



the working
with children
check



Creating safe environments for our kids to grow

For Parents, Volunteers and Officials

Revised December 2006

Little Athletics: a child-friendly and child-safe organisation.

Little Athletics Association of New South Wales Inc.

and

NSW Commission for Children and Young People

CHILD PROTECTION (PROHIBITED EMPLOYMENT) ACT 1998

The *Commission for Children and Young People Act 1998* makes it an offence for a prohibited person (a person convicted of a serious sex offence, the murder of a child or a child-related personal violence offence, as well as a Registrable Person under the *Child Protection (Offenders Registration) Act 2000*) to apply for or otherwise attempt to obtain, undertake or remain in, child-related employment. It does not apply if an order from the Industrial Relations Commission, Administrative Decisions Tribunal or Commission for Children and Young People, declares that the Act does not apply to a person in respect of a specific offence.

For further information on what is child-related employment, see the *Working With Children Employer Guidelines* on www.kids.nsw.gov.au.

Section 33B of the *Commission for Children and Young People Act 1998* defines a serious sex offence as:

- an offence involving sexual activity or acts of indecency that was committed in NSW and that was punishable by penal servitude or imprisonment for 12 months or more; or
- an offence involving sexual activity or acts of indecency, committed elsewhere and that would have been an offence punishable by penal servitude or imprisonment for 12 months or more, if it had been committed in NSW; or
- an offence under Section 80D or 80E (sexual servitude) of the *Crimes Act 1900*, committed against a child; or
- an offence under Sections 91D-91G (child prostitution, other than if committed by a child prostitute) of the *Crimes Act 1900* or a similar offence under a law other than a law of NSW; or
- an offence under Section 91H, 578B or 578C(2A) (child pornography) of the *Crimes Act 1900* or a similar offence under a law other than a law of NSW; or
- an offence of attempting, or of conspiracy or incitement, to commit an offence referred to in the preceding paragraphs; or
- any other offence, whether under the law of NSW or elsewhere, prescribed by the regulations.

Note: A conviction for carnal knowledge is classified as a serious sex offence under this legislation.

Section 33B of the *Commission for Children and Young People Act 1998* defines a child-related personal violence offence as an offence committed by an adult:

- involving intentionally wounding or causing grievous bodily harm to a child; or
- of attempting, or of conspiracy or incitement, to commit such an offence.

Under *Commission for Children and Young People Act 1998*:

- it is an offence for a Prohibited Person to **apply for, or otherwise attempt to obtain, undertake or remain in** child related employment;
- employers **must** ask existing employees, both **paid** and **unpaid**, and preferred applicants for child-related employment to declare if they are a Prohibited Person or not;
- all people in child-related employment **must** inform their employers if they are a Prohibited Person or remove themselves from child-related employment; and
- penalties are imposed for non compliance.

ATTACHMENT 4 (CONTINUED)



I am aware that I am ineligible to apply for or otherwise attempt to obtain, undertake or remain in, child related employment if I have been convicted of a serious sex offence or child-related personal violence offence as defined in the *Commission for Children and Young People Act 1998*, or if I am a Registrable Person under the *Child Protection (Offenders Registration) Act 2000*.

I have read and understood the above information in relation to the *Commission for Children and Young People Act 1998*. I am aware that it is an offence to make a false statement on this form.

I consent to a check of my relevant criminal records, to verify the statements I have made here, being undertaken by the NSW Commission for Children and Young People for monitoring and auditing purposes in accordance with Section 36 (1) (f) of the *Commission for Children and Young People Act 1998*.

I declare that I am not a person prohibited by the Act from seeking, obtaining, undertaking or remaining in child related employment.

I understand that this information may be referred to the Commission for Children and Young People and/or to NSW Police for law enforcement purposes and for monitoring and auditing compliance with the procedures and standards for the Working With Children Check in accordance with Section 36 (1) (f) of the Commission for Children and Young People Act 1998.

All fields must be completed. Please use block letters.

Name: _____

Aliases (previous/other names) _____

Date of Birth _____

Signature: _____

Date: _____ Contact Telephone Number _____

Contact Email: _____

Note: Seek legal advice if you are unsure of your status as a Prohibited Person.

THIS FORM IS TO BE RETURNED TO YOUR EMPLOYER

i.e. the Little Athletics NSW group with which you will be working (Centre/Zone/Region/State)

Terms/Definitions

Child: A person who is under 18 years of age.

Child-related employment: Child-related employment is employment:

- that primarily involves contact with children; *and*
- that involves direct contact with children; *and*
- where that contact is not directly supervised by a person having the capacity to direct the employee in the course of the employment; *and*
- in the specific work settings listed at 1.2.1 of the Working With Children Employer Guidelines.

Employment:

- performance of work under a contract of employment; or
- performance of work as a self-employed person; or
- performance of work as a subcontractor; or
- performance of work as a volunteer for an organisation; or
- undertaking practical training as part of an educational or vocational course; or
- performance of work as a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of a religion or other member of a religious organisation; or
- performance of the duties of an authorised carer within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*.

Not Directly Supervised: Supervised refers to supervising the employee's contact with children. An employee is not directly supervised when:

- there is no officer on site with the capacity to direct the employee during their contact with children; or
- there are periods of more than a few minutes when the employee is not in view of this officer or other delegated officer.

Prohibited person: A person convicted of a serious sex offence, the murder of a child, a child-related personal violence offence, or a *Registrable Person*, other than where there is an order in force declaring that Division 2, Part 7 of the *Commission for Children and Young People Act 1998* does not apply to the person in respect of the offence.

Registrable offence: Any of the following offences against a child:

- murder;
- sexual offences;
- indecency offences punishable by imprisonment of 12 months or more;
- kidnapping (unless the offender is or has been the child's parent or carer);
- offences connected with child prostitution; or
- possession or publication of child pornography.

Registrable person: A person who has been found guilty of a registrable offence against children under the *Child Protection (Offenders Registration) Act 2000*.

Working With Children Check: The Working With Children Check consists of two parts, the Working With Children background check and exclusion of prohibited persons.

All people working in, or seeking to work in, child-related employment must declare whether or not they are a Prohibited Person or a Registrable Person. It is an offence to employ anyone in child-related employment without requiring them to disclose whether they are a prohibited person. This requirement exists for all paid and unpaid workers in child-related employment.