

TASMANIA

REGISTRATION TO WORK WITH VULNERABLE PEOPLE AMENDMENT BILL 2015

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – REGISTRATION TO WORK WITH VULNERABLE PEOPLE ACT 2013 AMENDED

3. Principal Act
4. Section 2A inserted
 - 2A. Object of Act
5. Section 3 amended (Interpretation)
6. Section 6 amended (*Contact* with a vulnerable person defined)
7. Sections 7A and 7B inserted
 - 7A. Interim regulated activity
 - 7B. Paramount consideration
8. Sections 11A and 11B inserted
 - 11A. Functions and powers of Registrar
 - 11B. Register
9. Section 18 amended (Unregistered person may engage in regulated activity in certain supervised employment circumstances)
10. Section 18A inserted
 - 18A. Unregistered person may engage in regulated activity in special circumstances

11. Section 20 amended (Contents of application for registration)
12. Section 22 amended (Requiring additional information)
13. Section 23 repealed
14. Section 26 amended (Risk assessment order)
15. Section 28 amended (Risk assessments)
16. Section 29 repealed
17. Section 30 amended (Proposed negative notices)
18. Section 31 amended (Extension of period to request reconsideration of negative risk assessment)
19. Section 32 amended (Refusal to register a person and negative notices)
20. Section 33 amended (Registration)
21. Section 37 amended (Extension of period for requesting consideration of proposed conditional registration)
22. Section 41A inserted
 - 41A. Amendment of class of registration
23. Section 42 amended (Registration card)
24. Section 43 amended (Replacement registration cards)
25. Section 45 repealed
26. Section 48 substituted
 48. Offence for registered person to fail to notify change of certain details
27. Section 49A inserted
 - 49A. Immediate suspension in certain circumstances
28. Section 50 amended (Notice of proposed suspension or cancellation of registration)
29. Section 51 amended (Suspension or cancellation of registration)
30. Section 52 amended (Surrendering registration)
31. Part 6A inserted
 - PART 6A – Registrar’s Powers in Relation to Compliance with, and Administration of, Act
 - 52A. Registrar may require or request information, &c.
 - 52B. Registrar’s powers in respect of premises
 - 52C. Possession of document or copy by Registrar
 - 52D. Restriction on use of information, &c.

- 32. Section 53 amended (Review of decisions)
- 33. Part 7A inserted
 - PART 7A – Reportable Behaviour
 - 53A. Duty of reporting body to notify of reportable behaviour
 - 53B. Registrar to enter reportable behaviour in Register
- 34. Sections 54A, 54B and 54C inserted
 - 54A. Offence to give false or misleading information
 - 54B. Registrar may disclose certain information
 - 54C. Employer or registering authority may notify of new employee
- 35. Section 60 amended (Regulations)
- 36. Section 61 substituted
 - 61. Savings and transitional provision consequent on *Registration to Work with Vulnerable People Amendment Act 2015*

PART 3 – REGISTRATION TO WORK WITH VULNERABLE PEOPLE ACT 2013 FURTHER AMENDED

- 37. Principal Act
- 38. Section 15 amended (Person required to be registered to engage in regulated activity)
- 39. Section 16A inserted
 - 16A. Offence for registered person in volunteer class to engage in regulated activity for financial or other material benefit or reward
- 40. Section 17A inserted
 - 17A. Offence for employer to engage person registered in class of volunteer in regulated activity for person's financial or other material benefit or advantage

PART 4 – REGISTRATION TO WORK WITH VULNERABLE PEOPLE REGULATIONS 2014 AMENDED

- 41. Principal Regulations
- 42. Part 2A inserted
 - PART 2A – Prescribed Matters for Purposes of Certain Sections of Act
 - 4P. Matters prescribed for section 18A of Act

PART 5 – MISCELLANEOUS

43. Amendment of regulations does not bar further amendment or repeal

REGISTRATION TO WORK WITH VULNERABLE PEOPLE AMENDMENT BILL 2015

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
29 October 2015

*(Brought in by the Minister for Human Services, the
Honourable Jacqueline Anne Petrusma)*

A BILL FOR

An Act to amend the *Registration to Work with Vulnerable People Act 2013* and the *Registration to Work with Vulnerable People Regulations 2014* and for related purposes

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Registration to Work with Vulnerable People Amendment Act 2015*.

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

s. 2

Part 1 – Preliminary

2. Commencement

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.
- (2) Part 4 commences on 1 December 2015.
- (3) Part 3 commences on 1 April 2016.

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 3

**PART 2 – REGISTRATION TO WORK WITH
VULNERABLE PEOPLE ACT 2013 AMENDED**

3. Principal Act

In this Part, the *Registration to Work with Vulnerable People Act 2013** is referred to as the Principal Act.

