



Australian Capital Territory

Reportable Conduct and Information Sharing Legislation Amendment Act 2017

A2017-48

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Australian Capital Territory

Reportable Conduct and Information Sharing Legislation Amendment Act 2017

A2017-48

An Act to amend legislation about reportable conduct and information sharing,
and for other purposes

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

J2017-159

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

Part 1 Preliminary

1 Name of Act

This Act is the *Reportable Conduct and Information Sharing Legislation Amendment Act 2017*.

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

This Act amends the *Children and Young People Act 2008* and the *Ombudsman Act 1989*.

Part 2 Children and Young People Act 2008

4 Division 25.3.3 heading

substitute

Division 25.3.3 Sharing reportable conduct information

5 Definitions—div 25.3.3 Section 863A (1), definition of *designated entity*, paragraph (a)

substitute

(a) see the *Ombudsman Act 1989*, section 17EA; and

6 Section 863A (1), new definitions

insert

child safety information sharing entity means an entity to which the ombudsman may disclose information under the *Ombudsman Act 1989*, section 34A.

head, of a designated entity—see the *Ombudsman Act 1989*, section 17D (1).

7 Section 863B heading

substitute

863B Entity may request reportable conduct information

8 Section 863B (1)

omit

A designated entity

substitute

A child safety information sharing entity or the head of a designated entity

9 Section 863B (1)

omit

another designated entity

substitute

another child safety information sharing entity or designated entity

10 Section 863B (2)

before 1st mention of

designated entity

insert

child safety information sharing entity or

11 Section 863B (2) (b)

before

a designated entity

insert

a child safety information sharing entity or

12 Section 863C heading

substitute

863C Entity may provide reportable conduct information**13 Section 863C (1)**

before

a designated entity

insert

a child safety information sharing entity or

14 New section 863CA

insert

863CA Unsolicited provision of information

A child safety information sharing entity or the head of a designated entity (the *providing entity*) may, on the providing entity's own initiative, give reportable conduct information to another child safety information sharing entity or a designated entity (the *receiving entity*) if the providing entity is satisfied on reasonable grounds that giving the information is relevant for the receiving entity to—

- (a) do any of the following for the safety, welfare or wellbeing of a child, young person or class of child or young person:
 - (i) make a decision or an assessment;
 - (ii) plan, begin, or conduct an investigation;
 - (iii) provide any other service in accordance with the receiving entity's functions; or

- (b) deal with a risk to a child, young person or class of child or young person that might arise in the course of the receiving entity's operation as a child safety information sharing entity or designated entity, including as an employer.

15 Sections 863D, 863E and 863F

before

designated entity

insert

child safety information sharing entity or a

16 Section 863G heading

substitute

863G Coordination etc between entities

17 Section 863G

before

designated entities

insert

child safety information sharing entities and

18 Dictionary, new definition of *child safety information sharing entity*

insert

child safety information sharing entity, for division 25.3.3 (Sharing reportable conduct information)—see section 863A (1).

19 Dictionary, definition of *designated entity*

substitute

designated entity, for division 25.3.3 (Sharing reportable conduct information)—see section 863A (1).

20 Dictionary, new definition of *head*

insert

head, of a designated entity, for division 25.3.3 (Sharing reportable conduct information)—see the [Ombudsman Act 1989](#), section 17D (1).

21 Dictionary, definition of *reportable conduct information*

substitute

reportable conduct information, for division 25.3.3 (Sharing reportable conduct information)—see section 863A (1).

Part 3 Ombudsman Act 1989

22 Functions—investigating complaints under Act Section 5 (2) (l)

after last mention of

those persons

insert

, other than action taken in relation to a reportable allegation or a reportable conviction

23 Section 5 (2) (l), new note

insert

Note The ombudsman may, under s 17K, conduct an investigation into any reportable allegation or reportable conviction involving an employee of a designated entity.

24 Section 5 (2) (o)

after 1st mention of

agency

insert

, other than action taken in relation to a reportable allegation or a reportable conviction

25 Section 5 (8), new definitions

insert

reportable allegation—see section 17D.

reportable conviction—see section 17D.

26 **Definitions—div 2.2A**
Section 17D (1), definition of *designated entity*

substitute

designated entity—see section 17EA.

