

## CLAUSE NOTES

### *Registration to Work with Vulnerable People Amendment Bill 2018*

**Clause 1: Short title**

This clause provides that, once passed, the Bill will be cited as the *Registration to Work with Vulnerable People Amendment Act 2018*.

**Clause 2: Commencement**

Provisions of this Bill are to commence on a day or days to be proclaimed.

**Clause 3: Principal Act**

Any reference to “the Principal Act” refers to the *Registration to Work with Vulnerable People Act 2013*.

**Clause 4: Section 3 amended (Interpretation)**

The definitions of *category of registration* and *class of vulnerable persons regulated activity* are inserted to accommodate the additional categories of registration.

The *disqualifying offence* points to a list of specific offences that deems an applicant unable to apply for registration or, if already registered, their registration will be cancelled.

*NDIS participant* is a person deemed to have a disability and accessing NDIS services and inserted to give effect to s4A.

*Determined* gives effect to s 7A.

**Clause 5: Section 4 amended (Vulnerable Person defined)**

This clause improves the definition of a vulnerable adult, it does not alter the intent of section 4.

**Clause 6: Section 4A inserted**

This clause allows for categories of regulated activities for which a person can apply. Previously a ‘regulated activity’ referred only to a child-related regulated activity.

**Clause 7: Section 6 amended (Contact with a vulnerable person defined)**

This clause amends the definition of *contact* so as to align with the NDIS IGA and National Standards for WWCC.

**Clause 8: Section 7A amended (Interim Regulated Activity)**

This clause aims to align with a ‘category’ of registration pursuant to Clause 6.

- Clause 9: Section 9 Substituted**  
This clause clarifies the meaning of section 9, it does not alter the intent of section 9.
- Clause 10: Section 11A amended (Functions and Powers of the Registrar)**  
This clause improves the definition of a vulnerable adult, it does not alter the intent of section 4.
- Clause 11: Section 11B amended (Register)**  
This clause clarifies the meaning of section 11A to leave it in broad terms, it does not alter the intent of section 11A.
- Clause 12: Section 15 Substituted**  
This clause narrows the existing requirements in relation to persons not required to be registered. This amendment aims to align with National Standards for WWCC.
- Clause 13: Section 16 amended (Offence to engage in regulated activity unless registered)**  
This clause aims to align with a 'category' of registration pursuant to Clause 6.
- Clause 14: Section 17 amended (Offence for employer to engage unregistered person in regulated activity)**  
This clause aims to align with a 'category' of registration pursuant to Clause 6.
- Clause 15: Section 18 amended (Unregistered person may engage in regulated activity in certain supervised employment circumstances)**  
This clause puts further restrictions on an unregistered person to engage in a regulated activity when they have an application underway and requires an employer to have a 'risk management plan' in place.
- Clause 16: Section 18A amended (Unregistered person may engage in regulated activity in certain supervised employment circumstances)**  
This clause aims to align with a 'category' of registration pursuant to Clause 6.
- Clause 17: Section 19 amended (Application for registration)**  
This clause aims to align with a 'category' of registration pursuant to Clause 6.
- Clause 18: Section 20 amended (Contents of application for registration)**  
This clause aims to align with a 'category' of registration pursuant to Clause 6.
- Clause 19: Section 22 amended (Requiring additional information)**  
This clause amends existing s 22 to be explicit as to what 'additional information' is. It also allows the Registrar to dismiss an application if the applicant refuses to provide the required information within the specified time frame.

**Clause 20: Section 23 inserted**

This clause is an extension of s 22 in that it allows the Registrar to request additional information in the form of an interview. It provides for the person being interviewed to have a support person attend if they wish.

**Clause 21: Sections 24A and 24B inserted**

Section 24A – Offence for applicant to fail to notify change of certain details.

The new s24A provides for penalty provisions if a registered person does not notify the Registrar of any change of information relating to his or her name, address or employer.

