

# Prohibited employment declaration

## Child Protection (Prohibited Employment) Act 1998



The Child Protection (Prohibited Employment) Act 1998 makes it an offence for a person convicted of a serious sex offence (a prohibited person) or a Registrable Person under the Child Protection (Offenders Registration) Act 2000 to apply for, undertake or remain in, child-related employment. It does not apply if an order from the Industrial Relations Commission or the Administrative Decisions Tribunal or the Commission for Children and Young People, declares that the Act does not apply to a particular person.

Section 5 of the Child Protection (Prohibited Employment) Act 1998 defines a serious sex offence as an offence involving sexual activity or act of indecency that was committed in NSW and that was punishable by penal servitude or imprisonment of 12 months or more even if the sentence was not served, or, an offence involving sexual activity or acts of indecency that was committed elsewhere and that would have been an offence punishable by penal servitude or imprisonment for 12 months or more if it had been committed in NSW; or an offence under Sections 91D-91G (other than if committed by a child prostitute) and 578B or 578C(2A) of the Crimes Act 1900 or a similar offence under a law other than a law of NSW; or an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in the preceding paragraphs; or any other offence prescribed by the regulations. (Note: A conviction for carnal knowledge is classified as a serious sex offence under this legislation.)

Child-related employment means any employment that primarily involves direct contact with children where that contact is not directly supervised. Part 1 Section 3 of the Child Protection (Prohibited Employment) Act 1998 specifies that child-related employment is employment:

- involving the provision of child protection services
- in pre-schools, kindergartens and child care centres (including residential child care centres)
- in schools or other educational institutions (not including universities)
- in detention centres (within the meaning of the Child (Detention Centres) Act 1987)
- in refuges used by children
- in wards of public or private hospitals in which children are patients
- in clubs, associations or movements (including of a cultural, recreational or sporting nature) having a significant child membership
- in any religious organisation
- in any entertainment venues where the clientele is primarily children
- as a babysitter or childminder that is arranged by a commercial agency
- involving fostering or other child care
- involving regular provision of taxi services for the transport of children with a disability
- involving the private tuition of children
- involving the direct provision of health services
- involving the provision of counselling or other support services for children
- on school buses
- at overnight camps for children.

### Under this Act:

- it is an offence for a prohibited person to **apply for, undertake or remain** in child-related employment
- employers **must** ask existing employees, both **paid and unpaid**, and preferred applicants for employment to declare whether they are a prohibited person or not
- all child-related employees **must** inform their employers if they are a 'prohibited person' or remove themselves from child-related employment. A prohibited person is someone who has been convicted of a serious sex offence or, who has had a finding for a charge of serious sex offence proven in court, even if a conviction was not recorded.
- penalties are imposed for non compliance.

I am aware that I am ineligible to apply for, undertake or remain in, child-related employment if I have been convicted of a "serious sex offence" as defined in the Child Protection (Prohibited Employment) Act 1998 or if I am a "Registrable Person" under the Child Protection (Offenders Registration) Act 2000. I have read and understood the above information in relation to the Child Protection (Prohibited Employment) Act 1998 and understand my responsibilities and obligations under this Act.

I declare that I am not a person prohibited by the Act from seeking, undertaking or remaining in child-related employment.

I understand that this information may be referred to the Commission for Children and Young People and/or to NSW Police for law enforcement purposes and for monitoring and auditing compliance with the procedures and standards for employment screening in accordance with Section 36 (1) (f) of the Commission for Children and Young People Act 1998.

Name (Block letters)		Signature
Workplace	Name of school, school education area, institute, division, state office directorate or AMES	
DET ID no.	Current employees only	Date

**Note:** Seek independent legal advice if you are unsure of your status as a prohibited person. This form should be returned to the selection panel convener / principal / manager of the workplace as appropriate.

# Consent to employment screening

This form is to be completed by persons whose names are to be submitted for employment screening as part of the *Working with Children Check*.

Employers are required to sight applicant's original identifying documents.

NEW SOUTH WALES  
DEPARTMENT  
OF EDUCATION  
AND TRAINING



## Personal details

SURNAME Block letters		Previous names/aliases		
First name		Place of birth (City, State and Country)	<input type="checkbox"/> Female <input type="checkbox"/> Male	
Middle name			Driver's licence no.	
Date of birth			Telephone:	
Address		Suburb	State	Postcode
Position applied for		Location of position		

## Consent to screening

I certify that the above information is accurate and I understand that if I have provided false or misleading information it may result in a decision not to employ me, or if already employed, may lead to my dismissal.

I am aware that if I am considered for employment in a primary child-related position, several screening processes will be undertaken to check my suitability, including:

- a national criminal records check for all charges and/or convictions (including spent convictions) for:
  - any sexual offence including but not limited to sexual assault, acts of indecency, child pornography, child prostitution and carnal knowledge;
  - any assault, ill treatment or neglect of or psychological harm to a child;
  - any registrable offence;
 carrying a minimum penalty of 12 months imprisonment or more.

I understand that this check includes charges that:

- may have not been heard or finalised by a court;
  - are proven but have not led to a conviction; or
  - have been dismissed, withdrawn or quashed discharged by a court.
- a check for relevant apprehended violence orders taken out by a police officer or other public official for the protection of children; and
  - a check for relevant employment proceedings involving reportable conduct or an act of violence committed by the employee in the course of employment and in the presence of children. Reportable conduct means any sexual offence or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence) or any assault, ill treatment or neglect of a child, or any behaviour that causes psychological harm to a child.

I understand that conviction for a serious sex offence (including but not limited to sexual assault, acts of indecency, child pornography or child prostitution and carnal knowledge) will prohibit my employment in a child-related position. This includes a charge that is proven in court but does not proceed to a conviction. I am aware that if I am a "registrable person" under the Child Protection (Offenders Registration) Act 2000, I am prohibited from employment in a child-related position.

I consent to these checks being conducted and am aware that if any relevant record is identified, additional information relating to that record may be sought by the Approved Screening Agency from sources such as courts, police, prosecutors and past employers to enable a full and informed assessment.

I acknowledge that:

- any information obtained as part of this process may be used by Australian Police Services for law enforcement purposes including the investigation of any outstanding criminal offences;
- the outcome of assessment of information obtained through the Working with Children Check by the Approved Screening Agency may be provided to my current or prospective employers only for background checking purposes;
- the information provided may be referred to the Commission for Children and Young People and/or to NSW Police for law enforcement purposes and for monitoring and auditing compliance with the procedures and standards for employment screening in accordance with section 36 (1) (f) of the Commission for Children and Young People Act 1998; and
- the above information and any information obtained during employment screening may be collected and used by and/or disclosed to the Commission for Children and Young People or any Approved Screening Agency for employment screening purposes.

Signature			Date / /
-----------	--	--	----------

### Office use only

Name of employer contact	Designation	Signature	Telephone No.
--------------------------	-------------	-----------	---------------