

Passed by both Houses



New South Wales

Child Protection (Working with Children) and Other Legislation Amendment Bill 2025

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2025



New South Wales

Child Protection (Working with Children) and Other Legislation Amendment Bill 2025

Act No , 2025

*An Act to amend the *Child Protection (Working with Children) Act 2012*, the *Children (Education and Care Services National Law Application) Act 2010* and the *National Disability Insurance Scheme (Worker Checks) Act 2018* in relation to persons working with children and other vulnerable persons; and for other purposes.*

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Child Protection (Working with Children) and Other Legislation Amendment Act 2025*.

2 Commencement

This Act commences as follows—

- (a) for Schedule 1[9] and [18], to the extent it inserts Schedule 3, clause 28—on 1 December 2025,
- (b) otherwise—on the date of assent to this Act.

Schedule 1 Amendment of Child Protection (Working with Children) Act 2012 No 51

[1] Section 5 Definitions

Omit section 5(1), definition of *Tribunal*. Insert in alphabetical order—

affected person, for Part 4—see section 26.

applicant, for Part 4—see section 26.

disqualification reassessment, for Part 4—see section 26.

internal review, for Part 4—see section 26.

internal review decision, for Part 4—see section 26.

reviewable decision, for Part 4—see section 26.

[2] Section 8 Restrictions on engaging in child-related work

Insert after section 8(1)—

(1A) To avoid doubt, subsection (1)(b) does not prevent—

(a) an employer or regulator requiring a worker to hold a working with children check clearance of a class applicable to child-related work before engaging in child-related work—

(i) with or on behalf of the employer, or

(ii) in the industry, sector or activity the regulator regulates, or

(b) a professional or other peak body from requiring a person to hold a working with children check clearance as a condition of membership, licensing or other registration with the body.

[3] Section 9 Employers must require clearance or current application

Insert at the end of section (9)(1)—

Note— See section 8(1A), which clarifies that an employer may require a worker to hold a working with children check clearance before engaging in child-related work with or on behalf of the employer.

[4] Section 13A Embargo after refusal of application or cancellation of clearance

Insert after section 13A(2)—

(2A) To avoid doubt, this section does not apply to a person to whom section 25A applies.

[5] Section 14 Assessment requirements

Insert at the end of section 14—

(2) However, the regulations may provide that, to the extent the assessment requirement relates to a matter specified in Schedule 1, clause 2B, a person is not subject to an assessment requirement in the circumstances prescribed in the regulations.

[6] Section 18 Determination of applications for clearances

Omit “The Children’s Guardian must not grant a working with children check clearance to the following persons (*disqualified persons*)” from section 18(1).

Insert instead “Subject to subsection (1A), each of the following persons (a *disqualified person*) is disqualified from holding a working with children check clearance and the Children’s Guardian must not grant a clearance to the person”.

[7] Section 18(1A)

Insert after section 18(1)—

- (1A) The Children's Guardian may grant a working with children check clearance to a disqualified person only if the Children's Guardian decides under Part 4, Division 3 that the person should not continue to be disqualified under subsection (1).

[8] Section 18(4)

Insert after section 18(3)—

- (4) However, if the regulations provide for training in relation to child abuse that must be completed before a person may be granted a clearance, the Children's Guardian must not grant a clearance to a person unless satisfied the person has completed the training in accordance with the regulations.

[9] Part 3 Working with children check clearances

Insert after Division 6—

Division 7 Mutual recognition negative notices

25A Mutual recognition of refusal and cancellation of other jurisdictions' working with children check clearances

- (1) This section applies to a person (a *relevant person*) if any of the following actions (each a *mutual recognition negative notice*) applies to the person—
- (a) the person's application in another jurisdiction for that jurisdiction's equivalent to a working with children check clearance is refused,
 - (b) in another jurisdiction, that jurisdiction's equivalent to a working with children check clearance granted to the person is cancelled,
 - (c) the person is subject, in another jurisdiction, to that jurisdiction's equivalent of an interim bar.
- (2) The relevant person must, as soon as practicable after becoming aware of the mutual recognition negative notice, notify the Children's Guardian that the relevant person is subject to the notice.
- (3) In this jurisdiction—
- (a) the relevant person must not be granted a working with children check clearance, or
 - (b) if there is a current application by the relevant person to the Children's Guardian for a working with children check clearance—the application is taken to be terminated at the time the mutual recognition negative notice occurs, or
 - (c) if the relevant person has been granted a working with children check clearance—the relevant person's working with children check clearance is taken to be cancelled at the time the mutual recognition negative notice occurs.
- (4) To avoid doubt, the relevant person cannot apply for an internal review or disqualification reassessment in relation to—
- (a) the ineligibility under subsection (3)(a) to be granted a working with children check clearance, or
 - (b) the termination under subsection (3)(b) of the relevant person's application for a working with children check clearance, or

