

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Community Services)

# Working with Vulnerable People (Consequential Amendments) Bill 2011

## Contents

---

		Page
1	Name of Act	2
2	Commencement	2
3	Legislation amended—sch 1	2
<b>Schedule 1</b>	<b>Legislation amended</b>	<b>3</b>
<b>Part 1.1</b>	<b>ACT Teacher Quality Institute Act 2010</b>	<b>3</b>
<b>Part 1.2</b>	<b>Children and Young People Act 2008</b>	<b>11</b>
<b>Part 1.3</b>	<b>Public Sector Management Act 1994</b>	<b>12</b>
<b>Part 1.4</b>	<b>Spent Convictions Act 2000</b>	<b>12</b>

---

J2010-276

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)



2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Community Services)

## **Working with Vulnerable People (Consequential Amendments) Bill 2011**

---

### **A Bill for**

An Act to amend legislation because of the enactment of the *Working with Vulnerable People (Background Checking) Act 2011*, and for other purposes

---

The Legislative Assembly for the Australian Capital Territory enacts as follows:

- 1 **1 Name of Act**
- 2 This Act is the *Working with Vulnerable People (Consequential*  
3 *Amendments) Act 2011*.
- 4 **2 Commencement**
- 5 This Act commences on the commencement of the *Working with*  
6 *Vulnerable People (Background Checking) Act 2011*, section 3.
- 7 *Note* The naming and commencement provisions automatically commence on  
8 the notification day (see Legislation Act, s 75 (1)).
- 9 **3 Legislation amended—sch 1**
- 10 This Act amends the legislation mentioned in schedule 1.

1 **Schedule 1**                      **Legislation amended**

2 (see s 3)

3 **Part 1.1**                              **ACT Teacher Quality Institute Act**  
4 **2010**

5 **[1.1]**                      **New division 4.1A**

6 *insert*

7 **Division 4.1A**                      **Definitions—pt 4**

8 **27A**                      **Definitions—pt 4**

9 In this part:

10 *criminal history guidelines*—see section 35A.

11 *criminal history record*, of a person, means a written report about  
12 the person's criminal history from an entity in another country that  
13 has access to records about the criminal history of people in that  
14 country.

15 *police certificate*, for a person, means a written statement by  
16 CrimTrac, or a police service or force in the ACT, State or another  
17 territory indicating—

- 18 (a) whether, according to the records held by CrimTrac or the  
19 police service or force, the person has been charged with, or  
20 convicted of, an offence against a law of—
- 21 (i) the Territory; or
  - 22 (ii) the Commonwealth; or
  - 23 (iii) a State; or
  - 24 (iv) another country; and

1 (b) if so—particulars of each offence.

2 *Note* A conviction does not include a spent conviction (see *Spent Convictions*  
3 *Act 2000*, s 16 (c) (i)).

4 **27B Expiry—div 4.1A**

5 This division expires—

6 (a) 1 year after the day this division commences; or

7 (b) if another date is prescribed by regulation for this division—on  
8 that date.

9 **[1.2] Section 32 (1) (d), (e) and (f)**

10 *substitute*

11 (d) the person is registered under the *Working with Vulnerable*  
12 *People (Background Checking) Act 2011*; and

13 **[1.3] New section 32 (1A)**

14 *insert*

15 (1A) However, subsection (1) (d) does not apply if the institute is  
16 satisfied on reasonable grounds that—

17 (a) if the person has lived in Australia—the person has supplied a  
18 police certificate; and

19 (b) if the person has lived in another country as an adult for a  
20 continuous period of more than 1 year—the person has  
21 supplied a certified copy of the person’s criminal history  
22 record from that country; and

23 (c) in relation to any conviction mentioned in the certificate or  
24 criminal history record supplied under paragraph (a) or (b)—

25 (i) the certificate or criminal history record has been  
26 assessed in accordance with the criminal history  
27 guidelines; and

- 1 (ii) the conviction does not have a high degree of direct  
2 connection with the inherent requirements of the teaching  
3 profession.

