



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/>)

Contents

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



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

[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*.

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

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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
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Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

-
- (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.
-

*[Minister's second reading speech made in—
House of Representatives on 15 February 2018
Senate on 19 March 2018]*

(32/18)