- (c) the cancellation under subsection (3)(c) of the relevant person's working with children check clearance.
- (5) A relevant person is not entitled to make a further application for a working with children check clearance—
 - (a) until the person is no longer subject to a mutual recognition negative notice, or
 - (b) unless circumstances prescribed by the regulations apply to the person.
- (6) For subsection (5)(b), the regulations may provide for matters relating to—
 - (a) the circumstances in which relevant persons may apply for working with children check clearances, and
 - (b) the process for, or conditions applying to, relevant persons applying for working with children check clearances.

[10] Part 4

Omit the part. Insert instead—

Part 4 Internal reviews and reassessments of disqualification

Division 1 Preliminary

26 Definitions

In this part—

affected person, for a reviewable decision, means any of the following persons—

- (a) for a decision to refuse a working with children check clearance—the applicant for the clearance,
- (b) for a decision to cancel a working with children check clearance—the person who held the clearance before the clearance was cancelled,
- (c) for a decision to impose an interim bar that has been in effect for more than 6 months—the person subject to the interim bar.

applicant—see section 30B(1).

disqualification reassessment—see section 30B(1).

internal review—see section 28(1).

internal review decision means a decision made under this part on an application for internal review of a reviewable decision.

reviewable decision means any of the following decisions—

- (a) a decision to refuse a working with children check clearance,
- (b) a decision to cancel a working with children check clearance,
- (c) a decision to impose an interim bar, if the interim bar has been in effect for more than 6 months.

27 Persons not entitled to apply for internal review or disqualification reassessment

- (1) The following persons are not entitled to apply for an internal review or disqualification reassessment—

- (a) if the offence was committed as an adult and the person satisfies subsection (2)—a person who has been convicted of any of the following offences—
 - (i) murder,
 - (ii) if the person against whom the offence was committed was a child—an offence against the *Crimes Act 1900*, section 61B, 61C, 61D, 61E, 61F, 61I, 61J, 61JA, 61K, 61KC, 61KD, 61KE, 61KF, 61L, 61M, 61N, 61O, 61P, 63, 65A, 66, 66F, 76, 78A, 78B, 80A, 80AD, 80D, 80E or 81,
 - (iii) if the person against whom the offence was committed was a child—the common law offence of rape,
 - (iv) an offence against the *Crimes Act 1900*, section 66A, 66B, 66C, 66D, 66DA, 66DB, 66DC, 66DD, 66DE, 66DF, 66EA, 66EB or 66EC,
 - (v) an offence against the *Crimes Act 1900*, section 67, 68, 71, 72, 72A, 73, 73A, 74 or 76A,
 - (vi) an offence against the *Crimes Act 1900*, section 78H, 78I, 78K, 78L, 78M, 78N, 78O or 78Q,
 - (vii) an offence against the *Crimes Act 1900*, section 91D, 91E or 91F,
 - (viii) an offence against the *Crimes Act 1900*, section 91G, 91H, 578B or 578C(2A),
 - (ix) an offence against the *Crimes Act 1900*, section 79 or 530,
 - (x) an offence against the *Criminal Code* of the Commonwealth, section 272.8, 272.10, if it relates to an underlying offence against section 272.8, or 272.11,
 - (xi) an offence against the *Criminal Code* of the Commonwealth, section 272.9, 272.10, if it relates to an underlying offence against section 272.9, 272.12, 272.13, 272.14 or 272.15,
 - (xii) an offence against any of the following provisions of the *Criminal Code* of the Commonwealth, if the offence relates to a Class 1 offence within the meaning of the *Child Protection (Offenders Registration) Act 2000*—
 - (A) section 272.18,
 - (B) section 272.19,
 - (C) section 272.20,
 - (xiii) an offence against the *Criminal Code* of the Commonwealth, section 273.5, 273.6, 273.7, 471.16, 471.17, 471.19, 471.20, 471.22, 471.24, 471.25, 474.19, 474.20, 474.22, 474.23, 474.24A, 474.25A, 474.25B, 474.26 or 474.27,
 - (xiv) an offence against the *Customs Act 1901* of the Commonwealth, section 233BAB involving items of child pornography or child abuse material,
 - (xv) an offence an element of which is an intention to commit an offence listed in subparagraphs (i)–(xiv),
 - (xvi) an offence of attempting, or of conspiracy or incitement, to commit an offence listed in subparagraphs (i)–(xiv),
 - (xvii) another offence prescribed by the regulations,
- (b) a person who has been convicted of an offence committed as an adult under a law of another State or Territory, the Commonwealth or a foreign jurisdiction that, if committed in New South Wales, would

