
Working with Children Event Guidelines



This document was developed by Australian Canoeing Lawyers in September 2010.

They do not cover every eventuality and may be subject to change

If you are unsure please contact Australian Canoeing for Clarification

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TRANSPARENCY OF CHECKS ACROSS STATE BOUNDARIES

Unfortunately, there is no single national framework in Australia setting out the requirements for obtaining Working With Children Checks or Police Checks. Each State and Territory has its own procedures and card system.

A person must fulfil the particular requirements of the jurisdiction(s) in which they will be working.

REQUIREMENTS FOR INTERSTATE AND INTERNATIONAL WORKERS

Each jurisdiction has exemptions for volunteer workers who do not ordinarily live within that state. This is generally only for work during a short period of time.

State	Exemption for interstate and international workers
NSW	Volunteer workers do not need to have a WWCC, they need only sign a volunteer declaration. According to the government website, if an interstate employee occasionally has to work in NSW, they do not require a Working With Children Check. For example, a Queensland school teacher on an excursion to NSW does not need a NSW Working With Children Check.
Northern Territory	Visitors to the NT who are engaged as volunteers for a "period that does not exceed the limit prescribed by regulation" are exempt. Note that the NT laws are new. It appears that no regulations have been made yet setting out the prescribed period.
Queensland	There are no specific exemptions for interstate and international workers. However, volunteers and paid employees who only work for short periods with children are exempt as follows: Paid employees of sports clubs or associations do not need a WWCC if their work does or is likely to involve conducting activities that mainly involve children for less than: <ul style="list-style-type: none">• eight consecutive days; or

	<ul style="list-style-type: none"> • once a week, each week, over four weeks; or • once a fortnight, each fortnight, over eight weeks; or • once a month, each month, over six months. <p>Volunteers at national or state sporting events organised by an incorporated association or corporation that is attended by more than 100 people are also exempt provided that:</p> <p>(a) the work is for ten days or less on no more than two occasions per year; and (b) the volunteer is unlikely to be physically present with a child without another adult being present.</p>
SA	No check required for non-government organisations.
Victoria	<p>A person who is not ordinarily resident in Victoria is exempt from a working with children check in respect of child-related work in which he or she engages in Victoria if he or she does not ordinarily engage in that work in Victoria.</p> <p>Example: Keith lives in New South Wales and coaches a baseball team that is selected to play in a one-off competition to be held in Victoria. Because Keith does not ordinarily live and perform 'child-related work' in Victoria and will only be in Victoria for a few days, he does not need to apply for a WWC Check.</p>
Western Australia	No WWCC is required for work carried out by non-residents of WA during the 2 week period after the visitor first arrives in Western Australia. This exemption cannot exceed 2 weeks in any 12 month period.

FLEXIBILITY FOR PARENTS OF PARTICIPANTS

Generally, parent volunteers are exempt if their child is participating in the relevant activity. The precise requirements for each jurisdiction are outlined in the table below.

State	Exemptions for parent volunteers
NSW	<p>Volunteers do not need a WWCC – they need only sign a volunteer declaration.</p> <p>If the parent is paid, they are only exempt if they are related to all of the children they will be working with, or they are related to their employer and the employer is related to all of the children.</p>
Northern Territory	<p>A volunteer is exempt if they are:</p> <p>(a) the parent of at least one of the children they may have contact with, and</p> <p>(b) are supervised by a person with a current clearance notice</p>
Queensland	<p>A worker in a sports club or association is exempt if they are:</p> <p>(a) A volunteer, and</p> <p>(b) The parent of a child who participates in the activities to which the employment relates or similar services provided by someone else within the club or association.</p>
SA	<p>No WWCC required for non-government organisations whether or not they are a parent.</p>
Victoria	<p>The regulations do not apply to a volunteer whose child is participating or ordinarily participates in the relevant activity.</p>
Western Australia	<p>Volunteers who are the parent of a child who is involved, or is ordinarily involved in some, or all, of the activities of a club, association or movement are exempt.</p>

WORKING WITH CHILDREN CHECKS

States with no legislation: At present, there are no legal requirements for people working with children to undergo a police check in the Australian Capital Territory or Tasmania. There are also no national standards regarding police checks and clearances.

