



Australian Capital Territory

Working with Vulnerable People (Consequential Amendments) Act 2011

A2011-45

Contents

	Page	
1 Name of Act	2	
2 Commencement	2	
3 Legislation amended—sch 1	2	
Schedule 1	Legislation amended	3
Part 1.1	ACT Teacher Quality Institute Act 2010	3
Part 1.2	Children and Young People Act 2008	11
Part 1.3	Public Sector Management Act 1994	12
Part 1.4	Spent Convictions Act 2000	12

J2010-276

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au



Australian Capital Territory

Working with Vulnerable People (Consequential Amendments) Act 2011

A2011-45

An Act to amend legislation because of the enactment of the *Working with Vulnerable People (Background Checking) Act 2011*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Working with Vulnerable People (Consequential Amendments) Act 2011*.

2 Commencement

This Act commences on the commencement of the *Working with Vulnerable People (Background Checking) Act 2011*, section 3.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended—sch 1

This Act amends the legislation mentioned in schedule 1.

Schedule 1 **Legislation amended**

(see s 3)

Part 1.1 **ACT Teacher Quality Institute Act 2010**

[1.1] **New division 4.1A**

insert

Division 4.1A **Definitions—pt 4**

27A **Definitions—pt 4**

In this part:

criminal history guidelines—see section 35A.

criminal history record, of a person, means a written report about the person's criminal history from an entity in another country that has access to records about the criminal history of people in that country.

police certificate, for a person, means a written statement by CrimTrac, or a police service or force in the ACT, State or another territory indicating—

- (a) whether, according to the records held by CrimTrac or the police service or force, the person has been charged with, or convicted of, an offence against a law of—
 - (i) the Territory; or
 - (ii) the Commonwealth; or
 - (iii) a State; or
 - (iv) another country; and

- (b) if so—particulars of each offence.

Note A conviction does not include a spent conviction (see *Spent Convictions Act 2000*, s 16 (c) (i)).

27B Expiry—div 4.1A

This division expires—

- (a) 1 year after the day this division commences; or
(b) if another date is prescribed by regulation for this division—on that date.

[1.2] Section 32 (1) (d), (e) and (f)

substitute

- (d) the person is registered under the *Working with Vulnerable People (Background Checking) Act 2011*; and

[1.3] New section 32 (1A)

insert

- (1A) However, subsection (1) (d) does not apply if the institute is satisfied on reasonable grounds that—
- (a) if the person has lived in Australia—the person has supplied a police certificate; and
- (b) if the person has lived in another country as an adult for a continuous period of more than 1 year—the person has supplied a certified copy of the person’s criminal history record from that country; and
- (c) in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (a) or (b)—
- (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and

- (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.

[1.4] Section 32 (2)

omit

subsection (1) (e)

substitute

subsection (1A) (b)

[1.5] New section 32 (2A)

insert

- (2A) Subsections (1A) and (2), and this subsection, expire—
 - (a) 1 year after the day this subsection commences; or
 - (b) if another date is prescribed by regulation for this subsection—on that date.

[1.6] Section 33 (1) (c), (d) and (e)

substitute

- (c) the person is registered under the *Working with Vulnerable People (Background Checking) Act 2011*; and

[1.7] New section 33 (1A)

insert

- (1A) However, subsection (1) (c) does not apply if the institute is satisfied on reasonable grounds that—
 - (a) if the person has lived in Australia—the person has supplied a police certificate; and

- (b) if the person has lived in another country as an adult for a continuous period of more than 1 year—the person has supplied a certified copy of the person’s criminal history record from that country; and
- (c) in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (a) or (b)—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.

[1.8] Section 33 (2)

omit

subsection (1) (d)

substitute

subsection (1A) (b)

[1.9] New section 33 (2A)

insert

- (2A) Subsections (1A) and (2), and this subsection, expire—
 - (a) 1 year after the day this subsection commences; or
 - (b) if another date is prescribed by regulation for this subsection—on that date.

[1.10] Section 35 (1) (b), (c) and (d)

substitute

- (b) the person is registered under the *Working with Vulnerable People (Background Checking) Act 2011*;

[1.11] New section 35 (1A)

insert

- (1A) However, subsection (1) (b) does not apply if the institute is satisfied on reasonable grounds that—
- (a) if the person has lived in Australia—the person has supplied a police certificate; and
 - (b) if the person has lived in another country as an adult for a continuous period of more than 1 year—the person has supplied a certified copy of the person’s criminal history record from that country; and
 - (c) that in relation to any conviction mentioned in the certificate or criminal history record supplied under paragraph (a) or (b)—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.