- constitute an offence referred to in paragraph (a) and the person satisfies subsection (2),
- (c) a person whose application for a working with children check clearance has been refused, or whose working with children check clearance has been cancelled, wholly or partly on the grounds that proceedings have been commenced against the person for an offence specified in Schedule 2 and the proceedings have not been finally determined.
- (2) A person convicted of an offence specified in subsection (1) satisfies this subsection if—
- (a) the person received a sentence of full-time custody for the offence, or
- (b) any of the following orders, including any equivalent orders made by a court of a jurisdiction other than this State, including jurisdictions outside Australia, was imposed on the person for the offence and the order is in force—
- (i) any of the following orders under the *Crimes (Sentencing Procedure) Act 1999*—
- (A) a home detention order,
- (B) an intensive correction order,
- (C) a community correction order,
- (D) a conditional release order,
- (E) an order under section 12 before the repeal of the section,
- (ii) a conditional release order or recognizance release order under the *Crimes Act 1914* of the Commonwealth, section 20, or
- (c) a prohibition order under the *Child Protection (Offenders Prohibition Orders) Act 2004*, or a corresponding prohibition order under that Act, section 19, is in force against the person.
- (3) For subsection (1), a reference in that subsection to an offence against a provision that has been repealed is taken to mean an offence against the provision before its repeal.
- (4) This section applies to convictions for offences whether occurring before, on or after the commencement of this Act.
- (5) In this section—
- Criminal Code of the Commonwealth*** means the Code set out in the schedule to the *Criminal Code Act 1995* of the Commonwealth.

Division 2 Internal reviews

28 Who may apply for internal review

- (1) Subject to section 27, an affected person for a reviewable decision may apply to the Children's Guardian for a review of the reviewable decision under this division (an ***internal review***).
- (2) An application cannot be made for a further internal review of an internal review decision.

29 Requirements for application for internal review

- (1) An application for internal review of a reviewable decision must—
- (a) be in the form approved by the Children's Guardian, and
- (b) include the information prescribed by the regulations, and

- (c) be made to the Children's Guardian—
 - (i) for a reviewable decision to refuse or cancel a working with children check clearance—within 28 days after notice of the reviewable decision is given to the affected person, or
 - (ii) for a reviewable decision to impose an interim bar, if the interim bar has been in effect for more than 6 months—at any time after the interim bar has been in effect for more than 6 months, and
 - (d) be accompanied by the fee prescribed by the regulations, and
 - (e) be accompanied by any additional information required by the Children's Guardian.
- (2) Despite subsection (1)(c)(i), the Children's Guardian may, at the request of an affected person for a reviewable decision, extend the period of time during which an application for internal review of the reviewable decision may be made.
 - (3) The application does not stay the operation of the reviewable decision
 - (4) To assist the Children's Guardian to review the reviewable decision, the Children's Guardian may, by notice to the affected person, require the affected person to give additional information within the time, not less than 28 days, stated in the notice.
 - (5) The Children's Guardian may terminate an application for internal review if the affected person fails to comply with a notice under subsection (4).

30 Internal review

- (1) The Children's Guardian must—
 - (a) review the reviewable decision, and
 - (b) decide to—
 - (i) confirm the reviewable decision, or
 - (ii) for a decision to refuse an application for a working with children check clearance or cancel a working with children check clearance—set aside the reviewable decision and grant the affected person a working with children check clearance, or
 - (iii) for a decision to impose an interim bar that has been in effect for more than 6 months—set aside the reviewable decision.
- (2) For making a decision about a reviewable decision, the Children's Guardian may share information with and seek advice from—
 - (a) a person suitably qualified to deal with the issues raised by the matters the subject of the reviewable decision, or
 - (b) another person prescribed by the regulations.
- (3) In reviewing the reviewable decision, the Children's Guardian must consider the following information—
 - (a) the information considered in making the reviewable decision,
 - (b) other relevant information given by the affected person in the person's application or otherwise,
 - (c) other relevant information prescribed by the regulations.
- (4) The Children's Guardian must not make a decision under this section which has the effect of enabling the affected person to work with children in accordance with this Act unless the Children's Guardian is satisfied—

- (a) a reasonable person would allow the person's child to have direct contact with the affected person that is not directly supervised by another person while the affected person is engaging in child-related work, and
 - (b) it is in the public interest to make the decision.
- (5) The application for internal review of a reviewable decision may be dealt with only by a person who—
 - (a) did not make the reviewable decision, and
 - (b) holds an office equal to or more senior than the person who made the reviewable decision.
- (6) Subsection (5) does not apply if the reviewable decision was made by the Children's Guardian personally.
Note— This subsection applies only if the reviewable decision was made by the Children's Guardian personally, not if the decision was made by another person as a delegate of the Children's Guardian.
- (7) The regulations may provide for requirements in relation to the conduct of an internal review.