27 **Section 17D (1), definition of *employee***

substitute

employee, of a designated entity—

- (a) means a person who is engaged—
- (i) under a contract of employment with the designated entity; or
 - (ii) by the designated entity to provide services to children (other than under a contract of employment); or

Examples

- out-of-home carer
- volunteer

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (iii) by another entity (whether or not under a contract of employment) to provide services to children on behalf of the designated entity; and

Example

subcontractor

- (b) for a designated entity that, in accordance with the *Children and Young People Act 2008*, authorises an out-of-home carer to exercise daily care responsibility or long-term care responsibility for a child—includes an adult who stays for at least 21 days at premises provided by the authorised out-of-home carer for the child to live.

28 Section 17D (1), new definition of reportable conduct

insert

reportable conduct—see section 17E.

29 Section 17D (2)

omit

30 New sections 17EA and 17EB

insert

17EA Meaning of *designated entity*—div 2.2A

- (1) For this division, an entity is a *designated entity* if—
- (a) it is 1 of the following:
- (i) an administrative unit;
 - (ii) a health service;
 - (iii) a government school or a non-government school;
 - (iv) an education and care service;
 - (v) a childcare service;

- (vi) an approved kinship and foster care organisation;
 - (vii) an approved residential care organisation;
 - (viii) any other entity prescribed by regulation; and
- (b) it is not exempted by regulation.
- (2) In this section:

approved kinship and foster care organisation—see the *Children and Young People Act 2008*, section 502.

approved residential care organisation—see the *Children and Young People Act 2008*, section 502.

childcare service—see the *Children and Young People Act 2008*, section 732.

education and care service—see the *Education and Care Services National Law (ACT)*.

government school—see the *Education Act 2004*, dictionary.

health service means the following services:

- (a) ambulance services;
- (b) services provided by a public health facility;
- (c) hospital services;
- (d) any other services prescribed by regulation.

non-government school—see the *Education Act 2004*, dictionary.

17EB Designated entity to have practices and procedures to deal with reportable conduct

- (1) The head of a designated entity must ensure that the entity has in place practices and procedures—
 - (a) for preventing reportable conduct by an employee of the entity—
 - (i) in the course of the employee’s employment with the entity; or
 - (ii) other than in the course of the employee’s employment with the entity if the employment would facilitate the employee’s reportable conduct; and
 - (b) to enable any person, including an employee of the entity, to notify the head of the entity of a reportable allegation or reportable conviction involving an employee of the entity; and
 - (c) for dealing with a reportable allegation or reportable conviction involving an employee of the entity; and
 - (d) for the receipt, handling and disclosure of information relating to reportable allegations, reportable convictions and investigation information.
- (2) In this section:
procedures includes policies.

31 Section 17H heading*substitute***17H Information may be disclosed to ombudsman**

32 Section 17H (2) and (3)

omit

33 New section 34A

insert

34A Ombudsman may disclose child safety information

- (1) The ombudsman may, if the ombudsman is satisfied on reasonable grounds that information received by the ombudsman under this Act is relevant to the safety, health or wellbeing of a child or class of child, disclose the information to any of the following:
 - (a) the chief police officer;
 - (b) a law enforcement agency;
 - (c) the human rights commission;
 - (d) the director-general responsible for the *Children and Young People Act 2008*, other than that Act, chapter 20;
 - (e) the director-general responsible for the *Education Act 2004*;
 - (f) the director-general responsible for the *Education and Care Services National Law (ACT)*;
 - (g) the chief executive officer of the ACT Teacher Quality Institute;
 - (h) the commissioner for fair trading;
 - (i) the director-general responsible for the *Health Act 1993*;
 - (j) any other entity prescribed by regulation.

(2) In this section:

ACT Teacher Quality Institute means the institute established under the *ACT Teacher Quality Institute Act 2010*, section 10.

law enforcement agency—see the *Spent Convictions Act 2000*, dictionary.

34 Dictionary, definition of *designated entity*

substitute

designated entity, for division 2.2A (Reportable conduct)—see section 17EA.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2 November 2017.

2 Notification

Notified under the [Legislation Act](#) on 12 December 2017.

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 Reportable Conduct and Information Sharing Legislation Amendment Bill 2017, which was passed by the Legislative Assembly on 30 November 2017.

Clerk of the Legislative Assembly

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