4. Section 2A inserted

After section 2 of the Principal Act, the following section is inserted in Part 1:

2A. Object of Act

The object of this Act is to protect vulnerable persons from the risk of harm by –

- (a) preventing certain people from engaging in regulated activities; and
- (b) requiring persons engaged in regulated activities to be registered; and
- (c) requiring risk assessments to be undertaken –
 - (i) in relation to persons wishing to be registered to

*No. 65 of 2013

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 5 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

engage in regulated activities; and

- (ii) in certain circumstances in relation to persons who are registered to engage in regulated activities.

5. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *criminal history*:

criminal intelligence information
means information that relates to criminal activities and is obtained from –

- (a) the Commissioner of Police; or
 - (b) any other entity, or body, responsible for the enforcement of laws of the Commonwealth or of this or any other State or of a Territory;
- (b) by inserting the following definition after the definition of *proposed negative notice*:

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 5

Register means the register established
and maintained by the Registrar
under section 11B;

- (c) by omitting the definition of *registration*
and substituting the following definition:

registration –

- (a) means registration under
section 33; or
 - (b) in relation to a
corresponding law, means
registration, licensing or
other authorisation under
the corresponding law;
- (d) by omitting the definition of *regulated
activity* and substituting the following
definition:

regulated activity means an activity or
service that –

- (a) is prescribed by the
regulations to be a
regulated activity; or
- (b) is determined by the
Minister under section 7A
to be an interim regulated
activity, while that
determination has effect;

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 5 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (e) by inserting the following definitions after the definition of *relevant offence*:

reportable behaviour means behaviour of a kind prescribed by the regulations to be reportable behaviour;

reporting body means –

- (a) an agency, within the meaning of the *State Service Act 2000*; or
- (b) the Police Service; or
- (c) any body or person (other than the Registrar) that is responsible, under an Act, for the registration, licensing or other authorisation of persons enabling them to work, whether or not for financial or other material benefit or reward, in an activity that is a regulated activity; or
- (d) any other entity, or other body, prescribed by the regulations to be a reporting body;

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 6

6. Section 6 amended (*Contact with a vulnerable person defined*)

Paragraph (c) of the definition of *contact* in section 6 of the Principal Act is amended as follows:

- (a) by omitting from subparagraph (iii) “communication;” and substituting “communication.”;
- (b) by omitting subparagraphs (iv) and (v).

7. Sections 7A and 7B inserted

After section 7 of the Principal Act, the following sections are inserted in Part 1:

7A. Interim regulated activity

- (1) The Minister, by notice published in the *Gazette*, may determine an activity or service to be an interim regulated activity.
- (2) The determination takes effect on –
 - (a) the day on which the notice is published in the *Gazette*; or
 - (b) a later day specified in the notice.
- (3) The determination ceases to have effect when the first of the following occurs:

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 8 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (a) it is revoked by the Minister by notice published in the *Gazette*;
 - (b) the expiration of the period of 6 months commencing on the day on which the determination takes effect.
- (4) A notice under this section is not a statutory rule for the purposes of the *Rules Publication Act 1953*.

7B. Paramount consideration

In the administration of this Act, the safety, welfare and protection of vulnerable persons is to be the paramount consideration at all times.

8. Sections 11A and 11B inserted

After section 11 of the Principal Act, the following sections are inserted in Part 2:

11A. Functions and powers of Registrar

- (1) The Registrar has the following functions:
- (a) to advise the Minister in relation to the administration of this Act;
 - (b) to process applications for registration, including the conduct of risk assessments, and to perform all other functions

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 8

imposed on him or her by this Act in relation to registration;

- (c) to monitor the compliance with this Act by employers, employees, registered persons and other persons;
 - (d) to perform other functions related to the administration of this Act that are imposed by the Minister, in writing.
- (2) The Registrar has the power to do all things necessary or convenient to perform his or her functions including, but not limited to, facilitating education in relation to the operation of this Act and related matters.

11B. Register

- (1) The Registrar is to establish and maintain a register in relation to –
- (a) the registration of persons under this Act; and
 - (b) risk assessments; and
 - (c) notifiable behaviour; and
 - (d) applicants for registration; and
 - (e) employers of registered persons and applicants for registration; and

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 8 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (f) any other matters that are prescribed by the regulations; and
 - (g) any other matters that the Registrar considers appropriate.
- (2) The Registrar is to ensure that one part of the Register includes only the following information:
 - (a) the name of each registered person;
 - (b) the regulated activities for which that registered person is registered, the class of registration and any conditions to which the registration is subject;
 - (c) the unique identifying number for that registered person as shown on his or her registration card;
 - (d) the term of that registered person's registration;
 - (e) the name and contact details, if known to the Registrar, of any employer or intended employer for whom that registered person engages or proposes to engage in a regulated activity;
 - (f) the name of each applicant for registration;

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 8

- (g) the regulated activities in relation to which that applicant has applied for registration and the class of registration applied for;
 - (h) the name and contact details, if known to the Registrar, of any intended employer for whom that applicant proposes to engage in a regulated activity;
 - (i) any prescribed matter.
- (3) The Registrar is to make that part of the Register referred to in subsection (2) available for inspection –
 - (a) by members of the public; and
 - (b) free of charge; and
 - (c) in any manner the Registrar considers appropriate.
- (4) In making that part of the Register referred to in subsection (2) available for inspection under subsection (3), the Registrar may –
 - (a) make that Part available in more than one manner; and
 - (b) limit the availability for inspection by a particular manner to a particular class of members

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 9 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

of the public, as determined by
the Registrar.

