



Crimes Amendment (Working With Children—Criminal History) Act 2010

No. 28, 2010

**An Act to amend the *Crimes Act 1914*, and for
related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Crimes Amendment (Working With Children—Criminal History) Act 2010

No. 28, 2010

An Act to amend the *Crimes Act 1914*, and for related purposes

[Assented to 25 March 2010]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Crimes Amendment (Working With Children—Criminal History) Act 2010*.

2 Commencement

This Act commences on the day after this Act receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Crimes Act 1914

1 Section 85ZS

Omit “Without affecting the generality of section 85ZR”, substitute “(1) Subject to Division 6”.

2 At the end of section 85ZS

Add:

(2) Subsection (1) does not affect the generality of section 85ZR.

3 Subsections 85ZT(1) and (2)

Omit “Despite”, substitute “Subject to Division 6, but despite”.

4 Section 85ZU

Omit “Despite”, substitute “Subject to Division 6, but despite”.

5 Paragraph 85ZZ(1)(b)

After “Division”, insert “2 or”.

6 Before section 85ZZH

Insert:

Subdivision A—Exclusions (Divisions 2 and 3)

85ZZGA Object of Subdivision

The object of this Subdivision is to help protect children from sexual, physical and emotional harm by permitting criminal history information to be disclosed and taken into account in assessing the suitability of persons for work with children.

85ZZGB Exclusion: disclosing information to a person or body

Divisions 2 and 3 do not apply in relation to the disclosure of information to a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to obtain and deal with information about persons who work, or seek to work, with children; and
- (b) the disclosure is for the purpose of the person or body obtaining and dealing with such information in accordance with the prescribed law.

85ZZGC Exclusion: person or body taking information into account

Divisions 2 and 3 do not apply in relation to the taking into account of information by a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to deal with information about persons who work, or seek to work, with children; and
- (b) the taking into account is:
 - (i) for the purpose of dealing with such information in accordance with the prescribed law; or
 - (ii) required by or under a Commonwealth law, a State law or a Territory law.

85ZZGD Exclusion: person or body disclosing information

Divisions 2 and 3 do not apply in relation to the disclosure of information by a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to deal with information about persons who work, or seek to work, with children; and
- (b) the disclosure is required by or under a Commonwealth law, a State law or a Territory law.

85ZZGE Prescribed persons and bodies

Before the Governor-General makes a regulation prescribing, for the purposes of section 85ZZGB, 85ZZGC or 85ZZGD, a person or body:

- (a) to which information may be disclosed; or
 - (b) by which information may be taken into account or disclosed;
- the Minister must be satisfied that the person or body:
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- (c) is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with children; and
- (d) complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management; and
- (e) complies with the principles of natural justice; and
- (f) has risk assessment frameworks and appropriately skilled staff to assess risks to children's safety.

85ZZGF Definitions

In this Subdivision:

child means a person who is under 18.

work includes the following:

- (a) work:
 - (i) under a contract of employment, contract of apprenticeship or contract for services; or
 - (ii) in a leadership role in a religious institution, as part of the duties of a religious vocation or in any other capacity for the purposes of a religious institution; or
 - (iii) as an officer of a body corporate, member of the committee of management of an unincorporated body or association or member of a partnership; or
 - (iv) as a volunteer, other than unpaid work engaged in for a private or domestic purpose; or
 - (v) as a self-employed person;
- (b) practical training as part of a course of education or vocational training;
- (c) acting in a prescribed capacity or engaging in a prescribed activity.

85ZZGG Reviews of operation of this Subdivision

- (1) The Minister must cause 2 reviews of the operation of this Subdivision to be conducted.
- (2) The first review must:

- (a) start not later than 30 June 2011; and
 - (b) be completed within 3 months.
- (3) The 2nd review must:
- (a) start not later than 30 June 2013; and
 - (b) be completed within 3 months.
- (4) The Minister must cause a written report about each review to be prepared.
- (5) The Minister must cause a copy of each report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

Subdivision B—Exclusions (Division 3)

7 Paragraphs 85ZZH(e) and (f)

Repeal the paragraphs.

8 After section 85ZZJ

Insert:

Subdivision C—Other matters

*[Minister's second reading speech made in—
House of Representatives on 20 August 2009
Senate on 19 November 2009]*

(156/09)