	New South Wales	Queensland	South Australia
Relevant Legislation	<i>Commission for Children and Young People Act 1998</i>	<i>Commission for Children and Young People and Child Guardian Act 2000</i>	<i>Children's Protection Act 1993</i> *Note new legislation will come into force in early 2011.
Who the procedures apply to	<p>In NSW, regulations on background checks apply to businesses and organisations (and their employees or volunteers), if they engage in "child related employment" (s 33D).</p> <p>"Child-related employment" is work across a range of industries that primarily involves direct contact with children, and where that contact is not directly supervised (s 33).</p> <p>"direct contact" is not defined in the Act. However, the Commission for Young People website on WWCC states that direct contact means face to face contact. If the only contact is by phone or internet, it is not direct.</p> <p>The website further states that "direct supervision" is when a supervisor is on site and observes the worker for the whole time they are with children (except for infrequent and short breaks).</p> <p>According to the website, volunteers in sports organisations do not need to get a working with children check (only paid employees). Volunteers must sign a Volunteer Declaration. The Volunteer declaration requires a person to supply their contact information, personal identification, and a declaration that they are not a</p>	<p>In Queensland, background check regulations apply to similar types of businesses and employment involving children as in NSW. These are called "regulated businesses" and "regulated employment".</p> <p>Regulation applies in work environments where the usual functions of the employment include or are likely to include conducting activities involving children (Schedule 1). Each category of work has its own particular requirements.</p>	<p>In SA, the regulations apply to:</p> <ul style="list-style-type: none"> • government organisations, and • any non-government organisations prescribed by the regulations. <p>There are currently no non-government organisations prescribed by the regulations. Therefore, the regulations do <i>not</i> currently apply to commercial businesses: s 8B(6)</p> <p>The regulations apply to employees, volunteers, agents, contractors and subcontractors and any other person that the authority is responsible for: s 8B. These people will be regulated if they have regular contact with children or working in close proximity to children on a regular basis.</p> <p>It also applies to people who have access to records relating to children (s 8B(8)).</p>

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	<p>prohibited person.</p> <p>***The section dealing with pre-employment WWCC uses a narrower definition of "child related employment" than is used in the rest of the Act. This definition only captures paid employees and volunteers who provide intimate personal care services to children with disabilities or who develop close relationships with disadvantaged children: s 37(6).***</p>		
Who is exempt	<p>The regulations do not apply where the children that the person is required to have contact with are related to the person, or where they are related to the employer and the person is also related to the employer (s 33PA).</p> <p>Volunteers need only sign a Volunteer Declaration –they do not need a Working With Children Check unless they are providing intimate services to disabled children (NSW gov website).</p>	<p>Different exemptions apply in regards to different types of business and employment.</p> <p>For clubs and sporting associations, volunteers are exempt if they are the parent of a child who receives the services which the volunteer provides or similar services provided by someone else within the club or association: Schedule 1 ss 5, 11.</p> <p>The regulations also do not apply to the police, registered teachers, registered health practitioners, and people who give help or guidance to child employees (s 173 and Schedule 1, 22 26-29).</p> <p>There are different exemptions for different categories of business and employment.</p> <p>One of these exemptions relates to volunteers at national or state sporting events organised by an incorporated association or corporation that is attended by more than 100 people; provided that the work is for ten days or less on no more than two occasions per year; and the volunteer is unlikely to be physically present with a child without another adult being present (<i>Commission for Children and Young People and Child Guardian Regulation 2001 – Schedule 3, s 2</i>)</p>	<p>Commercial or non-government organisations unless listed under the regulations.</p> <p>There are currently no organisations listed under the regulations. However, this will change in early 2011 when new legislation is introduced.</p>

	New South Wales	Queensland	South Australia
Process	<p>Paid employees must have a WWCC.</p> <p>The employer must carry out a background check of an applicant or volunteer before employing them in child-related employment (s 37).</p> <p>This can be deferred in a particular case if the employer can establish that it was not reasonably practicable to carry the procedures at the time (s 37(3)).</p> <p>The employer may ask the Commission or an approved screening agency to carry out those procedures instead (s 37(4)).</p> <p>For employees of less than 6 months, it is enough if background checking procedures have been carried out within the period of 12 months before employing the person (s 37A).</p>	<p>A person who employs an employee or engages a volunteer may apply to the Commissioner for a "blue card" for an employee or prospective employee (s 199).</p> <p>The application must be in the approved form and signed and certified by the employer and prospective employee (s 200).</p> <p>The Commissioner must then give either positive or negative notice in response to the application (220). Successful applicants will be sent a positive notice and a "blue card".</p> <p>The Commissioner may give positive notice where there are no convictions or no serious convictions against the person, and no disciplinary information about the relevant person (s 221).</p> <p>In other situations, if the Commissioner is satisfied that it would not be in the best interests of children for the Commissioner to issue a positive notice they may give negative notice (s 221(2)).</p> <p>If the Commissioner gives a negative notice, they must provide reasons for the decision: s 233</p>	<p>Organisations must obtain a report from the Commissioner of Police on the criminal history of any employee, volunteer, agent, contractor or subcontractor or other persons that the authority is responsible for (s 8B) before they are employed/provide services.</p> <p>Under the regulations, the organisation must then deal with that information in accordance with any statement by the Chief Executive and other legislation including the <i>Child Sex Offender Registration Act 2006</i>.</p>
What is checked	<p>A "background check" involves a check for any relevant criminal record of the person, or any apprehended violence orders, child protection prohibition orders or employment orders made against the person.</p> <p>It also involves any other relevant probity check relating to the person's previous employment or other activities, and an estimate of the risk to children involved in that child-related employment arising from anything disclosed, having regard to all the circumstances of the case (s 34)</p>	<p>The Commissioner will consider police information or disciplinary information about the relevant person as well as the information listed above such as other offences or discretionary investigative information (s 221).</p>	<p>The check is a normal criminal history check.</p>