- (5) Except as provided in subsection (3), the Register –
 - (a) is not a public register; and
 - (b) is not available for inspection by members of the public; and
 - (c) is protected information within the meaning of section 54.
- (6) Despite subsection (5), the Registrar may divulge information contained in the Register that is not contained in that part of the Register referred to in subsection (2) to a person or body referred to in paragraph (c) of the definition of *reporting body* in section 3 or an entity, other person or body prescribed by the regulations for the purposes of this subsection.

9. Section 18 amended (Unregistered person may engage in regulated activity in certain supervised employment circumstances)

Section 18 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(b)(ii) “application; and” and substituting “application; or”;

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 9

- (b) by inserting the following subparagraph after subparagraph (ii) in subsection (2)(b):
 - (iii) provided to the person a notice under subsection (5); and
- (c) by omitting from subsection (3)(c) “a registered” and substituting “unless the regulations have prescribed that this paragraph does not apply to the regulated activity, a registered”;
- (d) by inserting the following subsections after subsection (3):
 - (4) At any time after receiving an application for registration, the Registrar may determine that the applicant is not entitled, under subsection (3), to engage in the regulated activity specified in the application if, after taking into account relevant information, the Registrar reasonably suspects that the applicant may be refused registration or issued with a negative notice.
 - (5) On making a determination under subsection (4), the Registrar is to provide the applicant, and all relevant named employers in the application, with a notice stating that the applicant is not entitled to

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 10 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

engage in the regulated activity
before the person is registered.

10. Section 18A inserted

After section 18 of the Principal Act, the
following section is inserted in Part 3:

**18A. Unregistered person may engage in
regulated activity in special circumstances**

(1) In this section –

prescribed period has the same
meaning as in section 17 of the
*Magistrates Court
(Administrative Appeals Division)
Act 2001*;

relevant regulated activity means a
regulated activity that is
prescribed by the regulations to
be a relevant regulated activity
for the purposes of this section;

special circumstances, in relation to a
relevant regulated activity, means
circumstances that are prescribed
by the regulations to be special
circumstances in relation to that
relevant regulated activity.

(2) A person may engage in a relevant
regulated activity for which he or she is

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 10

required to be registered if special circumstances exist –

- (a) for a period not exceeding 7 continuous days (including the day on which the person first engages in the relevant regulated activity); or
- (b) if the person applies for registration within 7 days after first engaging in the relevant regulated activity, for the period commencing on the day on which the person first engages in that activity and ending –
 - (i) if the Registrar registers the person, when that registration takes effect; or
 - (ii) if the Registrar refuses to register the person and the person does not apply for a review of the decision under section 53 within the prescribed period, on the expiration of the prescribed period; or
 - (iii) if the Registrar refuses to register the person and the person applies for a review of the decision

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 11 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

under section 53 within the prescribed period, when the review is determined by the Magistrates Court (Administrative Appeals Division) or, if that determination is that the application for registration is remitted to the Registrar for further determination, when the Registrar on further determination either registers the person or notifies the person that registration is refused.

- (3) For the purposes of determining the number of days for which a person is engaged in a relevant regulated activity, any engagement in the regulated activity on a particular day, regardless of the actual time spent engaging in that activity on that day, is taken to be engagement in the regulated activity for the whole of that particular day.

11. Section 20 amended (Contents of application for registration)

Section 20(1) of the Principal Act is amended by inserting after paragraph (d) the following paragraph:

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 12

(da) a statement as to whether the applicant engages in or intends to engage in –

(i) all the regulated activities only as a volunteer; or

(ii) all or any of the regulated activities for financial or other material benefit or advantage; and

12. Section 22 amended (Requiring additional information)

Section 22 of the Principal Act is amended by inserting after subsection (1) the following subsection:

(1A) A requirement under subsection (1) may specify a period of not less than 15 working days within which the applicant is to provide the additional information or additional documents.

13. Section 23 repealed

Section 23 of the Principal Act is repealed.

