

## **Explanatory note**

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

Overview of Bill

The objects of this Bill are:

(a) to amend the *Commission for Children and Young People Act 1998*:

(i) to clarify when relevant employment proceedings are taken to have been completed, and thus when they are required to be notified to the Commission for Children and Young People (***the Commission***), and  
(ii) to require full details of such employment proceedings to be notified, and not just the name and identifying particulars of the employee, and  
(iii) to make it compulsory for background checks to be conducted on any preferred applicant for employment in primary child-related employment, even if that person is related to the children he or she will work with, and

(iv) to establish the Child Death Review Team as a committee of the Commission, rather than a statutory corporation, and to empower the Team to register, classify, analyse and research not only child deaths that occur in New South Wales, but also the deaths of children who ordinarily reside in New South Wales but who die elsewhere, and  
(v) to empower the Commission to charge fees for the issue of certain certificates, and

(vi) to make other minor amendments, and

(b) to amend the *Parliamentary Electorates and Elections Act 1912* to require the Commissioner of Police, the Registrars of courts and certain other persons to provide the Commission for Children and Young People with access to information that the Commission requires for the purposes of the conduct of audits of the child-related conduct declarations of candidates for election who are subsequently elected to Parliament.

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.

**Clause 3** is a formal provision that gives effect to the amendments to the *Commission for Children and Young People Act 1998* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendment to the *Parliamentary Electorates and Elections Act 1912* set out in Schedule 2.

**Clause 5** repeals two amending Acts that contain uncommenced provisions concerning relevant employment proceedings.

**Clause 6** provides for the repeal of the proposed Act after the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and 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 Amendment of Commission for Children and Young People Act 1998**

**Schedule 1 [1]** updates a reference to the Act that regulates the annual reporting of the Commission, which was formerly a Department, but is now a statutory corporation.

**Schedule 1 [2]** updates a cross-reference to the Act under which a defined term is defined.

**Schedule 1 [3] and [10]** make it clear that relevant employment proceedings, the completion of which is required to be notified to the Commission, include all proceedings (and not just disciplinary proceedings) involving either reportable conduct by an employee or an act of violence committed by an employee in the course of employment and in the presence of a child.

**Schedule 1 [4] and [6]** narrow the operation of an existing exemption, so that people

who are preferred applicants for employment in primary child-related employment will be subject to background checking regardless of whether they are related to the children they work with. Such people will continue to be exempt from the prohibitions on certain persons (prohibited persons) applying for child-related employment with such children, undertaking such employment or remaining in such employment. To achieve this result, the exemption is transferred to the Division that imposes those prohibitions.

**Schedule 1 [5]** empowers the Commission to charge fees for the issue of certificates to self-employed persons, certifying that the persons are not prohibited persons within the meaning of the *Commission for Children and Young People Act 1998*.

**Schedule 1 [7]** omits a redundant provision about a review that has already occurred.

**Schedule 1 [8]** makes it clear that relevant employment proceedings are completed, and are therefore required to be reported to the Commission, when a finding has been made by an employer as to whether the alleged reportable conduct, or the alleged commission of an act of violence, occurred or may have occurred, and a decision has been made by the employer as to what action (if any) is to be taken against the employee in respect of the finding.

**Schedule 1 [9]** requires an employer who notifies the Commission that relevant employment proceedings have been completed to also notify sufficient details of the proceedings concerned to the Commission, or an approved screening agency that requests the information, for the purposes of background checking by the Commission or that approved screening agency or for the purposes of the Commission exercising its function of maintaining a database of completed relevant employment proceedings.

**Schedule 1 [11]** establishes the Child Death Review Team as a committee of the Commission, rather than a statutory corporation. The old Team is abolished by Schedule 1 [16].

**Schedule 1 [12]** provides that any function that the Child Death Review Team may exercise with respect to child deaths occurring in New South Wales may also be exercised by the Team in connection with the death of a child dying outside the State while ordinarily resident in the State. The amendment also provides that the Convenor of the Child Death Review Team may enter into an agreement or arrangement for the exchange of information between the Child Death Review Team and an equivalent body of another State or Territory.

**Schedule 1 [13]** empowers the Convenor of the Child Death Review Team to disclose information in a way that gives effect to any such agreement or arrangement.

**Schedule 1 [14]** clarifies that the protection from personal liability provided to the Commission and certain persons is available for anything omitted to be done in good faith in the execution of the *Commission for Children and Young People Act 1998*, as well as for anything done in good faith.

**Schedule 1 [15]** provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act.

**Schedule 1 [16]** makes savings and transitional provisions consequent on the enactment of the proposed Act.

## **Schedule 2 Amendment of Parliamentary Electorates and Elections Act 1912**

**Schedule 2** imposes a duty on the Commissioner of Police, the Registrars of courts and certain other persons prescribed by the regulations to provide the Commission for Children and Young People with access to information that the Commission requires for the purposes of conducting an audit of a child-related conduct declaration made by a candidate for election who is subsequently elected to Parliament. Under the new provision, a person is not prevented from complying with that duty by any provision of any Act or law that otherwise restricts or denies access to records.