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Who is ineligible	<p>In NSW, a person is automatically ineligible for child-related employment if the person has been convicted of a serious sex offence, the murder of a child or a child-related personal violence offence (s 33B(1)).</p> <p>A person is also ineligible if they are a registrable person within the meaning of the <i>Child Protection (Offenders Registration) Act 2000</i> (s 33B(2)).</p>	<p>The Commissioner must issue a negative notice to the relevant person if the commissioner is aware the person has been previously disqualified, or has been convicted of a serious or disqualifying offence: ss 221, 225</p> <p>Serious offences and disqualifying offences are set out in schedules 2 and 4 to the Act and mainly concerns sexual offences against minors and aggravated assault.</p>	<p>Under Section 65 of the Child Sex Offenders Registration Act 2006 (SA), it is an offence for 'registrable offenders' to work</p> <p>with, or apply to work with, children.</p> <p>Registrable offences are outlined in Schedules 1 and 2 of the <i>Child Sex Offender Registration Act 2006</i> and include sexual (or sexually-motivated) offences where the victim was a child.</p> <p><i>Maximum penalty: 5 years imprisonment</i></p>
Obligations for employers or organisations	<p>An employer must not commence employing another person in child-related employment (including as a volunteer) without first requiring that other person to disclose whether or not that other person is a prohibited person (33D(1)).</p> <p><i>Maximum penalty: a fine of \$2,200, in the case of a corporation, and a fine of \$1,100 in any other case.</i></p> <p>An employer must not commence employing, or continue to employ, in child-related employment a person that the employer knows is a prohibited person (s 33E).</p> <p><i>Maximum penalty: a fine of \$11,000 in the case of a corporation, and a fine of \$5,500 in any other case.</i></p> <p>An employer must notify the Commission of the name and details of any employee against whom relevant employment proceedings have been completed by the employer. Relevant employment proceedings includes disciplinary or other proceedings involving child related offences or offences in the presence of a child (s 39)</p> <p>An employer must notify the Commission of any applicant who is rejected on the basis of their background check: s 40.</p>	<p>A person must not carry on a regulated business unless they have a current positive notice: s 197.</p> <p><i>Maximum penalty: \$50,000 or 5 years imprisonment</i></p> <p>Regulated businesses and regulated employers must, each year, develop a written child protection strategy: s 171.</p> <p><i>Maximum penalty— a fine of \$2,000.</i></p> <p>A person must not employ, reemploy or continue employing another person in regulated employment unless the person has a current positive notice. This does not apply to very infrequent employment (less than the "minimum frequency for regulated employment").</p> <p>If the employee is a new employee, the employer must notify the commissioner that the employer is going to employ the person to do regulated employment: s 193.</p> <p><i>Maximum penalty— a fine of \$5000.</i></p> <p>A person must not employ (including as a volunteer) or continue employing a person to do child-related work who has</p>	<p>Organisations must establish appropriate policies and procedures for ensuring that appropriate reports of abuse or neglect are made under the Act and that "child safe environments" are established and maintained within the organisation (s 8C).</p> <p><i>Maximum penalty – a fine of \$10,000.</i></p> <p>An organisation must ensure that a report on the criminal history (if any) of each person occupying or acting in a prescribed position (whether as an employee, volunteer, agent, contractor or subcontractor) is obtained from the Commissioner of Police or some other prescribed source (s 8B).</p> <p><i>Maximum penalty – a fine of \$10,000.</i></p>

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		<p>been given negative notice or who's notice has been withdrawn: s 194 and 188.</p> <p><i>Maximum penalty—</i></p> <p><i>a fine of \$20,000 or 2 years imprisonment (employee)</i></p> <p><i>Maximum penalty — a fine of \$5000. (volunteer)</i></p>	
Offences and Penalties for Workers or Volunteers	<p>A person with negative notice or an ineligible person must not apply for or undertake or remain in, child-related employment (s 33C(1)).</p> <p><i>Maximum penalty— a fine of \$11,000, or imprisonment for 2 years, or both.</i></p> <p>A person is not criminally responsible for an offence against this section if the person did not know, at the time of the commission of the offence, that the employment concerned was child-related employment (s 33C).</p> <p>A person must not, in purported compliance with these requirements, make any statement that the person knows is false (S 33D(2)).</p> <p><i>Maximum penalty— a fine of \$11,000, or imprisonment for 12 months, or both.</i></p>	<p>A person must not apply for, start or continue in regulated employment if they have received a negative notice or negative exemption notice (s 195).\</p> <p><i>Maximum penalty— a fine of \$50,000 or 5 years imprisonment.</i></p> <p>A person who has withdrawn consent to employment screening must not start or continue in regulated employment unless they receive a positive notice: s 196.</p> <p><i>Maximum penalty - \$50,000 or 5 years imprisonment.</i></p>	<p>Under s 65 of the Child Sex Offenders Registration Act 2006 (SA) it is an offence for 'registerable offenders' to work with, or apply to work with, children.</p> <p><i>Maximum penalty – 5 years imprisonment.</i></p>
Do competition judges and officials need a WWCC?	<p>Volunteer judges are exempt.</p> <p>Paid judges will be exempt if:</p> <ul style="list-style-type: none"> the work does <i>not</i> primarily involve direct face-to-face contact with children (as per the definition of "child related employment": s 33, or if the work <i>does</i> primarily involve direct contact with children, but the judge is directly supervised at all times by someone (eg the head judge) who is authorised to direct 	<p>Yes, unless the person falls within the exemption for volunteers at national or state sporting events organised by an incorporated association or corporation that is attended by more than 100 people; and the work is for ten days or less on no more than two occasions per year; and the volunteer is unlikely to be physically present with a child without another adult being present.</p>	<p>No.</p> <p>The organisation must, however, have a policy in place for ensuring child safe environments, which may include screening employees.</p> <p>Note that new amendments to the SA legislation will commence in January 2011.</p>