4 **[1.4] Section 32 (2)**

5 *omit*

6 subsection (1) (e)

7 *substitute*

8 subsection (1A) (b)

9 **[1.5] New section 32 (2A)**

10 *insert*

11 (2A) Subsections (1A) and (2), and this subsection, expire—

12 (a) 1 year after the day this subsection commences; or

13 (b) if another date is prescribed by regulation for this subsection—  
14 on that date.

15 **[1.6] Section 33 (1) (c), (d) and (e)**

16 *substitute*

17 (c) the person is registered under the *Working with Vulnerable*  
18 *People (Background Checking) Act 2011*; and

19 **[1.7] New section 33 (1A)**

20 *insert*

21 (1A) However, subsection (1) (c) does not apply if the institute is  
22 satisfied on reasonable grounds that—

23 (a) if the person has lived in Australia—the person has supplied a  
24 police certificate; and

- 1 (b) if the person has lived in another country as an adult for a  
2 continuous period of more than 1 year—the person has  
3 supplied a certified copy of the person’s criminal history  
4 record from that country; and
- 5 (c) in relation to any conviction mentioned in the certificate or  
6 criminal history record supplied under paragraph (a) or (b)—
- 7 (i) the certificate or criminal history record has been  
8 assessed in accordance with the criminal history  
9 guidelines; and
- 10 (ii) the conviction does not have a high degree of direct  
11 connection with the inherent requirements of the teaching  
12 profession.

13 **[1.8] Section 33 (2)**

14 *omit*

15 subsection (1) (d)

16 *substitute*

17 subsection (1A) (b)

18 **[1.9] New section 33 (2A)**

19 *insert*

20 (2A) Subsections (1A) and (2), and this subsection, expire—

21 (a) 1 year after the day this subsection commences; or

22 (b) if another date is prescribed by regulation for this subsection—  
23 on that date.

24 **[1.10] Section 35 (1) (b), (c) and (d)**

25 *substitute*

26 (b) the person is registered under the *Working with Vulnerable*  
27 *People (Background Checking) Act 2011*;



1 **[1.11] New section 35 (1A)**

2 *insert*

3 (1A) However, subsection (1) (b) does not apply if the institute is  
4 satisfied on reasonable grounds that—

5 (a) if the person has lived in Australia—the person has supplied a  
6 police certificate; and

7 (b) if the person has lived in another country as an adult for a  
8 continuous period of more than 1 year—the person has  
9 supplied a certified copy of the person’s criminal history  
10 record from that country; and

11 (c) that in relation to any conviction mentioned in the certificate or  
12 criminal history record supplied under paragraph (a) or (b)—

13 (i) the certificate or criminal history record has been  
14 assessed in accordance with the criminal history  
15 guidelines; and

16 (ii) the conviction does not have a high degree of direct  
17 connection with the inherent requirements of the teaching  
18 profession.

19 **[1.12] Section 35 (2)**

20 *omit*

21 subsection (1) (c)

22 *substitute*

23 subsection (1A) (b)

1 **[1.13] New section 35 (2A)**

2 *insert*

3 (2A) Subsections (1A) and (2), and this subsection, expire—

4 (a) 1 year after the day this subsection commences; or

5 (b) if another date is prescribed by regulation for this subsection—  
6 on that date.

7 **[1.14] New section 35A (3)**

8 *insert*

9 (3) This section expires—

10 (a) 1 year after the day this subsection commences; or

11 (b) if another date is prescribed by regulation for this subsection—  
12 on that date.

13 **[1.15] New section 35B (3)**

14 *insert*

15 (3) This section expires—

16 (a) 1 year after the day this subsection commences; or

17 (b) if another date is prescribed by regulation for this subsection—  
18 on that date.

19 **[1.16] Section 51 (5) (d)**

20 *substitute*

21 (d) that the teacher is registered under the *Working with*  
22 *Vulnerable People (Background Checking) Act 2011*.