30A Decisions about internal review

- (1) After making an internal review decision, the internal reviewer must give the affected person written notice of the internal reviewer's decision.
- (2) The notice must include the following information—
 - (a) the findings on material questions of fact, including the evidence or other material on which the findings were based,
 - (b) the understanding of the internal reviewer of the applicable law,
 - (c) the reasons for the internal reviewer's conclusions and decision.

Division 3 Disqualification reassessments

30B Who may apply for disqualification reassessments

- (1) Subject to section 27, a disqualified person (the *applicant*) may apply to the Children's Guardian for a reassessment (a *disqualification reassessment*) of whether the person should continue to be disqualified under section 18(1).
- (2) The applicant may apply for a disqualification reassessment only if—
 - (a) the applicant has been refused a working with children check clearance because the person is a disqualified person, or
 - (b) the applicant's working with children check clearance has been cancelled under section 23 because the person is a disqualified person.
- (3) An application must not be made for an internal review of a disqualification reassessment decision.

30C Requirements for applications for disqualification reassessment

- (1) The application for the disqualification reassessment must—
 - (a) be in the form approved by the Children's Guardian, and
 - (b) include the information prescribed by the regulations, and
 - (c) be made within 28 days after the decision to—
 - (i) refuse the applicant a working with children check clearance, or

- (ii) cancel the applicant's working with children check clearance, and
 - (d) be accompanied by the fee prescribed by the regulations, and
 - (e) be accompanied by any additional information required by the Children's Guardian.
- (2) Despite subsection (1)(c), the Children's Guardian may, at the request of the applicant, extend the period of time during which an application for a disqualification reassessment may be made in relation to the applicant.
- (3) To assist the Children's Guardian to assess the application, the Children's Guardian may, by notice to the applicant, require the applicant to give additional information within the time, not less than 28 days, stated in the notice.
- (4) The Children's Guardian may terminate an application for a disqualification reassessment if the applicant fails to comply with a notice under subsection (3).

30D Disqualification reassessment

- (1) The Children's Guardian must—
 - (a) assess the application for a disqualification reassessment and whether the applicant should continue to be disqualified under section 18(1), and
 - (b) decide—
 - (i) to confirm the applicant continues to be disqualified under section 18(1) and must not be granted a working with children check clearance, or
 - (ii) the applicant does not continue to be disqualified under section 18(1) and grant the person a working with children check clearance.
- (2) If the Children's Guardian decides the applicant does not continue to be disqualified under section 18(1), the applicant is taken not to continue to be a disqualified person.
- (3) For making a decision about the application for a disqualification reassessment, the Children's Guardian may share information with and seek advice from—
 - (a) a person suitably qualified to deal with the issues raised by the matters the subject of the disqualification reassessment, or
 - (b) another person prescribed by the regulations.
- (4) Subject to subsection (5), in deciding the application for a disqualification reassessment, the Children's Guardian must consider the following information—
 - (a) relevant information given by the applicant in the applicant's application or otherwise,
 - (b) other relevant information reasonably available to the Children's Guardian,
 - (c) other relevant information prescribed by the regulations.
- (5) It must be presumed, unless the applicant proves to the contrary, that the applicant poses a risk to the safety of children.

- (6) The Children's Guardian may decide the applicant should not continue to be disqualified under section 18(1) and grant the applicant a working with children check clearance only if the Children's Guardian is satisfied—
 - (a) a reasonable person would allow the person's child to have direct contact with the applicant that is not directly supervised by another person while the applicant is engaging in child-related work, and
 - (b) it is in the public interest to decide the applicant should not continue to be disqualified under section 18(1) and grant the working with children check clearance.
- (7) The regulations may provide for requirements in relation to the conduct of a disqualification reassessment.

30E Decisions about disqualification reassessment

- (1) After making a decision about a disqualification reassessment, the Children's Guardian must give the applicant for the disqualification reassessment written notice of the Children's Guardian's decision.
- (2) The notice must include the following information—
 - (a) the findings on material questions of fact, including the evidence or other material on which the findings were based,
 - (b) the understanding of the Children's Guardian of the applicable law,
 - (c) the reasons for the Children's Guardian's conclusions and decision.