14. Section 26 amended (Risk assessment order)

Section 26(2) of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 15 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (a) provide for the matters, other than matters specified in section 28(1A), that the Registrar must or may take into account in conducting a risk assessment; and

15. Section 28 amended (Risk assessments)

Section 28 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) In conducting the risk assessment of a person, the Registrar, if he or she considers it relevant to determining whether the person poses a risk of harm to vulnerable persons generally or a class of vulnerable persons, or to determining the level of such risk, is to take into account –
 - (a) the person’s criminal history; and
 - (b) the non-conviction information for the person; and
 - (c) criminal intelligence information relevant to the person; and
 - (d) the person’s past reportable behaviour or similar behaviour under a corresponding law; and

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 16

- (e) whether the person has been refused registration under this Act or a corresponding law; and
- (f) whether the person, under this Act or a corresponding law, has had his or her previous registration under this Act or that law suspended or cancelled; and
- (g) the nature of the behaviour, or alleged behaviour, of the person that is relevant to the matter referred to in paragraph (a), (b), (d), (e) or (f).

16. Section 29 repealed

Section 29 of the Principal Act is repealed.

17. Section 30 amended (Proposed negative notices)

Section 30 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (2A) Despite subsection (2)(a), the Registrar is not required to notify a person of the reasons for a negative risk assessment to the extent that to do so would –
 - (a) prejudice –
 - (i) the enforcement, or proper administration, of

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 17 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- a law in a particular instance; or
 - (ii) the fair trial of a person for an offence against a law; or
 - (iii) the impartial adjudication of proceedings relating to an offence against a law; or
- (b) disclose, or enable the person to ascertain, the existence or identity of a confidential source of information in relation to the investigation of a contravention, or possible contravention, of the law or the enforcement, or proper administration, of the law; or
- (c) disclose methods or procedures for preventing, detecting or investigating, or dealing with matters arising out of, contraventions or evasions of a law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
- (d) endanger the life or physical, emotional or psychological safety of another person, or increase the

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 18

likelihood of harassment of or
discrimination against another
person; or

- (e) disclose information gathered,
collated or created for
intelligence, including but not
limited to databases of criminal
intelligence, forensic testing or
anonymous information from the
public; or
- (f) hinder, delay or prejudice an on-
going investigation of a
contravention, or possible
contravention, of a law.

(2B) In subsection (2A) –

law means law of the Commonwealth,
a State or a Territory.

**18. Section 31 amended (Extension of period to request
reconsideration of negative risk assessment)**

Section 31(2) of the Principal Act is amended by
omitting paragraph (b) and substituting the
following paragraph:

- (b) is to be made before the expiration of the
period of 20 working days referred to in
that subsection.

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 19 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

19. Section 32 amended (Refusal to register a person and negative notices)

Section 32 of the Principal Act is amended by inserting after subsection (3) the following subsections:

(4) Despite subsection (3)(a), the Registrar is not required to notify a person of the reasons for a negative risk assessment to the extent that to do so would –

(a) prejudice –

(i) the enforcement, or proper administration, of a law in a particular instance; or

(ii) the fair trial of a person for an offence against a law; or

(iii) the impartial adjudication of proceedings relating to an offence against a law; or

(b) disclose, or enable the person to ascertain, the existence or identity of a confidential source of information in relation to the investigation of a contravention, or possible contravention, of the law or the enforcement, or proper administration, of the law; or

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 19

- (c) disclose methods or procedures for preventing, detecting or investigating, or dealing with matters arising out of, contraventions or evasions of a law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
 - (d) endanger the life or physical, emotional or psychological safety of another person, or increase the likelihood of harassment of or discrimination against another person; or
 - (e) disclose information gathered, collated or created for intelligence, including but not limited to databases of criminal intelligence, forensic testing or anonymous information from the public; or
 - (f) hinder, delay or prejudice an on-going investigation of a contravention, or possible contravention, of a law.
- (5) In subsection (4) –

law means law of the Commonwealth,
a State or a Territory.

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 20 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

20. Section 33 amended (Registration)

Section 33 of the Principal Act is amended by omitting subsection (2) and substituting the following subsections:

(2) If the Registrar makes a positive risk assessment of a person, the Registrar –

(a) is to register the person –

(i) so as to allow that person to engage in the relevant regulated activities or all regulated activities; and

(ii) either in the class of employment/volunteer or the class of volunteer; and

(b) is to notify the person, in writing, of the positive risk assessment and that the person has been so registered; and

(c) may notify any named employer, in writing, that the person has been registered.

(2A) The Registrar is to register the person –

(a) in the class of employment/volunteer if the person engages, or intends to engage, in any regulated activity that he or she is registered to

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 21

engage in for financial or other material benefit or advantage, whether or not he or she also engages, or intends to engage, in any other such regulated activity as a volunteer; or

- (b) in the class of volunteer if the person engages, or intends to engage, in the regulated activities he or she is registered to engage in only as a volunteer.

21. Section 37 amended (Extension of period for requesting consideration of proposed conditional registration)

Section 37(2) of the Principal Act is amended by omitting paragraph (b) and substituting the following paragraph:

- (b) is to be made before the expiration of the period of 20 working days referred to in that subsection.

22. Section 41A inserted

After section 41 of the Principal Act, the following section is inserted in Division 1:

41A. Amendment of class of registration

- (1) A person who is registered in the class of volunteer may apply to the Registrar to

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 22 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

amend the person's registration to that of
class of employment/volunteer.

