

**LEGISLATIVE COUNCIL**

**Child Protection Legislation Amendment Bill 2015**

**Second print**

**Proposed amendments**

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No. 1 **Risk assessments**

Page 13, Schedule 2. Insert after line 26:

**[16] Section 15 Assessment of applicants and holders**

Insert after section 15 (4):

- (4A) The Children’s Guardian must not determine that an applicant does not pose a risk to the safety of children unless the Children’s Guardian is satisfied that:
  - (a) a reasonable person would allow his or her child to have direct contact with the applicant that was not directly supervised by another person while the applicant was engaged in any child-related work, and
  - (b) it is in the public interest to make the determination.

No. 2 **No right to apply for review or enabling order**

Page 15, Schedule 2 [29], line 31. Insert “and the person is a person who satisfies subsection (2)” after “adult”.

No. 3 **No right to apply for review or enabling order**

Page 15, Schedule 2 [29], line 33. Insert “61B, 61C, 61D, 61E, 61F,” after “section”.

No. 4 **No right to apply for review or enabling order**

Page 15, Schedule 2 [29], line 33. Omit “or 80A”. Insert instead “, 61K, 61L, 61M, 61N, 61O, 61P, 63, 65A, 66, 66F, 76, 78A, 78B, 80A, 80D, 80E or 81”.

No. 5 **No right to apply for review or enabling order**

Page 15, Schedule 2 [29]. Insert after line 35:

- (iii) the common law offence of rape, if the person against whom the offence was committed was a child,

No. 6 **No right to apply for review or enabling order**

Page 15, Schedule 2 [29], line 36. Omit “or 66EA”. Insert instead “, 66B, 66C, 66D, 66EA or 66EB”.

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- No. 7      **No right to apply for review or enabling order**  
Page 15, Schedule 2 [29], line 37. Insert “, 68, 71, 72, 72A, 73, 74 or 76A” after “section 67”.
- No. 8      **No right to apply for review or enabling order**  
Page 15, Schedule 2 [29], line 38. Insert “, 78I, 78K, 78L, 78M, 78N, 78O or 78Q” after “section 78H”.
- No. 9      **No right to apply for review or enabling order**  
Page 15, Schedule 2 [29]. Insert after line 38:  
    (vi)    an offence against section 91D, 91E or 91F of the *Crimes Act 1900*,  
    (vii)    an offence against section 91G, 91H, 578B or 578C (2A) of the *Crimes Act 1900*,
- No. 10     **No right to apply for review or enabling order**  
Page 15, Schedule 2 [29], line 39. Insert “272.8,” before “272.10”.
- No. 11     **No right to apply for review or enabling order**  
Page 15, Schedule 2 [29]. Insert after line 41:  
    (vii)    an offence against section 272.9, 272.10 (if it relates to an underlying offence against section 272.9), 272.11, 272.12, 272.13, 272.14 or 272.15 of the *Criminal Code* of the Commonwealth,
- No. 12     **No right to apply for review or enabling order**  
Page 15, Schedule 2 [29]. Insert after line 45:  
    (viii)    an offence against 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 of the *Criminal Code* of the Commonwealth,  
    (ix)     an offence against section 233BAB of the *Customs Act 1901* of the Commonwealth involving items of child pornography or of child abuse material,
- No. 13     **No right to apply for review or enabling order**  
Page 16, Schedule 2 [29], line 8. Insert “and the person is a person who satisfies subsection (2)” after “paragraph (a)”.
- No. 14     **No right to apply for review or enabling order**  
Page 16, Schedule 2 [29]. Insert after line 12:  
    (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 was imposed on the person in respect of the offence and the order is in force:  
            (i)    a home detention order, intensive correction order or community service order under the *Crimes (Sentencing Procedure) Act 1999*, a good behaviour order under section 9 of that Act or an order under section 12 of that Act,  
            (ii)    a conditional release order or recognizance release order under section 20 of the *Crimes Act 1914* of the Commonwealth, or  
        (c)    a prohibition order under the *Child Protection (Offenders Prohibition Orders) Act 2004* is in force against the person.
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No. 15      **Risk assessments**

Page 16, Schedule 2. Insert after line 14:

**[30]      Section 30 Determination of applications and other matters**

Insert after section 30 (1):

- (1A)    The Tribunal may not make an order under this Part which has the effect of enabling a person (the *affected person*) to work with children in accordance with this Act unless the Tribunal is satisfied that:
- (a)    a reasonable person would allow his or her child to have direct contact with the affected person that was not directly supervised by another person while the affected person was engaged in any child-related work, and
  - (b)    it is in the public interest to make the order.

No. 16      **Expert advisory group**

Page 16, Schedule 2. Insert after line 41:

**[35]      Section 42A**

Insert after section 42:

**42A      Expert advisory panel**

- (1)    The Children's Guardian may appoint an expert advisory panel to provide advice to the Children's Guardian about matters relating to offenders for the purposes of assisting the Children's Guardian in carrying out risk assessments and exercising functions under this Act.
- (2)    The advice provided is not to relate to particular individuals.
- (3)    The Children's Guardian may make advice provided by the expert advisory panel available to the Tribunal, on the initiative of the Children's Guardian or at the request of the Tribunal.
- (4)    The Children's Guardian and the Tribunal may, when exercising functions under this Act, consider any advice provided by the expert advisory panel.
- (5)    The terms of the appointment and any remuneration of members of the expert advisory panel are to be determined by the Children's Guardian and must be approved by the Minister.

No. 17      **Savings and transitional provisions**

Page 19, Schedule 2 [43]. Insert after line 3:

**16      Matters for consideration**

Sections 15 and 30, as amended by the amending Act, do not apply to an application that was made before the amendment of the section concerned.