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	them in their employment and who has a current WWCC.		
Relevant legislation	<p>Section 33 – Definitions</p> <p>"child-related employment":</p> <p>a) means any employment of the following kind that primarily involves direct contact with children where that contact is not directly supervised by a person having the capacity to direct the person in the course of the employment:</p> <ul style="list-style-type: none"> i. employment involving the provision of child protection services, ii. employment in pre-schools, kindergartens and child care centres (including residential child care centres), iii. employment in schools or other educational institutions (not being universities), iv. employment in detention centres (within the meaning of the Children (Detention Centres) Act 1987) and juvenile correctional centres (within the meaning of the Crimes (Administration of Sentences) Act 1999), v. employment in refuges used by children, vi. employment in wards of public or private hospitals in which children are patients, vii. employment in clubs, associations, movements, societies, institutions or other bodies (including bodies of a cultural, recreational or sporting nature) having a significant child membership or involvement, viii. employment in any religious organisation, 	<p>Schedule 1 – regulated employment and businesses for employment screening</p> <p>Employment is regulated employment if any of the usual functions of the employment is carried out, or is likely to be carried out, inside or by-</p> <ul style="list-style-type: none"> Residential facilities Boarding facilities Schools Child care centres Churches, clubs and associations involving children Health, counselling and support services Private teaching, coaching or tutoring Education programs conducted outside of school Child accommodation services including home stays Religious representatives Sport and active recreation groups Emergency services cadet programs School crossing supervisors <p>A business is a regulated business if the usual activities of the business include, or are likely to include, a person providing 1 or more of the following to a child</p>	<p>Section 8B—Powers and obligations of responsible authority in respect of criminal history</p> <p>Working with children is defined as performing a "prescribed function".</p> <p>"prescribed functions" means—</p> <ul style="list-style-type: none"> c) regular contact with children or working in close proximity to children on a regular basis; or d) supervision or management of persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis; or e) access to records relating to children; or f) functions of a type prescribed by regulation;

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	<ul style="list-style-type: none"> ix. employment in entertainment venues where the clientele is primarily children, x. employment as a babysitter or childminder that is arranged by a commercial agency, xi. employment involving fostering or other child care, xii. employment involving regular provision of taxi services for the transport of children with a disability, xiii. employment involving the private tuition of children, xiv. employment involving the direct provision of child health services, xv. employment involving the provision of counselling or other support services for children, xvi. employment on school buses, xvii. (employment at overnight camps for children, and <p>(a1) means (without limiting paragraph (a)) any employment of the following kind:</p> <ul style="list-style-type: none"> i. employment comprising the provision of a prescribed children's service, ii. employment as a person involved in the control or management of a prescribed children's service, iii. employment as an authorised supervisor (within the meaning of section 199 of the Children and Young Persons (Care and Protection) Act 1998 in relation to a prescribed children's service, iv. employment as an assessment officer within the meaning 	<p>Health, counselling and support services</p> <p>Private teaching, coaching or tutoring</p> <p>Child care</p> <p>Educational programs conducted outside of school</p> <p>Religious programs</p> <p>Child accommodation services including home stays</p> <p>Sport and active recreation</p> <p>Hostel for children other than a residential facility</p> <p><i>Separate requirements and exemptions apply to each category.</i></p> <p><i>See the full Schedule for details.</i></p>	

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	<p>of section 27A of the Children and Young Persons (Care and Protection) Act 1998 ,</p> <ul style="list-style-type: none"> v. employment as the principal officer of a designated agency within the meaning of the Children and Young Persons (Care and Protection) Act 1998 , vi. employment as the principal officer of an accredited adoption service provider within the meaning of the Adoption Act 2000 , vii. employment as a self-employed person or as a subcontractor (by or on behalf of or in a relevant agency) if that employment involves direct contact with children and the contact is not directly supervised by a person having capacity to direct the self-employed person or subcontractor in the course of his or her work, and <p>(b) includes any other employment of a kind prescribed by the regulations, but does not include any employment of a kind excluded by the regulations.</p>		

