



New South Wales

Child Protection (Offenders Registration) Amendment Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Child Protection (Offenders Registration) Act 2000* so as to enable specified government agencies to collect and use personal information about a registrable person (within the meaning of that Act) and to exchange such information with other specified government agencies.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Child Protection (Offenders Registration) Act 2000* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent. Section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Proposed section 19BA

Schedule 1 [1] inserts proposed section 19BA into the Act. The proposed section enables any government agency listed in proposed Schedule 1 (a *scheduled agency*) (a) to collect and use personal information about a registrable person (that is, broadly speaking, a convicted sex offender) and (b) to disclose such information to other scheduled agencies in accordance with a written authorisation given by a member of staff of the agency who has been identified by the agency head as being a senior officer of the agency (proposed subsection (1)).

An authorisation must specify the period for which it has effect and the agencies to which personal information may be disclosed (proposed subsection (2)).

An authorisation may not be given by a senior officer unless he or she is satisfied (a) that there is a risk of “substantial adverse impact” on the registrable person (or some other person or class of persons) if such information is not collected, used or disclosed or (b) that the collection, use or disclosure of such information is likely to assist in developing, or giving effect to, a case management plan for the registrable person (proposed subsection (3)). “Substantial adverse impact” is defined (in proposed subsection (5)) to include serious physical or mental harm, sexual abuse, significant loss of benefits or other income, imprisonment, loss of housing or the loss of a carer.

The proposed section will have effect despite anything to the contrary in the *Privacy and Personal Information Protection Act 1998* or the *Health Records and Information Privacy Act 2002* (proposed subsection (4)).

The list of agencies in proposed Schedule 1 will be capable of amendment by the regulations (proposed subsection (6)).

Proposed Schedule 1

Schedule 1 [2] inserts proposed Schedule 1 into the Act. The proposed Schedule lists the following agencies:

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

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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

As mentioned above, the proposed Schedule will be capable of amendment by the regulations.

First print



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Child Protection (Offenders Registration) Amendment Bill 2008

No. , 2008

A Bill for

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.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Child Protection (Offenders Registration) Amendment Act 2008</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Child Protection (Offenders Registration) Act 2000 No 42	7
The <i>Child Protection (Offenders Registration) Act 2000</i> is amended as set out in Schedule 1.	8 9
4 Repeal of Act	10
(1) This Act is repealed on the day following the day on which this Act commences.	11 12
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	13 14

Schedule 1	Amendments	1
	(Section 3)	2
[1] Section 19BA		3
Insert after section 19B:		4
19BA Exemption of certain agencies from privacy protection legislation		5
(1) A scheduled agency:		6
(a) may collect and use personal information about a registrable person, and		7
(b) may disclose personal information about a registrable person to another scheduled agency,		9
if the collection, use or disclosure accords with a written authorisation given by a senior officer of the agency.		11
(2) An authorisation under this section must specify:		13
(a) the period (maximum 12 months) for which it has effect, and		14
(b) the agencies to which the personal information may be disclosed.		16
(3) A senior officer of a scheduled agency may give an authorisation under this section only if the officer is satisfied that:		18
(a) there are reasonable grounds to suspect that there is a risk of substantial adverse impact on:		20
(i) the registrable person, or		22
(ii) some other person or class of persons,		23
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		24
(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.		28
(4) This section has effect despite anything to the contrary in the <i>Privacy and Personal Information Protection Act 1998</i> or the <i>Health Records and Information Privacy Act 2002</i> .		33

- (5) In this section: 1
- personal information* means anything that constitutes personal 2
information for the purposes of both the *Privacy and Personal* 3
Information Protection Act 1998 and the *Health Records and* 4
Information Privacy Act 2002, but does not include anything that 5
is not personal information for the purposes of either of those 6
Acts. 7
- Note.** The two Acts referred to in this definition define *personal* 8
information in terms that differ only in relation to what they exclude: 9
something that is personal information for the purposes of one Act, but 10
not the other, is consequently not personal information for the purposes 11
of this section. 12
- scheduled agency* means an agency listed in Schedule 1. 13
- senior officer*, in relation to a scheduled agency, means a 14
member of staff of the agency whom the head of the agency has 15
nominated in writing as being a senior officer for the purposes of 16
this section. 17
- substantial adverse impact* includes, but is not limited to, serious 18
physical or mental harm, sexual abuse, significant loss of benefits 19
or other income, imprisonment, loss of housing or the loss of a 20
carer. 21
- (6) The regulations may amend or substitute Schedule 1. 22

- [2] **Schedule 1** 23
Insert before Schedule 2: 24

Schedule 1 Scheduled agencies 25

(Section 19BA) 26

- The NSW Police Force 27
The Department of Ageing, Disability and Home Care 28
The Department of Community Services 29
The Department of Corrective Services 30
The Department of Education and Training 31
The Department of Health 32
Housing NSW 33
The Department of Juvenile Justice 34
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