[1.12] Section 35 (2)

omit

subsection (1) (c)

substitute

subsection (1A) (b)

[1.13] New section 35 (2A)

insert

- (2A) Subsections (1A) and (2), and this subsection, expire—
- (a) 1 year after the day this subsection commences; or
 - (b) if another date is prescribed by regulation for this subsection—
on that date.

[1.14] New section 35A (3)

insert

- (3) This section expires—
- (a) 1 year after the day this subsection commences; or
 - (b) if another date is prescribed by regulation for this subsection—
on that date.

[1.15] New section 35B (3)

insert

- (3) This section expires—
- (a) 1 year after the day this subsection commences; or
 - (b) if another date is prescribed by regulation for this subsection—
on that date.

[1.16] Section 51 (5) (d)

substitute

- (d) that the teacher is registered under the *Working with Vulnerable People (Background Checking) Act 2011*.

[1.17] New section 51 (5A) and (5B)

insert

- (5A) However, subsection (5) (d) does not apply if the institute is satisfied on reasonable grounds that—
- (a) in the 5-year period before the renewal, the teacher has supplied a police certificate or, if applicable, a certified copy of the teacher's criminal history record; and
 - (b) in relation to any conviction mentioned in the certificate or criminal history record—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.
- (5B) Subsection (5A) and this subsection expire—
- (a) 1 year after the day this subsection commences; or
 - (b) if another date is prescribed by regulation for this subsection—on that date.

[1.18] Section 53 (5) (d)

substitute

- (d) that the permit-holder is registered under the *Working with Vulnerable People (Background Checking) Act 2011*.

[1.19] New section 53 (5A) and (5B)

insert

- (5A) However, subsection (5) (d) does not apply if the institute is satisfied on reasonable grounds that—
- (a) in the 5-year period before the renewal, the permit-holder has supplied a police certificate or, if applicable, a certified copy of the permit-holder's criminal history record; and
 - (b) in relation to any conviction mentioned in the certificate or criminal history record—
 - (i) the certificate or criminal history record has been assessed in accordance with the criminal history guidelines; and
 - (ii) the conviction does not have a high degree of direct connection with the inherent requirements of the teaching profession.
- (5B) Subsection (5A) and this subsection expire—
- (a) 1 year after the day this subsection commences; or
 - (b) if another date is prescribed by regulation for this subsection—on that date.

[1.20] Dictionary

omit the definitions of

criminal history guidelines

criminal history record

CrimTrac

police certificate

Part 1.2 Children and Young People Act 2008

[1.21] New section 63 (3)

insert

- (3) The director-general must not approve an entity as a suitable entity for a stated purpose if—
- (a) the purpose involves engaging in a regulated activity within the meaning of the Working with Vulnerable People Act; and
 - (b) the entity is required to be registered under that Act to engage in the activity; and
 - (c) the entity is not registered under that Act.

[1.22] Section 438 (2), new note

before the note, insert

Note 1 Certain people conducting an activity, or providing a service, under this Act are required to be registered under the Working with Vulnerable People Act (see that Act, s 11 and sch 1).

[1.23] Section 875 (2), examples

insert

- *Working with Vulnerable People (Background Checking) Act 2011*

[1.24] Dictionary, new definition of *Working with Vulnerable People Act*

insert

Working with Vulnerable People Act means the *Working with Vulnerable People (Background Checking) Act 2011*.

Part 1.3 Public Sector Management Act 1994

[1.25] Section 68, new note

insert

Note If a person is to be appointed to a position that involves a regulated activity and contact with a vulnerable person within the meaning of the *Working with Vulnerable People (Background Checking) Act 2011*, the person may need to be registered under that Act.

Part 1.4 Spent Convictions Act 2000

[1.26] New section 19 (1) (e)

insert

(e) for registration under the *Working with Vulnerable People (Background Checking) Act 2011*.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 22 September 2011.

2 Notification

Notified under the Legislation Act on 8 November 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Working with Vulnerable People (Consequential Amendments) Bill 2011, which was passed by the Legislative Assembly on 25 October 2011.

Clerk of the Legislative Assembly

© Australian Capital Territory 2011