	Northern Territory	Western Australia	Victoria
Relevant Legislation	<i>Care and Protection of Children Act 2009 (NT)</i>	<i>Working with Children (Criminal Record Checking) Act 2004</i>	<i>Working with Children Act 2005</i>
Who the procedures apply to	<p>Any organisation or person who is engaged for the purposes of child-related employment,.</p> <p>Child-related employment means any work that involves or may potentially involve contact with children in a range of areas, and covers a broad range of work arrangements including both paid employees and volunteers: s 185.</p> <p>Contact includes any form of physical contact, written communication, or oral communication whether face to face or by other means: s 13.</p>	<p>In WA, the regulations apply to organisations, and their employees and volunteers, in which the usual duties of the work involve, or are likely to involve, contact with a child.</p> <p>Contact means any form of physical contact or oral communication by any means, whether face to face, by telephone or otherwise: s 4.</p> <p>It applies across a range of industries such as education or childcare (s 6).</p>	<p>In Victoria, the regulations apply to organisation and employees or volunteers engaged in "child related work".</p> <p>"Work" includes engagement as an employee, contractor, officer of a body corporate, member of a committee, manager of an incorporated body, member of a partnership. It also includes practical training and volunteer work (s 9).</p> <p>That work is "child-related" if it usually involves, or is likely usually to involve, regular direct contact with a child.</p>
Who is exempt	<p>A person is exempt if they are a volunteer, a parent of at least one of the children they may have contact with, and are supervised by a person with a current clearance notice: s 186.</p> <p>Children under 15 and visitors to the NT who are engaged as volunteers for a short period are also exempt.</p>	<p>In WA, the regulations do not cover contact between a person and a child who is employed by the person; or between a person and a child who are both employed by the same person, if the contact is lawful and arises in the normal course of the child's employment or volunteer work by a child (s 6(2)).</p> <p>Volunteers who are a parent of a child who is involved, or is ordinarily involved in some, or all, of the activities of a club, association or movement are exempt.</p> <p>Interstate volunteers working in WA for less than 2 weeks are also exempt.</p>	<p>In Victoria, the regulations do not apply to a volunteer whose child is participating or ordinarily participates in the relevant activity (e.g. a father coaching a son's football team)(s 27).</p> <p>They also do not apply to a person working with a closely related child (s 28) (e.g. a parent (married or de facto), step-parent, mother-in-law or father-in-law; grandparent; uncle or aunt; brother or sister).</p> <p>Children, teachers, police, accredited drivers and visitors to the state are also exempt from the regulations (s 29-32).</p>
Process	<p>An individual or their employer may apply to the Authority for a clearance notice to be issued to the individual.</p> <p>The application must be in the approved form,</p>	<p>Employers, employees or prospective employees may apply to the chief executive officer of the Department for Child Protection for an assessment notice (s 9, 10).</p>	<p>A person can apply to the Secretary of the Department of Justice for a working with children check to be carried out on themselves.</p>

	<p>accompanied by proof of identity, and a statement by the individual authorising the making of the application and authorising the Commissioner of Police and others to give information about the individual to the Authority: s 188.</p> <p>The individual must give the Authority any additional information requested by the Authority: s 188(3)</p> <p>If the candidate has been convicted of an offence or a criminal history prescribed by regulation, or the Authority considers that the individual poses an unacceptable risk of harm or exploitation to children, the authority must not give the individual a clearance notice: s 189</p> <p>If the Authority decides the individual does not pose an unacceptable risk of harm or exploitation to children, the Authority must issue them a clearance notice: s 189(3).</p> <p>The Authority must give reasons for its decision to issue or not issue a clearance notice: s 189(5).</p>	<p>The application must be in the approved form, signed by the applicant and accompanied by a fee.</p> <p>On receiving the application, the Department of Child Protection may ask the applicant, by written notice or otherwise, to provide any further information or documents.</p> <p>If the Department of Child Protection is not aware of any offence, or of an offence that is not a serious offence under the legislation, the CEO of the Department will issue a positive assessment notice to the applicant unless they are satisfied that, because of the particular circumstances of the case, a negative notice should be issued to the applicant: s 12(4).</p>	<p>The application must be in a form approved by the Secretary that is signed by the applicant and includes identifying information and is accompanied by the application fee s 10(1).</p> <p>The approved form must include a provision authorising a police record check on the applicant and consenting to enquiries being made about the applicant and to the disclosure of any relevant information (s 10(3)).</p>
What is checked	<p>Criminal history and convictions: s 188.</p> <p>Any additional information requested by the Authority: 188(3)</p> <p>The Authority can make administrative guidelines regarding what information can be taken into account when deciding an application for a clearance notice: s 191. Note that administrative guidelines have not been issued yet.</p>	<p>The Department of Child Protection will make a criminal record check in respect of the applicant (s 12) and well as considering anything else that the CEO of the Department reasonably believes is relevant to the decision in the case (s 9).</p>	<p>In considering an application the Department of Justice must arrange for a police record check on the applicant.</p> <p>The Department of Justice may also have regard to any other information given to the Secretary and may make any other enquiries to, or seek advice or information on the application from the Director of Public Prosecutions or any other person or source that the Secretary thinks fit.</p> <p>The Department of Justice may also require the applicant to provide any further information that it thinks fit (s 11(1)).</p>
Who is ineligible	<p>A person who has been convicted of an offence or has a criminal history prescribed by the regulations. Note that the regulations have not come into force yet.</p>	<p>If the Department of Child Protection is aware of a conviction or pending charge in respect of a serious offence, the CEO of the Department is to issue a negative notice to the applicant unless they are satisfied that, because of the exceptional circumstances of the case, an assessment notice should be issued to the applicant.</p> <p>In determining whether to grant an application in exceptional cases,</p>	<p>In Victoria, person is automatically ineligible for child related work if the person is subject to reporting obligations or a supervision order imposed by the Sex Offenders Registration Act 2004 or the Serious Sex Offenders Monitoring Act 2005.</p> <p>They are also automatically ineligible if, as an adult the person has been convicted or found guilty of a sexual offence against a</p>