[11] Section 31 Powers of Children's Guardian to require production of information

Omit section 31(2)(a). Insert instead—

- (a) an internal review or disqualification reassessment under Part 4, or

[12] Section 37 Database functions of Children's Guardian

Omit section 37(a). Insert instead—

- (a) collecting and maintaining a database of the following, including updating, correcting and removing entries on the database—
 - (i) applications for, and determinations of, internal reviews under Part 4, Division 2,
 - (ii) applications for, and determinations of, disqualification reassessments under Part 4, Division 3.

[13] Section 42A Expert advisory panel

Omit section 42A(2) and (3).

[14] Section 42A(4)

Omit "and the Tribunal".

[15] Section 53

Omit the section. Insert instead—

53 Review of Act

- (1) The Minister must review the amendments made by the *Child Protection (Working with Children) and Other Legislation Amendment Act 2025* to determine whether—
 - (a) the policy objectives of the amendments remain valid, and

- (b) the terms of the amendments remain appropriate for securing the objectives.
- (2) The review must be undertaken as soon as practicable after the period of 18 months from the commencement of this section.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 30 months after the commencement of this section.

[16] Schedule 1

Insert after clause 2B—

2C Notices under Children (Education and Care Services) National Law (NSW)

A person has been given a prohibition notice under the *Children (Education and Care Services) National Law (NSW)*, section 182.

[17] Schedule 1 Assessment requirement triggers

Omit “has been issued with a negative notice” from Schedule 1, clause 2B.

Insert instead “was issued with a negative notice that is no longer in effect”.

[18] Schedule 3 Savings, transitional and other provisions

Insert at the end of the schedule—

Part 6 Provisions consequent on enactment of Child Protection (Working with Children) and Other Legislation Amendment Act 2025

27 Applications for review of decisions

- (1) This clause applies to any of the following made to the Tribunal but not finally determined before the commencement date—
 - (a) an application for review,
 - (b) an application for an enabling order.
- (2) For an application for review or an application for an enabling order made before the introduction date, the application must be determined by the Tribunal as if the amendment Act had not commenced.
- (3) For an application for review or an application for an enabling order made on or after the introduction date and before the commencement date—
 - (a) the application is taken to have been withdrawn by the person who made the application, and
 - (b) the person may, within 28 days after the commencement date, apply for—
 - (i) an internal review of the decision the subject of the application for review under this Act as amended by the amendment Act, or
 - (ii) a disqualification reassessment under this Act as amended by the amendment Act.
- (4) Despite subsection (3)(b)(i) or (ii), the Children’s Guardian may, at the request of the person who made the application, extend the period of time during which an application for internal review of the decision or a disqualification reassessment may be made.

- (5) A person who applies for an internal review or a disqualification reassessment under subsection (3)(b) must not be required to pay a fee in relation to the application.
- (6) In this clause—
amendment Act means the *Child Protection (Working with Children) and Other Legislation Amendment Act 2025*.
application for review means an application to the Tribunal for a review of any of the following decisions—
- (a) a decision to refuse a working with children check clearance,
 - (b) a decision to cancel a working with children check clearance,
 - (c) a decision to impose an interim bar, if the interim bar has been in effect for more than 6 months.
- commencement date** means the date on which this clause commences.
introduction date means the date on which the Bill for the amendment Act was first introduced into Parliament.
Tribunal means the Civil and Administrative Tribunal.

28 Mutual recognition negative notices

- (1) This clause applies to a person if, before the commencement date, the person was—
- (a) subject to a negative notice referred to in Schedule 1, clause 2B as in force before the commencement date, and
 - (b) granted a working with children clearance check after an assessment under Part 3, Division 3 as in force before the commencement date.
- (2) Section 25A(2) and (3), as inserted by the amendment Act, do not apply to the person in relation to the negative notice until the working with children clearance check expires.
- (3) In this section—
amendment Act means the *Child Protection (Working with Children) and Other Legislation Amendment Act 2025*.
commencement date means the commencement of this clause.

Schedule 2 Amendment of Children (Education and Care Services National Law Application) Act 2010 No 104

[1] Section 4 Adoption of Education and Care Services National Law

Insert “, with the modifications set out in Schedule 1” after “jurisdiction” in section 4(a).

