safety of children posed by any such person if working with children.

[7] Section 44 Effect of Division on other rights and procedures

Insert “or interstate child-related employment screening (as referred to in section 38A)” after “Background checking” in section 44 (1).

[8] Section 45C Composition of the Team

Omit “Department of Community Services” from section 45C (2) (a).

Insert instead “Department of Human Services”.

[9] Section 45C (2) (e)–(g)

Omit the paragraphs. Insert instead:

- (e) the Department of Justice and Attorney General,
- (f) the Office of the NSW State Coroner, within the Department of Justice and Attorney General,
- (g) Ageing, Disability and Home Care, within the Department of Human Services.

[10] Section 45U Confidentiality of information

Omit “Community Services” from section 45U (1) (c) (ii).

Insert instead “Human Services”.

[11] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*Commission for Children and Young People Amendment Act
2009*

**Schedule 2 Amendment of Criminal Records Act
1991 No 8**

**Section 13 Unlawful disclosure of information concerning spent
convictions**

Insert “or 38A” after “section 38” in section 13 (4A).

[Agreement in principle speech made in Legislative Assembly on 30 October 2009
Second reading speech made in Legislative Council on 11 November 2009]

BY AUTHORITY