

## Schedule 5

# Variation to the Intergovernmental Agreement for a National Exchange of Criminal History Information for People Working with Children

### OVERVIEW

- A1. Schedule 5 (this Schedule) varies the Intergovernmental Agreement for a National Exchange of Criminal History Information for People Working with Children (the Agreement). Variations are specified in this Schedule. In all other respects, the Agreement remains unchanged.

### DESCRIPTION

- A2. This schedule:

Former clause	Varied clause
<p>(a) Recital D</p> <p>D. The parties have removed legislative and administrative restrictions to the routine supply of the following information interjurisdictionally:</p> <ul style="list-style-type: none"> <li>a) criminal history information which includes:               <ul style="list-style-type: none"> <li>(i) spent convictions;</li> <li>(ii) pending charges; and</li> <li>(iii) except for Victoria, non-conviction charges, including acquittals and withdrawn charges; and</li> </ul> </li> <li>b) further information held by a police service to clarify the circumstances of the offence or alleged offence, such as whether the offence involved a child, if requested by an interjurisdictional employment screening unit.</li> </ul>	<p>Recital D – amended:</p> <p>D. The parties have removed legislative and administrative restrictions to the routine supply of the following information interjurisdictionally:</p> <ul style="list-style-type: none"> <li>a) criminal history information which includes:               <ul style="list-style-type: none"> <li>(i) spent convictions;</li> <li>(ii) pending charges; and</li> <li>(iii) non-conviction charges, including acquittals and withdrawn charges; and</li> </ul> </li> <li>b) further information held by a police service to clarify the circumstances of the offence or alleged offence, such as whether the offence involved a child, if requested by an interjurisdictional employment screening unit.</li> </ul>

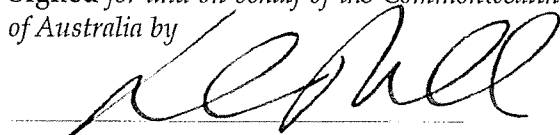
(b)	<p>Clause 2 – Definitions</p>	<p>Clause 2 – amended to insert the following definitions:</p> <p><b>“ACIC”</b> means the Australian Criminal Intelligence Commission established by the <i>Australian Crime Commission Act 2002</i> (Cth) (ACC Act) and the regulations under that Act, and also known as the Australian Crime Commission. The ACC Act sets out the legal foundation for the ACIC; including how the agency may provide access to nationally coordinated criminal history check information.</p> <p><b>“NPCS”</b> means the National Police Checking Service through which the ACIC provides access to nationally coordinated criminal history check information pursuant to its functions under the ACC Act.</p>
(c)	<p>Clause 2 - definition of “CrimTrac”</p> <p><b>“CrimTrac”</b> means the CrimTrac Agency, an Executive Agency established under section 65 of the Public Service Act 1999 (Cth) (ABN 171 93 904 699).</p>	<p>Clause 2 – amended to delete the definition of “CrimTrac”.</p>

(d)	<p>Clause 3.5</p> <p><i>Victoria and non-conviction charges</i></p> <p>3.5 The parties acknowledge that Victoria will not exchange non-conviction charges or information relating to Victorian non-conviction charges under the Exchange. Accordingly:</p> <p>3.5.1 Victoria, need not remove any barriers to its police service supplying non-conviction charges under the Exchange;</p> <p>3.5.2 Victoria's police service need not supply Victorian non-conviction charges or information relating to Victorian non-conviction charges interjurisdictionally under the Exchange; and</p> <p>3.5.3 other police services need not, but may, supply non-conviction charges to Victoria. (Victoria advises its police service will vet interjurisdictional criminal history information to remove interjurisdictional non-conviction charges before the information is forwarded to Victoria's participating screening units).</p>	<p>Clause 3.5 - deleted.</p>
(e)	<p>Clause 4.3</p> <p>The parties agree that they will also exchange the following criminal history information held by jurisdictions' police services (<b>"the expanded criminal history information"</b>):</p> <p>4.3.1 spent convictions;</p> <p>4.3.2 pending charges; and</p> <p>4.3.3 except for Victoria (see clause 3.5), non-conviction charges.</p>	<p>Clause 4.3 – amended:</p> <p>The parties agree that they will also exchange the following criminal history information held by jurisdictions' police services (<b>"the expanded criminal history information"</b>):</p> <p>4.3.1 spent convictions;</p> <p>4.3.2 pending charges; and</p> <p>4.3.3 non-conviction charges.</p>