- (2) An application –
 - (a) if a form has been approved under section 59 for the purposes of an application under subsection (1), is to be in that form; and
 - (b) is to be accompanied by any prescribed fee.
- (3) The Registrar may, in writing, require the applicant to provide the Registrar with the additional information, in writing, or documents the Registrar considers is or may be needed to determine the application.
- (4) If the applicant does not comply with a requirement under subsection (3), the Registrar may refuse to consider the application further.
- (5) After considering an application, the Registrar is to –
 - (a) amend the registration to the class of employment/volunteer; or
 - (b) refuse to so amend the registration.
- (6) The Registrar is to –

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 23

- (a) notify the applicant, in writing, of his or her determination to amend or refuse to amend the registration under subsection (5) and, if the Registrar refuses to amend the registration, is to specify in the notice the reasons for the determination; and
- (b) if the Registrar amends the registration, notify, by email, any employer for whom the applicant engages in the relevant regulated activity, and for whom the Registrar has a current email address, of the amendment of the applicant's registration to the class of employment/volunteer.

23. Section 42 amended (Registration card)

Section 42(2) of the Principal Act is amended by inserting after paragraph (d) the following paragraph:

- (da) the class of registration; and

24. Section 43 amended (Replacement registration cards)

Section 43 of the Principal Act is amended as follows:

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 25 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

(a) by omitting paragraph (b) from subsection (2);

(b) by omitting subsection (3) and substituting the following subsection:

(3) On receipt of an application, the Registrar is to provide the applicant with a replacement registration card.

25. Section 45 repealed

Section 45 of the Principal Act is repealed.

26. Section 48 substituted

Section 48 of the Principal Act is repealed and the following section is substituted:

48. Offence for registered person to fail to notify change of certain details

(1) A registered person must notify the Registrar of any change in his or her name, address or employer –

(a) if –

(i) a form is approved under section 59 for this notification, in that form;
or

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 27

(ii) a form is not approved under section 59 for this notification, in writing; and

(b) within 10 working days after the day on which the change occurs.

Penalty: Fine not exceeding 10 penalty units.

(2) It is sufficient compliance with subsection (1) if the registered person provides notice of the change of name, address or employer –

(a) by providing it to the Registrar, directly, in a manner approved by the Registrar; or

(b) by providing it to the Registrar by lodging it with that part of the responsible Department in relation to the *State Service Act 2000* known as Service Tasmania at a Service Tasmania shop.

27. Section 49A inserted

After section 49 of the Principal Act, the following section is inserted in Division 4:

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 27 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

49A. Immediate suspension in certain circumstances

- (1) If the Registrar makes a determination under section 49(2) to suspend a person's registration while an additional risk assessment is conducted –
 - (a) the Registrar is to notify the person, in writing, of that suspension; and
 - (b) sections 50 and 51 do not apply in relation to that suspension; and
 - (c) that suspension takes effect on the day on which the person would receive the notice in the normal course of events and continues until the first of the following occurs:
 - (i) the Registrar, on completing the additional risk assessment, notifies the person of a positive additional risk assessment, within the meaning of section 46;
 - (ii) the Registrar, on completing the additional risk assessment and after complying with sections 50 and 51, notifies the person under

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 27

section 51 that either the registration will be suspended or cancelled or will not be suspended or cancelled.

- (2) If the Registrar, on completion of an additional risk assessment undertaken on any ground, determines to suspend or cancel a person's registration, but the person's registration was not suspended during the additional risk assessment, the Registrar –
- (a) despite section 50, may impose an interim suspension of the person's registration if of the opinion that it is necessary for the safety, welfare and protection of vulnerable persons; and
 - (b) is to comply with sections 50 and 51 in relation to the intention to suspend or cancel the person's registration under section 51; and
 - (c) in the notice provided under section 50, is to notify the person of the interim suspension of his or her registration.
- (3) If the Registrar imposes an interim suspension of a person's registration under subsection (2)(a) –

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 28 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (a) sections 50 and 51 do not apply in relation to the interim suspension; and
- (b) the interim suspension takes effect on the day on which the person would receive the notice in the normal course of events and continues until the Registrar, after complying with sections 50 and 51 in relation to the intention to suspend or cancel the person's registration, notifies the person under section 51 that either the registration will be suspended or cancelled or will not be suspended or cancelled.

