





# **Crimes Amendment (National Disability Insurance Scheme—Worker Screening) Act 2018**

**No. 33, 2018**

**An Act to amend the *Crimes Act 1914*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)



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## Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
<b>Schedule 1—Amendments</b>		<b>3</b>
	<i>Crimes Act 1914</i>	3





# Crimes Amendment (National Disability Insurance Scheme—Worker Screening) Act 2018

No. 33, 2018

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**An Act to amend the *Crimes Act 1914*, and for related purposes**

[Assented to 22 May 2018]

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Crimes Amendment (National Disability Insurance Scheme—Worker Screening) Act 2018*.

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No. 33, 2018      *Crimes Amendment (National Disability Insurance Scheme—Worker Screening) Act 2018*      1

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	22 May 2018
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### *Crimes Act 1914*

#### **1 Subdivision A of Division 6 of Part VIIC (heading)**

Repeal the heading, substitute:

#### **Subdivision A—Exclusions relating to work with children (Divisions 2 and 3)**

#### **2 After Subdivision A of Division 6 of Part VIIC**

Insert:

#### **Subdivision AA—Exclusions relating to work with persons with disability (Divisions 2 and 3)**

#### **85ZZGH Object of Subdivision**

The object of this Subdivision is to protect persons with disability from harm by permitting criminal history information to be disclosed and taken into account in assessing whether a person who works, or seeks to work, with a person with disability poses a risk to such a person.

#### **85ZZGI Exclusion: disclosing information to a person or body**

Divisions 2 and 3 do not apply in relation to the disclosure of information to a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to obtain and deal with information about persons who work, or seek to work, with a person with disability; and
- (b) the disclosure is for the purpose of the person or body obtaining and dealing with such information in accordance with the prescribed law.

**85ZZGJ Exclusion: person or body taking information into account**

Divisions 2 and 3 do not apply in relation to the taking into account of information by a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to deal with information about persons who work, or seek to work, with a person with disability; and
- (b) the taking into account is:
  - (i) for the purpose of dealing with such information in accordance with the prescribed law; or
  - (ii) required by or under a Commonwealth law, a State law or a Territory law.

**85ZZGK Exclusion: person or body disclosing information**

Divisions 2 and 3 do not apply in relation to the disclosure of information by a prescribed person or body if:

- (a) the person or body is required or permitted by or under a prescribed Commonwealth law, a prescribed State law or a prescribed Territory law, to deal with information about persons who work, or seek to work, with a person with disability; and
- (b) the disclosure is required by or under a Commonwealth law, a State law or a Territory law.

**85ZZGL Prescribed persons and bodies**

Before the Governor-General makes a regulation prescribing, for the purposes of section 85ZZGI, 85ZZGJ or 85ZZGK, a person or body:

- (a) to which information may be disclosed; or
  - (b) by which information may be taken into account or disclosed;
- the Minister must be satisfied that the person or body:
- (c) is required or permitted by or under a Commonwealth law, a State law or a Territory law to obtain and deal with information about persons who work, or seek to work, with a person with disability; and

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- (d) complies with applicable Commonwealth law, State law or Territory law relating to privacy, human rights and records management; and
  - (e) complies with the principles of natural justice; and
  - (f) has risk assessment frameworks and appropriately skilled staff to assess risks to the safety of a person with disability.

### **85ZZGM Definitions**

In this Subdivision:

***person with disability*** means any of the following:

- (a) a person who is a participant (within the meaning of the *National Disability Insurance Scheme Act 2013*);
- (b) a person who is receiving supports or services of a kind mentioned in paragraph (b) of the definition of ***NDIS provider*** in section 9 of that Act;
- (c) a person who is receiving supports or services of a kind prescribed by the regulations for the purposes of this paragraph.

***work*** includes the following:

- (a) work:
  - (i) under a contract of employment, contract of apprenticeship or contract for services; or
  - (ii) in a leadership role in a religious institution, as part of the duties of a religious vocation or in any other capacity for the purposes of a religious institution; or
  - (iii) 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
  - (iv) as a volunteer, other than unpaid work engaged in for a private or domestic purpose; or
  - (v) as a self-employed person;
- (b) practical training as part of a course of education or vocational training;
- (c) acting in a prescribed capacity or engaging in a prescribed activity.

**85ZZGN Reviews of operation of this Subdivision**

- (1) The Minister must cause 2 reviews of the operation of this Subdivision to be conducted.
  - (2) The first review must be completed not later than 31 December 2019.
  - (3) The second review must be completed not later than 31 December 2022.
  - (4) The Minister must cause a written report about each review to be prepared.
  - (5) The Minister must cause a copy of each report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.
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*[Minister's second reading speech made in—  
House of Representatives on 15 February 2018  
Senate on 19 March 2018]*

(32/18)

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