

LEGISLATIVE COUNCIL

**Child Protection Legislation Amendment Bill 2015**

**First print**

**Proposed amendments**

---

No. 1 **Prohibition on appeals against disqualification**

Page 15, Schedule 2. Insert after line 25:

**[29] Section 26**

Omit the section. Insert instead:

**26 Persons not entitled to apply for review or enabling order**

- (1) The following persons are not entitled to make an application under this Part:
- (a) a person who has been convicted of any of the following offences, if the offence was committed as an adult:
    - (i) murder,
    - (ii) an offence against section 61I, 61J, 61JA or 80A of the *Crimes Act 1900*, if the person against whom the offence was committed was a child,
    - (iii) an offence against section 66A or 66EA of the *Crimes Act 1900*,
    - (iv) an offence against section 67 of the *Crimes Act 1900*,
    - (v) an offence against section 78H of the *Crimes Act 1900*,
    - (vi) an offence against section 272.10 (if it relates to an underlying offence against section 272.8) or 272.11 of the *Criminal Code* of the Commonwealth,
    - (vii) an offence against section 272.18, 272.19 or 272.20 of the *Criminal Code* of the Commonwealth, if it relates to a Class 1 offence within the meaning of the *Child Protection (Offenders Registration) Act 2000*,
    - (viii) an offence an element of which is an intention to commit an offence listed in subparagraphs (i)–(vii),
    - (ix) an offence of attempting, or of conspiracy or incitement, to commit an offence listed in subparagraphs (i)–(vii),
  - (b) a person who has been convicted of an offence committed as an adult under a law of another State or a Territory, the Commonwealth or a foreign jurisdiction that, if committed in

- 
- New South Wales, would constitute an offence referred to in paragraph (a),
- (c) a person whose application for a working with children check clearance has been refused 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) This section applies to convictions for offences whether occurring before, on or after the commencement of this Act.

## No. 2 **Advice functions**

Page 15, Schedule 2. Insert after line 44:

### **[32] Section 38 Children's Guardian's public awareness and advice functions**

Insert at the end of the section:

- (2) Without limiting subsection (1), the Children's Guardian may make information available to employers and other persons about matters to consider in relation to employing persons to work with children.

## No. 3 **Disqualifying offences**

Page 16, Schedule 2. Insert after line 30:

### **[37] Schedule 2 Disqualifying offences**

Omit clause 1 (1) (z). Insert instead:

- (z) an offence under a law of another State or a Territory, the Commonwealth or a foreign jurisdiction that, if committed in New South Wales, would constitute an offence listed in this clause,

### **[38] Schedule 2, clause 1 (1) (ac)**

Insert after clause 1 (1) (ab):

- (ac) any other offence that is a registrable offence within the meaning of the *Child Protection (Offenders Registration) Act 2000*, if the offence was committed as an adult.

## No. 4 **Savings and transitional provisions**

Page 18, Schedule 2. Insert after line 4:

### **18 Review and enabling order applications**

- (1) Section 26, as in force before its substitution by the amending Act, continues to apply to a person who had made an application for a working with children check clearance which had not been withdrawn or finally determined before the commencement of the amending Act, but only in connection with matters arising out of that application.
- (2) Nothing in the amending Act affects any application made under Part 4 of this Act before the substitution of section 26 by the amending Act.

## No. 5 **Savings and transitional provisions**

Page 18, Schedule 2. Insert after line 10:

---

## 20 Disqualifying offences

- (1) Schedule 2 as amended by the amending Act, and section 18 in its application to that Schedule as so amended, does not apply to or in respect of the following:
  - (a) an application for a clearance made by a person before the commencement of the amending Act or an application for a further clearance made by that person on or after that commencement,
  - (b) an application for a further clearance made on or after that commencement by a person who held a clearance immediately before that commencement.
- (2) A person who was the holder of a clearance immediately before the amendment of Schedule 2 by the amending Act is not, merely because of those amendments, a disqualified person for the purposes of this Act.
- (3) This clause does not affect the operation of this Act in relation to any offence committed on or after the commencement of the amending Act by a person referred to in subclause (1) or (2).