

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 person in respect of a specific offence.

Section 5 of the *Child Protection (Prohibited Employment) Act 1998* defines a serious sex offence as:

- an offence involving sexual activity or acts of indecency that was committed in NSW and that was punishable by penal servitude or imprisonment for 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 punishable by penal servitude or imprisonment for 12 months or more if it had been committed in NSW;
- an offence under Sections 91D–91H (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, where at least one of the essential duties of the position, involves direct contact with children where that contact is not directly supervised. 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 *Children (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 child minder 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;
- any other prescribed by regulation.

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 if 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 sexual offence or, who has had a finding for a charge of a serious sexual 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*. I am aware that it is an offence to make a false statement on this form.

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:

Signature:

Date:

Contact telephone number:

Note: Seek legal advice if you are unsure of your status as a Prohibited Person.

THIS FORM IS TO BE RETURNED TO YOUR EMPLOYER

NSW Commission for Children and Young People 04/04. Revised 10/05.

The Working With Children Check Guidelines April 2004. Revised October 2005.

More Information contact

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