



## Overview of the *Working with Children (Criminal Record Checking) Amendment Act 2022* – December 2022

The Working with Children (Criminal Record Checking) Amendment Bill 2022 (Bill) received Royal Assent on 7 December 2022 to become the *Working with Children (Criminal Record Checking) Amendment Act 2022* (Amendment Act).

### What is changing?

Key changes to the *Working with Children (Criminal Record Checking) Act 2004* (WWC Act) to be implemented by the Amendment Act include:

- Expansion of the number and type of Class 1 criminal offences, convictions for which result in an automatic Negative Notice, if committed when an adult.
- A new requirement that a pending charge for a Class 1 offence also results in an automatic Negative Notice, if allegedly committed when an adult.
- Expansion of the number and type of Class 2 criminal offences, pending charges or convictions for which result in a Negative Notice unless there are exceptional circumstances.
- Capacity for an Interim Negative Notice to be issued if the CEO is of the opinion that there is a reasonable likelihood that a Negative Notice will be issued, and independently of a proposal to issue a Negative Notice.
- Capacity for prescribed outcomes or findings from prescribed conduct review bodies to trigger an assessment or reassessment.
- Provisions to support online applications, online verification of a person's employment or proposed employment in child-related work, and electronic service of notices.
- A new provision requiring Working with Children (WWC) Cardholders and applicants to notify the CEO of changes in personal details and ceasing and commencing child-related work.
- Provisions enabling future regulations to be made preventing particular classes of persons accessing certain exemptions from child-related work.
- Strengthening and clarifying the provisions for information gathering and sharing to further the WWC Act's child protective purposes.
- Contemporary new provisions for monitoring and investigating compliance with the WWC Act.
- Changing the name of the WWC Act to accurately reflect the screening role beyond criminal records.

- Following the commencement of regulations, if a parent volunteer or child volunteer who has a current Interim Negative Notice or a Negative Notice continues to engage in child-related work, the parent or child volunteer will be committing an offence.

### When will the changes commence?

It is currently expected that the Amendment Act and its associated regulations will commence on 1 July 2023 (commencement day).

### Impact on existing card holders

- The transitional provisions that were passed by Parliament mean that when the Amendment Act commences, WWC Cardholders will remain subject to the old offence categorisations **for the duration of their WWC Card**, but only if that Card was current on commencement day, or issued after commencement day in response to:
  - an application for a Card, or a reassessment, which was pending on commencement day;
  - an application to cancel a Negative Notice, which was pending on commencement day; or
  - a review or appeal proceeding on foot on commencement day, or commenced after commencement day if the person is otherwise covered by the transitional arrangements.
- Once that Card ceases to have effect, or an application for a further Card is made, the person will be subject to the new offence provisions.
- If an assessment is commenced after commencement day for any reason, be it a new application or a re-assessment due to some other trigger, **the new offence provisions will apply to the person for the purposes of that assessment**.
- In addition, if any person who is covered by the transitional arrangements is newly charged with or convicted of a Class 1 or Class 2 offence on or after commencement day, the person will immediately be subject to the new offence categorisations, including for the purposes of any pending assessment or reassessment, or any review or appeal proceeding, on foot.

### Further information

For further information about the Act, visit [the WWC website](#). If you have questions about the proposed changes, email [WWCReforms@communities.wa.gov.au](mailto:WWCReforms@communities.wa.gov.au)

<sup>1</sup> Available at [Working with Children Checks report childabuseroyalcommission.gov.au](#)

<sup>2</sup> Available at [Review of the Working with Children \(Criminal Record Checking\) Act 2004 \(parliament.wa.gov.au\)](#)