[2] Schedule 1

Insert after section 21—

Schedule 1 Modification of Education and Care Services National Law

section 4(a)

[1] Section 5 Definitions

Insert in alphabetical order in section 5(1)—

NSW provision means a provision that forms part of this Law because of a modification made by the *Children (Education and Care Services National Law Application) Act 2010*;

Note— This is an additional NSW provision.

[2] Section 170 Offence relating to unauthorised persons on education and care service premises

Omit section 170(2)(b). Insert instead—

(b) the person—

- (i) is under the direct supervision of an educator or other staff member of the service; and
- (ii) is not a person who has applied for but has not yet been granted a working with children check clearance under a working with children law.

Note— This is a substituted NSW provision.

[3] Section 170(5), definition of “authorised person”, paragraph (a)

Omit the paragraph. Insert instead—

- (a) a person who holds a current working with children check clearance under a working with children law but does not include a person who has applied for but not yet been granted a working with children check clearance under that law; or

Note— This is a substituted NSW provision.

[4] Section 170(5), definition of “authorised person”, paragraph (e)

Omit the paragraph. Insert instead—

- (e) a person who is exempt under a working with children law of this jurisdiction from the requirement to hold a working with children check clearance under that law.

Note— This is a substituted NSW provision.

[5] Section 192 Reviewable decision—external review

Omit “educator; or” from section 192(b)(vi). Insert instead “educator.”.

[6] Section 192(b)(vii)

Omit the subparagraph. Insert instead—

(vii)

Note— Subparagraph (vii) has been omitted as a NSW modification.

Schedule 3 Amendment of Civil and Administrative Tribunal Act 2013 No 2

[1] Schedule 3 Administrative and Equal Opportunity Division

Omit “*Child Protection (Working with Children) Act 2012*” from clause 3(1)(a).

[2] Schedule 3, clause 3(1)(a)

Omit “*National Disability Insurance Scheme (Worker Checks) Act 2018*”.

[3] Schedule 3, clause 9(3)

Omit the subclause.

[4] Schedule 3, clauses 13(b) and (b1) and 15(b) and (c)

Omit the paragraphs.

[5] Schedule 3, clause 17

Omit the clause.

Schedule 4 Amendment of National Disability Insurance Scheme (Worker Checks) Act 2018 No 82

[1] Part 6

Omit the part. Insert instead—

Part 6 Review of decisions

Division 1 Preliminary

41 Definitions

In this part—

affected person, for a reviewable decision, means any of the following persons—

- (a) for a decision by the Screening Agency to refuse to grant an application for an NDIS worker check clearance—the applicant for the clearance,
- (b) for a decision by the Screening Agency to impose an interim bar that has been in force for more than 6 months—the applicant subject to the interim bar,
- (c) for a decision by the Screening Agency to suspend an NDIS worker check clearance—the person who held the clearance before the clearance was suspended,
- (d) for a decision by the Screening Agency to cancel an NDIS worker check clearance—the person who held the clearance before the clearance was cancelled.

internal review—see section 42(1) and (4).

internal review decision means a decision made under this part on an application for internal review of a reviewable decision.

internal review notice—see section 45(1).

reviewable decision means any of the following decisions made by the Screening Agency—

- (a) a decision to refuse to grant an application for an NDIS worker check clearance, including a decision to terminate an application for an NDIS worker check clearance,
- (b) a decision to impose an interim bar on an applicant for an NDIS worker check clearance, if the bar has been in force for more than 6 months,
- (c) a decision to suspend an NDIS worker check clearance, if the suspension has been in force for more than 6 months,
- (d) a decision to cancel an NDIS worker check clearance, other than cancellation at the request of the holder of the clearance.

reviewer—see section 44(1).

Division 2 Internal reviews

42 Who may apply for or initiate internal review

- (1) An affected person for a reviewable decision may apply to the Screening Agency for a review of the reviewable decision under this division (an ***internal review***).

- (2) However, subject to subsection (3), a person may not apply for an internal review of a reviewable decision to—
 - (a) refuse to grant an NDIS worker check clearance or to cancel an NDIS worker check clearance because the applicant or holder is—
 - (i) a disqualified person, or
 - (ii) a presumptively disqualified person as a result of there being pending criminal proceedings against the applicant, or
 - (b) terminate an application or cancel an NDIS worker check clearance because the applicant or holder has failed, without reasonable excuse, to give information in accordance with section 29, or
 - (c) terminate an application for internal review because the applicant or holder has failed, without reasonable excuse, to give information in accordance with section 43(4).
- (3) A person may seek an internal review of a decision referred to in subsection (2)(a), (b) or (c) if the ground for the review is an error in a finding of fact that—
 - (a) the person is a disqualified person or presumptively disqualified person, or
 - (b) the failure to give required information was without reasonable excuse.
- (4) The Screening Agency may, on its own initiative, review a reviewable decision at any time and without an application by the affected person for the reviewable decision (also an *internal review*).
- (5) An application cannot be made for a further internal review of an internal review decision.