28. Section 50 amended (Notice of proposed suspension or cancellation of registration)

Section 50 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) Despite subsection (2)(a), the Registrar is not required to set out the grounds for suspension or cancellation of registration to the extent that to do so would –
 - (a) prejudice –
 - (i) the enforcement, or proper administration, of

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 28

- a law in a particular instance; or
- (ii) the fair trial of a person for an offence against a law; or
- (iii) the impartial adjudication of proceedings relating to an offence against a law; or
- (b) disclose, or enable the person to ascertain, the existence or identity of a confidential source of information in relation to the investigation of a contravention, or possible contravention, of the law or the enforcement, or proper administration, of the law; or
- (c) disclose methods or procedures for preventing, detecting or investigating, or dealing with matters arising out of, contraventions or evasions of a law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or
- (d) endanger the life or physical, emotional or psychological safety of another person, or increase the

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 29 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

likelihood of harassment of or
discrimination against another
person; or

(e) disclose information gathered,
collated or created for
intelligence, including but not
limited to databases of criminal
intelligence, forensic testing or
anonymous information from the
public; or

(f) hinder, delay or prejudice an on-
going investigation of a
contravention, or possible
contravention, of a law.

(4) In subsection (3) –

law means law of the Commonwealth,
a State or a Territory.

**29. Section 51 amended (Suspension or cancellation of
registration)**

Section 51 of the Principal Act is amended by
inserting after subsection (2) the following
subsections:

(2A) Despite subsection (2)(a), the Registrar is
not required to notify a person of the
grounds on which the person's
registration is suspended or cancelled to
the extent that to do so would –

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 29

- (a) prejudice –
 - (i) the enforcement, or proper administration, of a law in a particular instance; or
 - (ii) the fair trial of a person for an offence against a law; or
 - (iii) the impartial adjudication of proceedings relating to an offence against a law; or
- (b) disclose, or enable the person to ascertain the existence or identity of a confidential source of information in relation to the investigation of a contravention, or possible contravention, of the law or the enforcement, or proper administration, of the law; or
- (c) disclose methods or procedures for preventing, detecting or investigating, or dealing with matters arising out of, contraventions or evasions of a law, the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 30 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (d) endanger the life or physical, emotional or psychological safety of another person, or increase the likelihood of harassment of or discrimination against another person; or
- (e) disclose information gathered, collated or created for intelligence, including but not limited to databases of criminal intelligence, forensic testing or anonymous information from the public; or
- (f) hinder, delay or prejudice an on-going investigation of a contravention, or possible contravention, of a law.

(2B) In subsection (2A) –

law means law of the Commonwealth,
a State or a Territory.

30. Section 52 amended (Surrendering registration)

Section 52 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “written” after “a”;
- (b) by omitting subsection (2).

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 31

31. Part 6A inserted

After section 52 of the Principal Act, the following Part is inserted:

**PART 6A – REGISTRAR’S POWERS IN RELATION
TO COMPLIANCE WITH, AND ADMINISTRATION
OF, ACT**

**52A. Registrar may require or request
information, &c.**

(1) In this section –

relevant entity means an entity that –

- (a) has made an application under this Act; or
 - (b) is engaged in a regulated activity; or
 - (c) the Registrar reasonably suspects may be engaged in a regulated activity.
- (2) The Registrar, by written notice provided to a relevant entity, may require the entity to deliver or provide any information or document, or a copy of a document, in its possession or to which it has access, as specified in the notice.
- (3) The Registrar, by written notice provided to any of the following bodies, may request the body to deliver or provide

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 31 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

any information or document, or a copy of a document, in its possession or to which it has access, as specified in the notice:

- (a) a public authority of a jurisdiction other than Tasmania;
 - (b) any other government agency, or part of such a government agency of a jurisdiction other than Tasmania;
 - (c) a body, corporate or unincorporate, established by or under the statute law of a jurisdiction other than Tasmania.
- (4) A requirement or request made under subsection (2) or (3) to deliver or provide information, a document or a copy of a document may require or request that the information, document or copy be delivered to or provided at –
- (a) a specified place; and
 - (b) to a specified person; and
 - (c) at, by or within a specified time; and
 - (d) in person, by mail or email or in another specified manner.

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 31

- (5) If a requirement made under subsection (2) to deliver or provide information, a document or a copy of a document requires the relevant entity to provide that the information, document or copy in person, the Registrar may require that entity or its personal representative to answer questions that relate to that information, document or copy or are otherwise relevant to the administration of this Act.
- (6) A relevant entity, being an entity engaged in a regulated activity or an entity that the Registrar reasonably suspects may be engaged in a regulated activity, must –
- (a) comply with a requirement made under subsection (2) or (5); or
 - (b) provide a reasonable excuse for its failure to comply with the requirement.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

- (7) If any information, document or copy of a document is obtained by the Registrar under this section, that information, document or copy, or evidence of the obtaining of that information, document or copy, is not admissible against any

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 31 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

person in any civil or criminal proceedings, other than proceedings under this Act.

- (8) In complying with a requirement or request made under subsection (2) or (5), a relevant entity does not contravene any duty of confidentiality the entity has under any law or agreement, despite anything to the contrary in the law or agreement.