Section 24B – Withdrawal of application

The new s24B sets out circumstances where the Registrar can notify the named employer that an applicant has withdrawn their application.

**Clause 22: Section 30 amended (Proposed negative notice)**

This clause states that applicants who have been convicted of a disqualifying offence will not be issued with a proposed negative notice prior to being issued with a negative notice.

**Clause 23: Section 32 amended (refusal to register a person and negative notices)**

This clause states that the Registrar is to refuse to register a person if the Registrar is satisfied that the person has been convicted of a disqualifying offence.

**Clause 24: Section 33 amended (Registration)**

This clause aims to align with a 'category' of registration pursuant to Clause 6.

**Clause 25: Section 33A inserted**

This clause aims to align with a 'category' of registration pursuant to Clause 6.

**Clause 26: Section 34 amended (Term of Registration)**

This clause extends the term of registration from 3 years to up to 5 years.

**Clause 27: Section 35 amended (Conditional Registration)**

This clause allows for regulations to prescribe a category of regulated activity that cannot be registered subject to conditions. This allows for regulation to be made to exclude the NDIS worker screening from this provision in accordance with the national agreement for NDIS worker screening

**Clause 28: Section 42 amended (Registration Card)**

This clause aims to align with a 'category' of registration pursuant to Clause 6.

- Clause 29: Section 44 amended (Surrender of Registration Card)**  
The current s44 provides for a penalty in the event that a registered person who has had their registration cancelled and has not returned their registration card within a specified time frame. This clause extends the requirement to persons who have had their registration suspended.
- Clause 30: Sections 46A and 46B inserted**  
46A – Requiring information – registered person  
46B – Requesting Interview - registered person  
Section 46A will afford the Registrar with the power to request additional information from a registered person when conducting an additional risk assessment and is explicit as to what 'additional information' is.  
Section 46B will afford the Registrar with the power to request additional information from a registered person when conducting an additional risk assessment in the form of an interview.
- Clause 31: Section 48A inserted**  
48A – Offence for employer to fail to notify change of employee engagement.  
This clause creates a penalty provision if an employer fails to notify change of employee engagement.
- Clause 32: Section 49 amended (Grounds for suspension or cancellation of registration)**  
This clause states that the Registrar must cancel a person's registration if the Registrar is satisfied that the person has been convicted of a disqualifying offence.
- Clause 33: Section 49A amended (Immediate suspension in certain circumstances)**  
This section allows for a registered person who has had their registration immediately suspended to apply to the Registrar to review the immediate suspension after a period of 6 months.
- Clause 34: Section 51 amended (Suspension or cancellation of registration) inserted**  
This clause clarifies the existing section, it does not alter the intent of section 51.
- Clause 35: Section 52 Amended (Surrendering registration)**  
This clause provides for a penalty provision if a registered person surrenders their registration but does not surrender their registration card.

**Clause 36: Section 52A amended (Registrar may require or request information, &c.)**

This clause serves two purposes

- 1) It serves to allow the Registrar to request information relevant to the operation of the Act rather than be limited to the risk assessment and registration processes.
- 2) It serves to allow the Registrar to require or request information from registries established by the Commonwealth.

**Clause 37: Section 53 amended (Review of decision)**

This clause amends the reviewable decisions to ensure that a negative notice issued due to a 'disqualifying offence' is exempt.

**Clause 38: Section 53A substituted**

This clause seeks to amend the section 53A to clarify the requirement on a reportable body to notify the Registrar of alleged reportable behaviour.

**Clause 39: Section 54B amended (Registrar may disclose certain information)**

This clause removes the limitation that a relevant outcome can only be disclosed by the Registrar to a governing body that has been established under an Act.

**Clause 40: Section 54D inserted**

54D – Disqualifying offence order

This clause allows the Minister to specify an offence, from any Australian jurisdiction, to be a disqualifying offence.

**Clause 41: Repeal of the Act**