



Factsheet 14: Offences and Penalties for Self-Employed People

This factsheet should be read in conjunction with **Factsheet 13: Information for Self-Employed People**.

There are a range of penalties for not complying with the *Working with Children (Criminal Record Checking) Act 2004* (WWC Act). Some obligations and penalties differ depending on whether you are an employee, volunteer, student or self-employed person.

Below is a summary of offences and penalties which apply to self-employed people who engage in child-related work. If you also engage in child-related work in other capacities (e.g. as a volunteer or employee) or your circumstances change, other obligations and penalties will also apply. Please refer to the following factsheets if they apply to your current circumstances, **Factsheet 9: Information for Employees and Volunteers** and **Factsheet 10: Offences and Penalties for Employees and Volunteers** and/or **Factsheet 11: Information for Students** and **Factsheet 12: Offences and Penalties for Students**.

Under the WWC Act the term “child-related **business**” refers only to child-related *work* carried out by an individual for gain or reward otherwise than in the course of child-related employment as described below.

Child-related **employment** for the purposes of the WWC Act means:

- (a) Child-related work carried out by an individual under a contract of employment or training contract (whether written or unwritten),
- (b) Child-related work carried out on a voluntary basis by an individual under an agreement (whether written or unwritten) with another person,
- (c) Child-related work carried out by an individual as a minister of religion or in any other capacity for the purposes of a religious organisation, or
- (d) Child-related work carried out by a student with another person that may or must be undertaken as part of the student’s course of study.

Offences and Penalties

It is an offence to:	Penalty
carry on a child-related business if you have been issued with a Negative Notice or Interim Negative Notice and that notice is still current.	Fine of \$60 000 and imprisonment for 5 years.

It is an offence to:	Penalty
<p>carry on a child-related business when you do not have a current WWC Card.</p> <p><i>There are statutory defences to this offence, including if the person has a pending application which has not been withdrawn (except for a person who has been convicted of a Class 1 offence committed when an adult) or works for no more than five days in a calendar year. However, there are exceptions to the five day defence depending on a person's specific circumstances. Please refer to Factsheet 13: Information for Self-Employed People for further information.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>
<p>fail to apply for a WWC Check after the WWC Screening Unit has issued you with a written notice requiring you to do so within ten days after the date of the notice.</p>	<p>Fine of \$1,000</p>
<p>fail to give written notice to the WWC Screening Unit of a relevant change in your criminal record as soon as practicable after the change occurs.</p> <p><i>For the purposes of the WWC Act, there is a relevant change in a person's criminal record if the person is charged with or convicted of a Class 1 or Class 2 offence (see Factsheet 3: Class 1 and Class 2 Offences). Notifying of a relevant change does not require a person to provide details of the offence.</i></p> <p>The obligation to give written notice where you have a relevant change applies if you:</p> <ul style="list-style-type: none"> (a) have a current WWC Card (whether or not you are carrying out any child-related work at the time of the relevant change) (b) have applied for a WWC Check and the application is pending (c) are able to lawfully carry out any child-related work without a WWC Card (e.g. where a defence under section 25 of the WWC Act applies), or (d) have applied to the WWC Screening Unit to have a Negative Notice issued to you cancelled and the application is pending*. <p><i>*Note: A person must not carry out any child-related work, whether by being employed in child-related employment or carrying out a child-related business, while they have a pending application for the cancellation of their Negative Notice.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>
<p>engage in any child-related work after a relevant change in your criminal record and that change is a conviction for a Class 1 offence committed when you were an adult.</p> <p><i>This applies to both carrying out a child-related business or being employed in child-related employment.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>

It is an offence to:	Penalty
<p>use your current WWC Card to re-engage in child-related work after there has been a relevant change in your criminal record since your WWC Card was issued.</p> <p>In other words, if you have stopped engaging in all child-related work but are the holder of a current WWC Card <i>and</i> there has been a relevant change in your criminal record since your WWC Card was issued, you will commit an offence if you re-engage in any child-related work unless you have:</p> <ul style="list-style-type: none"> • applied for a <i>further</i> WWC Check which is pending, or • been issued with a <i>further</i> WWC Card. <p><i>This applies whether a person decides to re-engage in child-related work either by carrying out a child-related business or by being employed in child-related employment. If re-engaging in child-related employment, there are additional obligations and penalties that will apply, please refer to the relevant factsheets outlined on page 1.</i></p>	<p>Fine of \$60 000 and imprisonment for 5 years.</p>
<p>give information to the WWC Screening Unit for the purposes of the WWC Act that you know to be false or misleading in a material particular.</p>	<p>Fine of \$24 000 and imprisonment for 2 years.</p>
<p>fail to return your WWC Card to the WWC Screening Unit as soon as practicable after:</p> <ul style="list-style-type: none"> • being convicted of a Class 1 offence committed when you were an adult; • the WWC Screening Unit issues you with a Negative Notice or an Interim Negative Notice, or • the WWC Screening Unit gives you written notice of the cancellation of your WWC Card. 	<p>Fine of \$12 000 and imprisonment for 12 months.</p>
<p>fail to provide, within a specified time, specified information or documents requested by the WWC Screening Unit to establish compliance with the WWC Act.</p>	<p>Fine of \$12 000 and imprisonment for 12 months</p>

More Information

For more information visit the website www.workingwithchildren.wa.gov.au and specifically:

Factsheet 3: Class 1 and Class 2 Offences

Factsheet 5: Information for Employers and Volunteer Organisations

Factsheet 6: Offences and Penalties for Employers and Volunteer Organisations

Factsheet 9: Information for Employees and Volunteers

Factsheet 10: Offences and Penalties for Employees and Volunteers

Factsheet 13: Information for Self-Employed People

Disclaimer

The WWC Screening Unit is committed to providing clear information to help you understand your rights and meet your obligations. Every reasonable effort has been made to ensure information is accurate and up to date. However, errors can occur and changes after the time of publication may impact on the accuracy of the information in a factsheet.

The latest publication of a factsheet and further information about the Working with Children law is available on our website at www.workingwithchildren.wa.gov.au. If you require additional assistance you may also contact us on (08) 6217 8100, for country callers using a landline 1800 883 979 (toll free).

The information in this factsheet is provided on the understanding that it is not to be relied on for legal or professional advice.

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Working with Children Screening Unit

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