52B. Registrar’s powers in respect of premises

- (1) For the purposes of determining whether this Act is being contravened, the Registrar may do any or all of the following at any reasonable time:
- (a) enter and remain in or on –
 - (i) any premises at which a regulated activity occurs; or
 - (ii) any premises at which the Registrar has reason to believe a regulated activity is occurring or has occurred; or
 - (iii) any premises at which the Registrar has reason to believe any records or other things relevant to a

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 31

possible contravention of
this Act may be kept;

- (b) if the Registrar has reason to believe that an offence under this Act has been, or is being, committed in or on any premises, enter and remain in or on those premises, using such force as is reasonably necessary;
- (c) require a person apparently in charge of premises legally entered, or a person employed or volunteering in or on such premises, to –
 - (i) provide his or her name and address; and
 - (ii) answer any question put to him or her by the Registrar; and
 - (iii) deliver or provide any information or document, or a copy of a document, in his or her possession or to which he or she has access, as directed by the Registrar;
- (d) if the Registrar has reason to believe an offence under this Act has been, or is being committed,

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

s. 31 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

in or on premises legally entered –

- (i) search the premises and any thing in or on the premises; and
 - (ii) open or break open any thing in or on the premises for the purposes of that search;
 - (e) in premises legally entered, examine, take possession of, make copies of or take extracts from any document that is relevant to an offence under this Act;
 - (f) seize any thing that the Registrar has reason to believe is relevant to an offence under this Act.
- (2) In exercising powers under subsection (1), the Registrar may be accompanied by such assistants as the Registrar considers necessary and those assistants have the same powers under this section as the Registrar.
- (3) A requirement to deliver or provide information, a document or a copy of a document under subsection (1)(c)(iii) may require that the information, document or copy be delivered to or provided at –

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 31

- (a) a specified place; and
 - (b) to a specified person; and
 - (c) at, by or within a specified time;
and
 - (d) in person, by mail or email or in
another specified manner.
- (4) If a requirement made under subsection (1)(c)(iii) to deliver or provide information, a document or a copy of a document requires the person to provide the information, document or copy in person, the Registrar may require that person to answer questions that relate to that information, document or copy or are otherwise relevant to the administration of this Act.
- (5) A person in charge of, or employed or volunteering at, premises legally entered by the Registrar must –
- (a) comply with a requirement made under subsection (1)(c) or subsection (4); or
 - (b) provide a reasonable excuse as to why the person cannot comply with the requirement.

Penalty: Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 2 years, or both.

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 31 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (6) On the application of the Registrar, a magistrate may issue a warrant if the magistrate is satisfied that there are reasonable grounds for believing it necessary for the Registrar to enter a residence for the purposes specified in subsection (1).
- (7) A warrant under subsection (6) authorises the Registrar, and such assistants as the Registrar considers necessary, to exercise the powers conferred under subsection (1) in or on the residence specified in the warrant.
- (8) A warrant has effect for the period of one month after the day on which it is granted.

52C. Possession of document or copy by Registrar

- (1) If the Registrar has possession of a document, the Registrar may retain that document for so long as is necessary for the purposes of this Act.
- (2) An entity otherwise entitled to possession of a document retained by the Registrar is entitled to be provided with a copy of it, certified by the Registrar to be a true copy, as soon as practicable after the person requests a copy.
- (3) A copy of a document certified as a true copy under subsection (2) is to be

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 32

received in all courts and elsewhere as evidence of the matters contained in the copy as if it were the original document.

52D. Restriction on use of information, &c.

If any information, document or copy of a document is obtained by the Registrar under section 52A or 52B, evidence of that information, document or copy or evidence of the obtaining of that information, document or copy –

- (a) may be used only for the administration of this Act; and
- (b) is not admissible against any person in any civil or criminal proceedings, other than proceedings for an offence under this Act.

32. Section 53 amended (Review of decisions)

Section 53 of the Principal Act is amended by inserting after subsection (6) the following subsections:

- (7) In hearing and determining an application for a review made under subsection (2) and in giving its reasons for that decision, the Magistrates Court (Administrative Appeals Division) is not

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 32 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

to disclose any information to the extent
that to do so would –

- (a) prejudice –
 - (i) the enforcement, or proper administration, of a law in a particular instance; or
 - (ii) the fair trial of a person for an offence against a law; or
 - (iii) the impartial adjudication of proceedings relating to an offence against a law; or
- (b) disclose, or enable the person to ascertain, the existence or identity of a confidential source of information in relation to the investigation of a contravention, or possible contravention, of the law or the enforcement, or proper administration, of the law; or
- (c) disclose methods or procedures for preventing, detecting or investigating, or dealing with matters arising out of, contraventions or evasions of a law, the disclosure of which would, or would be reasonably likely to, prejudice the

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 32

effectiveness of those methods or procedures; or

- (d) endanger the life or physical, emotional or psychological safety of another person, or increase the likelihood of harassment of or discrimination against another person; or
- (e) disclose information gathered, collated or created for intelligence, including but not limited to databases of criminal intelligence, forensic testing or anonymous information from the public; or
- (f) hinder, delay or prejudice an on-going investigation of a contravention, or possible contravention, of a law.