43 Requirements for application for internal review

- (1) An application for internal review of a reviewable decision must—
 - (a) be in the form approved by the Screening Agency, and
 - (b) include the information prescribed by the regulations, and
 - (c) be made to the Screening Agency—
 - (i) for a reviewable decision to refuse to grant an application for an NDIS worker check clearance or to cancel an NDIS worker check clearance—within 28 days after notice of the reviewable decision is given to the affected person, or
 - (ii) for a reviewable decision to impose an interim bar or suspension, if the interim bar or suspension has been in effect for more than 6 months—at any time after the interim bar or suspension has been in effect for more than 6 months, and
 - (d) be accompanied by the fee prescribed by the regulations, and
 - (e) be accompanied by any additional information or documents required by the Screening Agency.
- (2) Despite subsection (1)(c)(i), the Screening Agency may, at the request of an affected person for a reviewable decision, extend the period of time during which an application for internal review of the reviewable decision may be made.
- (3) The application does not stay the operation of the reviewable decision.
- (4) To assist the Screening Agency to review the reviewable decision, the Screening Agency may, by notice to the affected person, require the affected

person to give additional information or documents within the time, not less than 28 days, stated in the notice.

- (5) The Screening Agency may terminate an application for internal review if the affected person fails, without reasonable excuse, to comply with a notice under subsection (4).

44 Internal review

- (1) The Screening Agency must appoint an employee (the *reviewer*) of the Screening Agency to—
- (a) review the reviewable decision, and
 - (b) decide to—
 - (i) confirm the reviewable decision, or
 - (ii) set aside the reviewable decision and substitute a new decision.
- (2) For making a decision about a reviewable decision, the reviewer—
- (a) may share information with and seek advice from—
 - (i) a person suitably qualified to deal with the issues raised by the matters the subject of the reviewable decision, or
 - (ii) another person prescribed by the regulations, and
 - (b) has the same powers the Screening Agency had in making the reviewable decision.
- (3) In reviewing the reviewable decision, the reviewer must consider—
- (a) any information and matters considered in making the reviewable decision, and
 - (b) relevant information given by the affected person in the person's application or otherwise, and
 - (c) other relevant information prescribed by the regulations.
- (4) The application for internal review of a reviewable decision may be dealt with only by a person who—
- (a) did not make the reviewable decision and, to the extent practicable, was not substantially involved in the process of making the reviewable decision, and
 - (b) holds an office equal to or more senior than the person who made the reviewable decision, and
 - (c) is otherwise suitably qualified to deal with issues raised by the review of the reviewable decision.
- (5) Subsection (4) does not apply if the reviewable decision was made by the Screening Agency, or the head of the Screening Agency personally.
- Note—** This subsection applies only if the reviewable decision was made by the Screening Agency or the head of the Screening Agency personally, not if the decision was made by another person as a delegate of the Screening Agency or the head of the Screening Agency.
- (6) The regulations may provide for requirements in relation to the conduct of an internal review.

45 Decisions about review of reviewable decisions

- (1) After making an internal review decision, the reviewer must give the affected person notice (an *internal review notice*) about the decision.

- (2) The internal review notice must include the following information—
 - (a) the reviewer’s findings on material questions of fact, including the evidence or other material on which the findings were based,
 - (b) the understanding of the reviewer of the applicable law,
 - (c) the reasons for the reviewer’s conclusions and decision.
- (3) The internal review is taken to be finalised on the day on which the affected person is given the internal review notice.

45A Protection of criminal intelligence

- (1) Despite a provision of this Act, notice of a decision under this Act must not disclose the existence or content of any information—
 - (a) disclosed to the Screening Agency by the Commissioner of Police, and
 - (b) identified by the Commissioner, at the time of its disclosure or subsequently, as criminal intelligence information (*identified criminal intelligence information*).
- (2) In determining an application for an administrative review of a decision under this Act, the Screening Agency and reviewer must—
 - (a) ensure the Screening Agency or reviewer does not, in the reasons for its decision or otherwise, disclose the existence or content of identified criminal intelligence information, and
 - (b) receive evidence and hear argument, in the absence of the public, from the applicant for the internal review and the applicant’s representative, to the extent necessary to prevent the disclosure of the existence or content of identified criminal intelligence information.
- (3) If, in the reviewer’s opinion, information identified by the Commissioner of Police as criminal intelligence information is not criminal intelligence information, the following arrangements apply—
 - (a) the reviewer must give the Commissioner of Police the opportunity to withdraw the information from consideration by the reviewer,
 - (b) if the Commissioner withdraws the information from consideration by the reviewer—the information must not be taken into consideration by the reviewer in deciding the internal review application but must otherwise continue to be treated by the Screening Agency and reviewer as identified criminal intelligence information for this section,
 - (c) if the Commissioner does not withdraw the information from consideration by the reviewer—the information must not be treated by the Screening Agency or reviewer as identified criminal intelligence information for this section.