		<p>the Department of Child Protection will consider a range of factors including the best interests of children, when the offence was committed and the nature of the offence and any relevance it has to child-related work (8).</p> <p>If negative notice is given, the Department of Child Protection will give reasons and the applicant may apply to the State Administrative Tribunal.</p>	<p>child or child pornography offence (s 12(1)).</p> <p>A person is otherwise ineligible if they have been found guilty of a sexual offence not against a child or been convicted of a carnal knowledge offence; a violent offence; or a drug or drug trafficking offence; or child trafficking offence; stalking or loitering around schools offence; offences connected with child-related work or indecent exposure.</p> <p>A person will be eligible in these cases only where the Secretary of the Department of Justice is satisfied that doing so would not pose an unjustifiable risk to the safety of children, having regard to the nature and gravity of the offence, the period of time since the applicant committed the offence and other factors (s 12(1)).</p> <p>A person may also be ineligible for other offences or conduct if the Secretary of the Department of Justice considers it appropriate (s 14(3)).</p>
<p>Obligations for employers or organisations</p>	<p>A person must not engage a person in child-related employment (including as a volunteer) unless the individual has a current clearance notice: s 187(2).</p> <p><i>Maximum penalty: \$66,500</i></p>	<p>An organisation must not employ a person in child-related employment (including, with some very limited exceptions, as a volunteer) if they are aware of a serious offence of which the person has been convicted or has pending (s 22).</p> <p><i>Maximum penalty – a fine of \$60 000 and imprisonment for 5 years.</i></p> <p>An employer must not employ a person (including as a volunteer) in child-related employment if the employer is aware that a negative notice or an interim negative notice has been issued to the person (s 22).</p> <p><i>Maximum penalty – fine of \$60 000 and imprisonment for 5 years.</i></p>	<p>An organisation will be guilty of an offence if they engage or continue to engage the services of a person in child-related work (including as a volunteer) and the worker does not have a current assessment notice or they are reckless as to whether or not he or she has a notice (s 35).</p> <p>The organisation may have a defence if the worker had applied for a working with children check and the application had not been finally decided or withdrawn or the organisation had taken all reasonable steps to have systems in place within the body corporate to ensure compliance with the relevant provision (s 35(2)).</p> <p>The offence applies to each member of an organisation who knew of, or knowingly authorised or permitted, the commission of the offence (s 45).</p> <p><i>Penalty – In the case of a natural person, 2 years imprisonment or a fine of \$28,668. In the case of a body corporate, to a fine not exceeding \$143,340.</i></p>

			<p>An organisation is guilty of an offence if it knowingly engages, or continues to engage a person in paid child related work when they know or are reckless as to whether the person is only authorised to do volunteer work: s 37.</p> <p><i>Maximum penalty: \$597.25</i></p>
<p>Offences and Penalties for Workers or Volunteers</p>	<p>A person must not engage in child-related employment as an employee or volunteer without a current clearance notice: s 187</p> <p><i>Maximum penalty: \$66,500</i></p> <p>A person who holds a clearance notice must notify the Authority and their employer of any prescribed change in circumstances as soon as practicable: s 193</p> <p><i>Maximum penalty: \$6,650 PU or imprisonment for 6 months</i></p>	<p>People issued with a negative notice or an interim negative notice must not carry out child-related work (s 23).</p> <p><i>Maximum penalty -- a fine of \$60 000 and imprisonment for 5 years.</i></p> <p>People without current assessment notice may not carry out child-related work (s 24).</p> <p><i>Maximum penalty – a fine of \$60 000 and imprisonment for 5 years.</i></p>	<p>A person is guilty of an offence if he or she does not have a current assessment notice, or has been given a negative notice, and engages in child-related work knowing that it is child-related work and knowing they do not have a current assessment notice or are reckless (s 33).</p> <p><i>Maximum penalty – 2 years imprisonment or a fine of \$28,668 or both.</i></p> <p>A person is guilty of an offence if they have a current assessment notice for volunteer work with children, and they knowingly or recklessly engage in paid work with children: s 37.</p> <p>A person is also guilty of an offence if he or she uses a document purporting to be an assessment notice, or gives false or misleading information, knowing that the document or information is false (s 38).</p> <p><i>Maximum penalty -- 2 years imprisonment or a fine of \$28,668 or both.</i></p>
<p>Do competition judges and officials need a WWCC?</p>	<p>Yes.</p> <p>A judge must have a WWCC if their usual duties of work involve or are likely to involve any physical contact or written or oral communication with a child.</p> <p>Therefore, if the judges will be communicating in any way with the children, they should have a WWCC.</p>	<p>Yes.</p> <p>A judge must have a WWCC if their usual duties of work involve or are likely to involve any physical contact or oral communication with a child.</p> <p>Therefore, if the judges will be communicating in any way with the children, they should have a WWCC.</p>	<p>Yes.</p> <p>Judges must have a WWCC if they will be within eyeshot of a child or will have any contact with a child involving physical contact or face-to-face oral communication.</p>