1 **[1.17] New section 51 (5A) and (5B)**

2 *insert*

3 (5A) However, subsection (5) (d) does not apply if the institute is  
4 satisfied on reasonable grounds that—

5 (a) in the 5-year period before the renewal, the teacher has  
6 supplied a police certificate or, if applicable, a certified copy of  
7 the teacher's criminal history record; and

8 (b) in relation to any conviction mentioned in the certificate or  
9 criminal history record—

10 (i) the certificate or criminal history record has been  
11 assessed in accordance with the criminal history  
12 guidelines; and

13 (ii) the conviction does not have a high degree of direct  
14 connection with the inherent requirements of the teaching  
15 profession.

16 (5B) Subsection (5A) and this subsection expire—

17 (a) 1 year after the day this subsection commences; or

18 (b) if another date is prescribed by regulation for this subsection—  
19 on that date.

20 **[1.18] Section 53 (5) (d)**

21 *substitute*

22 (d) that the permit-holder is registered under the *Working with*  
23 *Vulnerable People (Background Checking) Act 2011*.

1 **[1.19] New section 53 (5A) and (5B)**

2 *insert*

3 (5A) However, subsection (5) (d) does not apply if the institute is  
4 satisfied on reasonable grounds that—

5 (a) in the 5-year period before the renewal, the permit-holder has  
6 supplied a police certificate or, if applicable, a certified copy of  
7 the permit-holder's criminal history record; and

8 (b) in relation to any conviction mentioned in the certificate or  
9 criminal history record—

10 (i) the certificate or criminal history record has been  
11 assessed in accordance with the criminal history  
12 guidelines; and

13 (ii) the conviction does not have a high degree of direct  
14 connection with the inherent requirements of the teaching  
15 profession.

16 (5B) Subsection (5A) and this subsection expire—

17 (a) 1 year after the day this subsection commences; or

18 (b) if another date is prescribed by regulation for this subsection—  
19 on that date.

20 **[1.20] Dictionary**

21 *omit the definitions of*

22 *criminal history guidelines*

23 *criminal history record*

24 *CrimTrac*

25 *police certificate*

1 **Part 1.2** **Children and Young People**  
2 **Act 2008**

3 **[1.21] New section 63 (3)**

4 *insert*

5 (3) The director-general must not approve an entity as a suitable entity  
6 for a stated purpose if—

7 (a) the purpose involves engaging in a regulated activity within the  
8 meaning of the Working with Vulnerable People Act; and

9 (b) the entity is required to be registered under that Act to engage  
10 in the activity; and

11 (c) the entity is not registered under that Act.

12 **[1.22] Section 438 (2), new note**

13 *before the note, insert*

14 *Note 1* Certain people conducting an activity, or providing a service, under this  
15 Act are required to be registered under the Working with Vulnerable  
16 People Act (see that Act, s 11 and sch 1).

17 **[1.23] Section 875 (2), examples**

18 *insert*

- 19 • *Working with Vulnerable People (Background Checking) Act 2011*

20 **[1.24] Dictionary, new definition of *Working with Vulnerable***  
21 ***People Act***

22 *insert*

23 ***Working with Vulnerable People Act*** means the *Working with*  
24 *Vulnerable People (Background Checking) Act 2011*.

1      **Part 1.3**                      **Public Sector Management**  
2                                      **Act 1994**

3      **[1.25]      Section 68, new note**

4                      *insert*

5                      *Note*      If a person is to be appointed to a position that involves a regulated  
6                                      activity and contact with a vulnerable person within the meaning of the  
7                                      *Working with Vulnerable People (Background Checking) Act 2011*, the  
8                                      person may need to be registered under that Act.

9      **Part 1.4**                      **Spent Convictions Act 2000**

10      **[1.26]      New section 19 (1) (e)**

11                      *insert*

12                      (e) for registration under the *Working with Vulnerable People*  
13                                      (*Background Checking*) Act 2011.

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2011.

**2 Notification**

Notified under the Legislation Act on 2011.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

---

© Australian Capital Territory 2011