(f)	<p>Clause 4.7</p> <p>4.7 The parties:</p> <p>4.7.1 note that it is desirable to the integrity of child-related employment screening undertaken pursuant to the Exchange that all police services upload all categories of the expanded criminal history information; and</p> <p>4.7.2 encourage police services, except the Victorian police service in relation to non-conviction charges, to use their best endeavours, to upload all categories of the expanded criminal history information in a timely manner.</p>	<p>Clause 4.7 – amended:</p> <p>4.7 The parties:</p> <p>4.7.1 note that it is desirable to the integrity of child-related employment screening undertaken pursuant to the Exchange that all police services upload all categories of the expanded criminal history information; and</p> <p>4.7.2 encourage police services to use their best endeavours to upload all categories of the expanded criminal history information in a timely manner.</p>
(g)	<p>Clause 8.2</p> <p>8.2. The whole or any part of this agreement including Schedules 1 – 4 may be varied, amended or terminated with the written consent of all parties.</p>	<p>Clause 8.2 – amended:</p> <p>8.2. The whole or any part of this agreement including Schedules 1 – 5 may be varied, amended or terminated with the written consent of all parties.</p>
(h)	<p>Schedule 3 – second last dot point</p> <p>In consideration of carrying out my request, I hereby release and agree to fully indemnify officers of the CrimTrac Agency, all Australian police agencies and the Commonwealth, States and Territories of Australia, its servants and agents against all actions, suits, proceedings, causes of actions, costs, claims and demands whatsoever which may be brought or made against it or them by me or by any body or person by reason of or arising out of the release of such Information;</p>	<p>Schedule 3 – second last dot point – amended:</p> <p>In consideration of carrying out my request, I hereby release and agree to fully indemnify officers of the Australian Criminal Intelligence Commission, all Australian police agencies and the Commonwealth, States and Territories of Australia, its servants and agents against all actions, suits, proceedings, causes of actions, costs, claims and demands whatsoever which may be brought or made against it or them by me or by any body or person by reason of or arising out of the release of such Information;</p>
(i)	<p>All clauses</p>	<p>All clauses – except as otherwise specified in this Schedule, delete each mention of “CrimTrac” and substitute with “ACIC”.</p>

A3. This Schedule will take effect as soon as the Parties sign the Schedule. The Parties have confirmed their commitment to this agreement as follows:

*Signed for and on behalf of the Commonwealth of Australia by*



**The Honourable Malcolm Turnbull MP**  
Prime Minister of the Commonwealth of Australia

[Day] [Month] [Year]

*Signed for and on behalf of the State of New South Wales by*



**The Honourable Gladys Berejiklian MP**  
Premier of the State of New South Wales

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*Signed for and on behalf of the State of Victoria by*



**The Honourable Daniel Andrews MP**  
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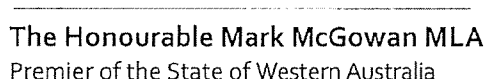
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Premier of the State of Queensland

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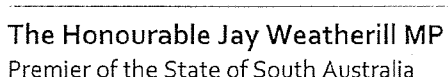
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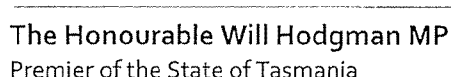
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Premier of the State of South Australia

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Chief Minister of the Australian Capital Territory

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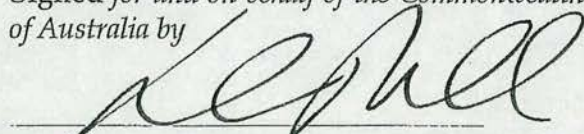
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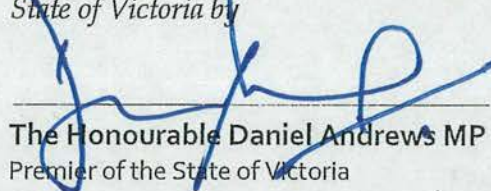
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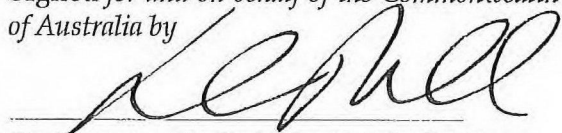
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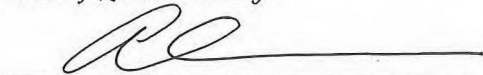
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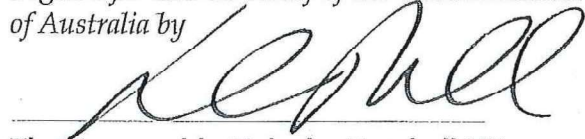
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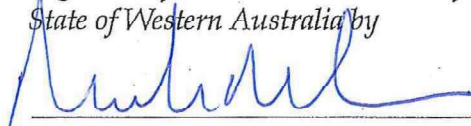
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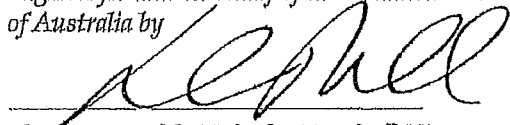
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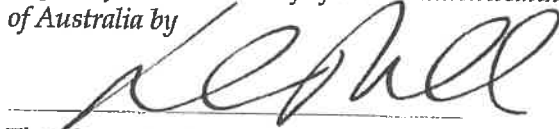
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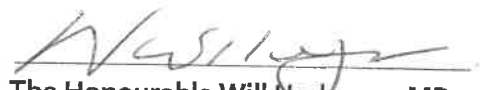
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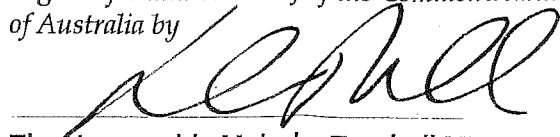
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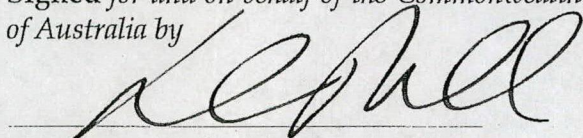
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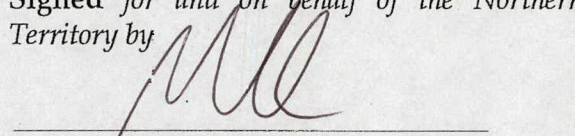
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