Relevant legislation	Section 185 - Child-related employment	Section 6: Term used: child-related work	Section 9 - What is child-related work?
	<p>1) A person is engaged in child-related employment if the person is engaged to perform child-related work.</p> <p>2) Child-related work is any work that involves or may potentially involve contact with children in connection with any of the following:</p> <ul style="list-style-type: none"> a) child protection services provided by or for the Department; b) children's services provided under Chapter 4; c) an educational facility for children, including a government school established under the Education Act and a school registered under Part VII of that Act, other than a facility prescribed by regulation; d) juvenile detention centres; e) refuges or other residential facilities used by children; f) wards of hospitals or any other facilities for health services in which children are ordinarily patients; g) clubs, associations or movements (including those that are of a cultural, recreational or sporting nature) with significant child membership or involvement; h) religious organisations; i) babysitting or childminding services; j) fostering of children; k) transportation services for children; 	<p>1) Subject to subsection (3), work is child-related work if —</p> <ul style="list-style-type: none"> a) the usual duties of the work involve, or are likely to involve, contact with a child in connection with — <ul style="list-style-type: none"> i) a child care service; ii) a community kindergarten registered under the School Education Act 1999 Part 5; iii) an educational institution for children; iv) a coaching or private tuition service of any kind, but not including an informal arrangement entered into for private or domestic purposes; v) an arrangement for the accommodation or care of children, whether in a residential facility or private residence, but not including an informal arrangement made by a parent of the child concerned or accommodation or care provided by a relative of the child; vi) a placement arrangement under the Children and Community Services Act 2004 ; vii) the performance by an officer, as defined in the Children and Community Services Act 2004 section 3, of a function given to the officer under that Act; viii) a detention centre, as defined in the Young Offenders Act 1994 section 3; ix) a community child health service; x) a counselling or other support service; xi) a religious organisation; xii) a club, association or movement (including of a 	<p>1) For the purposes of this Act, child-related work is-</p> <ul style="list-style-type: none"> a) work engaged in- <ul style="list-style-type: none"> (i) under a contract of employment or a contract for services (whether written or unwritten); or (ii) as a minister of religion or as part of the duties of a religious vocation; or (i) as an officer of a body corporate, member of the committee of management of an unincorporated body or association or member of a partnership; or b) practical training undertaken as part of an educational or vocational course other than under an arrangement or agreement under Part 5.4 of the Education and Training Reform Act 2006; or c) work engaged in as a volunteer (including engaging in unpaid community work under a community-based order, a drug treatment order or an intensive correction order within the meaning of the Sentencing Act 1991) other than unpaid work engaged in for a private or domestic purpose- d) that usually involves, or is likely usually to involve, regular direct contact with a child in connection with a service, body, place or activity specified in subsection (3) in circumstances where that contact is not directly supervised by another person. <p>2) For the purposes of this Act, direct supervision of a person requires immediate and personal supervision but does not require constant physical presence.</p> <p>3) The services, bodies, places or activities in connection with</p>

