

Human Resources Legislative Update

Regulatory Exemption for Record Check Process under *Police Record Checks Reform Act, 2015* Filed

Date: October 29, 2018

As discussed in our [previous post](#), the *Police Record Checks Reform Act, 2015* (Act) creates new procedural requirements for requesting and obtaining criminal record, judicial matters and vulnerable sector backgrounds checks.

The Act creates a requirement for a two-stage consent process where: (1) the individual must consent to the type of check being conducted; and (2) the individual must receive the results of their police record check before they can be asked to consent to disclosure to a third party (such as the employer).

An amendment to [Ontario Regulation 347/18](#) made under the Act sets out a new exemption to the two-stage consent process for criminal record or criminal record and judicial matters checks performed by prescribed “police record check providers.” Such providers include a third party entity that has an agreement with a police service to provide services related to conducting a police record check.

Under the new exemption, there is no requirement for the individual to review the results of the check and provide consent for disclosure before it is provided to the requester. The process also differs in that the police record check provider need not request a report from a police service.

Rather, where an individual has self-declared any criminal conviction history and provided their written consent (which includes to whom the results of the check should be disclosed) the police record check provider can provide the self-declaration to the police service along with the individual’s consent. The police service will then disclose whether the records match the self-declaration, or whether the judicial matters search is clear or not. They will not release any details of the records.

It should be noted that this new exemption only applies to criminal record and judicial matters checks. Requests for a vulnerable sector check must proceed through the standard two-stage consent process.

Both the Act and Ontario Regulation 347/18 come into force on November 1, 2018.