[2] Schedule 2

Insert after Schedule 1—

Schedule 2 Savings, transitional and other provisions

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—

- (a) a provision of this Act, or
 - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—
 - (a) for a provision of this Act—the date of assent to this Act, or
 - (b) for a provision amending this Act—the date of assent to the amending Act.
- (5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not—
 - (a) affect the rights of a person existing before the publication in a way prejudicial to the person, or
 - (b) impose liabilities on a person for anything done or omitted to be done before the publication.
- (6) In this section—
person does not include the State or an authority of the State.

Part 2 Provision consequent on enactment of Child Protection (Working with Children) and Other Legislation Amendment Act 2025

2 Applications for review of decisions

- (1) This clause applies to an application for review made to the Tribunal but not finally determined before the commencement date.
- (2) For an application for review made before the introduction date, the application must be determined by the Tribunal as if the amendment Act had not commenced.
- (3) For an application for review made on or after the introduction date and before the commencement date, the application is taken to have been withdrawn by the person who made the application.
- (4) In this clause—
amendment Act means the *Child Protection (Working with Children) and Other Legislation Amendment Act 2025*.
application for review means an application to the Tribunal for a review of any of the following decisions—
 - (a) a decision to refuse to grant an application for an NDIS worker check clearance, including a decision to terminate an application for an NDIS worker check clearance,
 - (b) a decision to impose an interim bar on an applicant for an NDIS worker check clearance, if the bar has been in force for more than 6 months,
 - (c) a decision to suspend an NDIS worker check clearance, if the suspension has been in force for more than 6 months,

- (d) a decision to cancel an NDIS worker check clearance, other than cancellation at the request of the holder of the clearance.

commencement date means the date on which this clause commences.

introduction date means the date on which the Bill for the amendment Act was first introduced into Parliament.

[3] Schedule 1 Interpretative provisions

Insert in alphabetical order in clause 1—

affected person, for Part 6—see section 41.

internal review, for Part 6—see section 41.

internal review decision, for Part 6—see section 41.

internal review notice, for Part 6—see section 41.

reviewable decision, for Part 6—see section 41.

reviewer, for Part 6—see section 41.

Schedule 5 Amendment of other legislation

5.1 Child Protection (Offenders Registration) Act 2000 No 42

Section 21 Proceedings for offences

Omit “or 19E” wherever occurring in section 21(1) and (2). Insert instead “, 19E or 19J”.

5.2 Child Protection (Offenders Registration) Amendment Act 2024 No 62

[1] Schedule 1 Amendment of Child Protection (Offenders Registration) Act 2000 No 42

Omit “When the order is made, the” from Schedule 1[17], proposed section 3J(2).

Insert instead “The”.

[2] Schedule 1[17], proposed section 3J(2)(b)

Omit “ensure all reasonable steps are taken to”.

[3] Schedule 1[17], proposed section 3J(4)

Omit the subsection. Insert instead—

- (4) The court may require the person—
 - (a) to remain in court or otherwise on the court premises until subsection (2) is complied with, or
 - (b) to collect the copy of the order and the written notice required under subsection (2)(a) from the court registry or another place on the court premises before leaving the premises.

[4] Schedule 1[17], proposed section 3K(1)

Omit the subsection. Insert instead—

- (1) This section applies if—
 - (a) a registrable person order or child protection order has been made in relation to a person, and
 - (b) either—
 - (i) the person has been given a copy of the order and the written notice required under section 3J(2)(a), or
 - (ii) both of the following apply—
 - (A) the person’s reporting obligations, and the consequences of failing to comply with the reporting arrangements, have been verbally explained to the person under section 3J(2)(b),
 - (B) the person has failed to comply with a direction under section 3J(4) to remain at the court, or otherwise attend the court registry, to receive copies of the order and the written notice.

5.3 Criminal Procedure Act 1986 No 209

Schedule 1 Indictable offences triable summarily

Omit “or 19E” from Table 2, item 23. Insert instead “, 19E or 19J”.