<p>l) private tuition services for children;</p> <p>m) counselling or other support services for children;</p> <p>n) overnight camps for children;</p> <p>o) road crossing services for school children;</p> <p>p) any of the following services, activities or facilities that are provided or arranged for children:</p> <p>(i) gym or play facilities;</p> <p>(ii) photographic services;</p> <p>(iii) talent or beauty competitions;</p> <p>(iv) entertainment or party services;</p> <p>(q) any other services, activities or facilities prescribed by regulation.</p> <p>3) A person may be engaged in child-related employment under a contract of employment or any other contract or arrangement (whether written or unwritten and whether for a reward or not).</p> <p>4) Anyone who enters into such a contract or arrangement for a person or body to perform child-related work must be regarded as someone who engages the person or body in child-related employment.</p> <p>5) Without limiting subsections (1) to (4), any of the following is a person engaged in child-related</p>	<p>l) private tuition services for children;</p> <p>m) counselling or other support services for children;</p> <p>n) overnight camps for children;</p> <p>o) road crossing services for school children;</p> <p>p) any of the following services, activities or facilities that are provided or arranged for children:</p> <p>(i) gym or play facilities;</p> <p>(ii) photographic services;</p> <p>(iii) talent or beauty competitions;</p> <p>(iv) entertainment or party services;</p> <p>(q) any other services, activities or facilities prescribed by regulation.</p> <p>3) A person may be engaged in child-related employment under a contract of employment or any other contract or arrangement (whether written or unwritten and whether for a reward or not).</p> <p>4) Anyone who enters into such a contract or arrangement for a person or body to perform child-related work must be regarded as someone who engages the person or body in child-related employment.</p> <p>5) Without limiting subsections (1) to (4), any of the following is a person engaged in child-related</p>	<p>cultural, recreational or sporting nature and whether incorporated or not) with a significant membership or involvement of children, but not including an informal arrangement entered into for private or domestic purposes;</p> <p>xiii) a ward of a public or private hospital in which children are ordinarily patients;</p> <p>xiv) a baby sitting or child minding service, but not including an informal arrangement entered into for private or domestic purposes;</p> <p>xv) an overnight camp, regardless of the type of accommodation or how many children are involved;</p> <p>xvi) a transport service specifically for children;</p> <p>xvii) a school crossing service, being a service provided to assist children to cross roads on their way to or from school;</p> <p>xviii) a children's entertainment or party service; or</p> <p>xix) any other work of a kind prescribed by the regulations;</p> <p>b) the work is the exercise or performance by a person of a power or duty delegated to the person by the CEO under section 45.</p> <p>2) For the purposes of subsection (1), contact with a child does not include contact</p> <p>a) between a person and a child who is employed by the person; or</p> <p>b) between a person and a child who are both employed by</p>	<p>which regular direct contact with a child may result in work, or practical training of a kind referred to in subsection (1) being child-related work are-</p> <p>a) child protection services;</p> <p>b) child care services mentioned in section 194(1) of the A New Tax System (Family Assistance) (Administration) Act 1999 of the Commonwealth;</p> <p>c) children's services within the meaning of the Children's Services Act 1996;</p> <p>d) educational institutions;</p> <p>e) community services, remand centres, youth residential centres, youth supervision units or youth justice centres, within the meaning of the Children, Youth and Families Act 2005 or probation services under that Act;</p> <p>f) refuges or other residential facilities used by children;</p> <p>g) paediatric wards of public hospitals within the meaning of the Health Services Act 1988 or of private hospitals within the meaning of that Act;</p> <p>h) clubs, associations or movements (including of a cultural, recreational or sporting nature) that provide services or conduct activities for, or directed at, children or whose membership is mainly comprised of children;</p> <p>i) religious organisations;</p> <p>j) baby sitting or child minding services arranged by a commercial agency;</p> <p>k) fostering children;</p> <p>l) providing, on a publicly-funded or commercial basis, a transport service specifically for children;</p>
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	<p>employment:</p> <p>a) anyone performing child-related work:</p> <p>i) as a minister of religion or as part of a religious vocation; or</p> <p>ii) as a student for the practical training of an educational or vocational course; or</p> <p>iii) as a voluntary worker;</p> <p>b) if a body is engaged to perform child-related work, any of the following:</p> <p>i) for a body corporate as defined in the Corporations Act 2001 - an officer of the body corporate as defined in that Act;</p> <p>ii) for any other body corporate - anyone (however described) who takes part in the management of the body corporate;</p> <p>iii) for any unincorporated body or association - a member of the committee of management (however described) of the body or association;</p> <p>c) if a partnership is engaged to perform child-related work - a partner in the partnership.</p> <p>Contact includes:</p> <p>a) any form of physical contact; and</p> <p>b) any form of oral communication, whether face-to-face or by other means; and</p> <p>c) any form of written communication.</p>	<p>the same person,</p> <p>if the contact is lawful and arises in the normal course of the child's employment.</p> <p>3) Subsection (1) does not apply to work that is carried out -</p> <p>a) on a voluntary basis by a child; or</p> <p>b) in circumstances, or by a person, prescribed by the regulations.</p> <p>4) Without limiting subsection (3)(b), the regulations may prescribe a person for the purposes of that provision by reference to a criminal record check (however described) made in respect of the person —</p> <p>a) under another Act prescribed by the regulations; or</p> <p>b) as prescribed by the regulations.</p> <p>Section 4 - Definitions</p> <p>"contact" includes —</p> <p>a) (a) any form of physical contact;</p> <p>b) (b) any form of oral communication, whether face to face, by telephone or otherwise; and</p>	<p>m) coaching or tuition services of any kind for children;</p> <p>n) counselling or other support services for children;</p> <p>o) overnight camps for children regardless of the type of accommodation or of how many children are involved;</p> <p>p) school crossing services, being services provided by people employed to assist children to cross roads on their way to or from school;</p> <p>q) providing, on a commercial basis and not merely incidentally to or in support of other business activities, an entertainment or party service specifically for children;</p> <p>r) providing, on a commercial basis and not merely incidentally to or in support of other business activities, gym or play facilities specifically for children;</p> <p>s) providing, on a commercial basis and not merely incidentally to or in support of other business activities, photography services specifically for children;</p> <p>t) talent or beauty competitions held for children on a commercial basis and not merely incidentally to or in support of other business activities.</p> <p>(3A) Despite subsection (1), for the purposes of sections 33 and 35 to 37, child-related work is only work, or practical training, of a kind referred to in subsection (1) that is engaged in or undertaken, in connection with a service, body, place or activity specified in subsection (3), on or after the relevant date in relation to that service, body, place or activity or 1 July 2011 (whichever is the earlier date).</p> <p>4) For the purposes of this Act, the relevant date, in relation to a service, body, place or activity specified in subsection (3), means the date fixed for the purposes of that service, body,</p>
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