

## What is a Working With Children Check?

Dear Member,

A Working With Children Check is a requirement for people who work or volunteer in child-related work. It involves a national history check and a review of findings of workplace misconduct.

Under Part 2, Section 6 of the *Child Protection (Working With Children) Act 2012*, child-related work is defined as work in a specific, child-related role or face-to-face contact with children in a child-related sector.

The below information is from **Child Protection (Working With Children) Act 2012 No 51 > Part 2 > Division 1 > Section 6.**

Who Needs the Check?

### **6 Child-related work**

- (1) A worker is engaged in ***child-related work*** for the purposes of this Act if:
  - (a) the worker is engaged in work referred to in subsection (2) that involves direct contact by the worker with a child or children and that contact is a usual part of and more than incidental to the work, or
  - (b) the worker is engaged in work in a child-related role referred to in subsection (3).
- (2) The work referred to is work for, or in connection with, any of the following that is declared by the regulations to be child-related work:
  - (a) **child development**  
mentoring and counselling services for children,
  - (b) **child protection**  
child protection services,
  - (c) **children's health services**  
the provision of health care in wards of hospitals where children are treated and the direct provision of other child health services,
  - (d) **clubs or other bodies providing services for children**  
clubs, associations, movements, societies or other bodies (including bodies of a cultural, recreational or sporting nature) providing programs or services for children,
  - (e) **disability services**  
respite care or other support services for children with a disability,
  - (f) **early education and child care**  
education and care services, child care centres, nanny services and other child care,
  - (g) **education**  
schools or other educational institutions (other than universities) and private coaching or tuition of children,
  - (h) **entertainment for children**

sporting, cultural or other entertainment venues used primarily by children and entertainment services for children,

(i) **justice services**

detention centres (within the meaning of the *Children (Detention Centres) Act 1987*) and juvenile correctional centres (within the meaning of the *Crimes (Administration of Sentences) Act 1999*),

(j) **religious services**

any religious organisation,

(k) **residential services**

refuges used by children, long term home stays for children, boarding houses or other residential services for children and overnight camps for children,

(l) **transport services for children**

transport services especially for children, including school bus services and taxi services for children with a disability and supervision of school road crossings,

(m) **other**

any other service for children prescribed by the regulations.

(3) The following roles are referred to:

(a) an approved provider or manager of an education and care service,

(b) a certified supervisor of an education and care service,

(c) an authorised carer,

(d) an assessment officer (within the meaning of section 27A of the *Children and Young Persons (Care and Protection) Act 1998*),

(e) the principal officer of a designated agency,

(f) the principal officer of an accredited adoption service provider,

(g) any other role with respect to children prescribed by the regulations.

(3A) The regulations may provide for circumstances in which direct contact by a worker with a child or children is taken to be a usual part of and more than incidental to a worker's work.

(4) In this section:

**direct contact** with children means:

(a) physical contact, or

(b) face to face contact.

The cost of the Working With Children Check is \$80 and valid for 5 years.

The below information is from **Child Protection (Working with Children) Regulation 2013 [NSW] Part 4.**

## **20 Exemption from Act for specified workers and employers**

(1) The following workers engaged in child-related work (and employers of those workers in that capacity) are exempt from the Act (other than section 7 of the Act):

(a) a worker (other than a school cleaner) who provides administrative, clerical or maintenance services, or other ancillary services, if the work does not ordinarily involve contact with children for extended periods,

(b) a worker who works for a period of not more than a total of 5 working days in a calendar year, if the work involves minimal direct contact with children or is supervised when children are present,

(c) a worker who carries out the work in the course of an informal domestic arrangement that is not carried out on a professional or commercial basis,

- (d) a worker whose work involves direct contact only with children who are close relatives of the worker, other than a worker who carries out the work in the capacity of an authorised carer,
- (e) a parent, or close relative, of a child who attends a school, an education and care service or other educational institution when volunteering at or for activities of the school, service or institution,
- (f) a parent, or close relative, of a child when volunteering in connection with a team, program or other activity of which the child is a member or in which the child usually participates,
- (g) a worker who is under the age of 18 years,
- (h) a police officer or a member of the Australian Federal Police when working in his or her capacity as a police officer,
- (i) a worker who is a health practitioner in private practice, if the provision of services by the practitioner in the course of that practice does not ordinarily involve treatment of children without one or more other adults present,
- (j) a worker who is a co-worker of a child or who is a work supervisor or work placement supervisor of a child (other than as referred to in clause 12 (2)),
- (k) a home care worker who holds a police certificate that is current for the purposes of the *Accountability Principles 1998* made under the *Aged Care Act 1997* of the Commonwealth, if the work is home care work and the clients are not primarily children,
- (l) a health practitioner who is working in and visiting New South Wales from outside the State, if the period of work does not exceed a total of 5 days in any period of 3 months,
- (m) a worker who is working in and visiting New South Wales from outside the State for the purposes of a one-off event such as a jamboree, sporting or religious event or tour, if the event is the only child-related work carried out by the worker in New South Wales in that calendar year and the period of the work does not exceed 30 days,
- (n) a worker who is working in and visiting New South Wales from outside the State for the purposes of child-related work (other than a worker referred to in paragraph (l) or (m)), if the worker is the holder of an interstate working with children check in the jurisdiction in which the person ordinarily resides, or is exempt from the requirement to have such a check in that jurisdiction, and the period of the child-related work in New South Wales does not exceed a total of 30 days in any calendar year,
- (o) a visiting speaker, adjudicator, performer, assessor or other similar visitor at a school or other place where child-related work is carried out if the work of the person at that place is for a one-off occasion and is carried out in the presence of one or more other adults.

(2) Subclause (1) (e) and (f) do not apply to a parent or close relative, if the volunteering involves any of the following:

- (a) providing personal care services to children with disabilities, being services that involve intimate contact with those children, such as assistance with toileting, bathing or dressing,
- (b) providing mentoring services as part of a formal mentoring program provided by a government or non-government agency,
- (c) attending at an overnight camp for children.

(3) In this clause:

**holder of an interstate working with children check** means a person who has undergone interstate child-related work screening under a law of another jurisdiction

in which the person ordinarily resides and who is permitted by that law to carry out child-related work.

**interstate child-related work screening** has the same meaning as in section 34 of the Act.

Please contact the HSU on 1300 478 679 or your local Organiser if you:

1. have been requested by your employer to obtain and purchase a Working With Children Check **and**,
2. do **not** work in Child Related Work (see Section 6 Child-related work above) **or**,

are exempted from the Act (see Section 20 Exemption from Act for specified workers and employers above).

If a non-member is seeking advice, urge them to join the union and enjoy the same representation and benefits. Only HSU members will receive advocacy and regular updates on regrading and allowances. Non-members can join by visiting [www.hsu.asn.au/join](http://www.hsu.asn.au/join) or by calling 1300 478 679.

In unity,



Gerard Hayes  
Secretary, HSU NSW/ACT/QLD