(8) In subsection (7) –

law means law of the Commonwealth, a State or a Territory.

(9) In hearing and determining an application for a review made under subsection (2) and in giving its reasons for that decision, the Magistrates Court (Administrative Appeals Division), in order to prevent the disclosure of any information referred to in subsection (7), is to receive evidence and hear argument

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 33 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

in the absence of the public, the applicant for the review and the applicant's representative.

- (10) If the Magistrates Court (Administrative Appeals Division), in hearing and determining an application for a review made under subsection (2) and in compliance with subsection (7), does not give its reasons or all of its reasons for its decision, section 46(3) of the *Magistrates Court (Administrative Appeals Division) Act 2001* does not apply.

33. Part 7A inserted

After section 53 of the Principal Act, the following Part is inserted:

PART 7A – REPORTABLE BEHAVIOUR

53A. Duty of reporting body to notify of reportable behaviour

- (1) If a reporting body finds that a person has engaged in reportable behaviour, the reporting body is to notify the Registrar, in writing, of the name and other identifying particulars of the person and of the behaviour.
- (2) Subsection (1) applies to the finding of a reporting body made before the commencement of this section.

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 34

53B. Registrar to enter reportable behaviour in Register

- (1) On receiving a notice under section 53A(1) or otherwise becoming aware of reportable behaviour, the Registrar is to enter the information relating to the reportable behaviour in the Register.
- (2) The Registrar may remove from the Register an entry, or information, relating to reportable behaviour of a person if the Registrar is satisfied that the person poses no risk, or an acceptable risk, of harm to vulnerable persons, whether by reason of neglect, abuse or other conduct by the person.

34. Sections 54A, 54B and 54C inserted

After section 54 of the Principal Act, the following sections are inserted in Part 8:

54A. Offence to give false or misleading information

In delivering or providing any information or document to the Registrar, including in an application under this Act or answering a question, an entity must not –

- (a) make a statement knowing it to be false or misleading; or

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 34 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (b) omit any matter from a statement knowing that without that matter the statement or information is false or misleading; or
- (c) deliver or provide a document that the entity knows to be false or misleading without informing the Registrar of that knowledge.

Penalty: Fine not exceeding 50 penalty units.

54B. Registrar may disclose certain information

(1) In this section –

divulge includes –

- (a) communicate; and
- (b) publish;

registering authority means –

- (a) a person or body having functions similar to those of the Registrar under a corresponding law in relation to any regulated activity; or
- (b) any body or person (other than the Registrar) that is responsible, under an Act, for the registration, licensing or other

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 34

authorisation of persons enabling them to work, whether or not for financial or other material benefit or reward, in an activity that is a regulated activity; or

(c) any other entity, or body, prescribed by the regulations to be a registering authority.

(2) The Registrar may divulge to a registering authority any of the following information:

(a) the result of a risk assessment;

(b) that the registration of a person has been suspended or cancelled;

(c) any other information relating to the registration of a person.

(3) The Registrar, if he or she considers it appropriate to protect vulnerable persons or a class of vulnerable persons from a risk of harm, may divulge to a prescribed entity or other prescribed person or body the following information:

(a) that a person has received a negative risk assessment;

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 34 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

- (b) that the registration of a person has been suspended or cancelled;
- (c) any other information relating to the registration of a person.

54C. Employer or registering authority may notify of new employee

- (1) In this section –

registering authority means any body or person (other than the Registrar) that is responsible, under an Act, for the registration, licensing or other authorisation of persons enabling them to work, whether or not for financial or other material benefit or reward, in an activity that is a regulated activity.

- (2) If an employer engages a person in a regulated activity or a registering authority registers, licenses or otherwise authorises a person so as to enable the person to work in a regulated activity, the employer or registering authority may notify the Registrar, in writing, of that engagement, registration, licensing or authorisation.
- (3) On receipt of a notice under subsection (2), the Registrar –

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 34

- (a) is to update the Register accordingly; and
 - (b) may notify the person, in writing, that
 - (i) the employer has notified the Registrar that the employer has engaged the person in the regulated activity; or
 - (ii) the registering authority has notified the Registrar that it has registered, licensed, otherwise authorised the person so as to enable him or her to work in a regulated activity.
- (4) If on receipt of a notice under subsection (3)(b) the person notifies the Registrar, in writing, that he or she is not engaged by the employer in the regulated activity or has not been registered, licensed or otherwise authorised so as to enable him or her to work in the regulated activity, the Registrar is to –
- (a) update the register accordingly; and
 - (b) notify the employer or registering authority, in writing, of the

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 35 Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

person's response to the notice
provided under subsection (3)(b).

35. Section 60 amended (Regulations)

Section 60(2) of the Principal Act is amended by inserting after paragraph (d) the following paragraphs:

- (da) provide for matters relating to the Register and its maintenance; and
- (db) provide for –
 - (i) the form of a notification by a reporting body of reportable behaviour; and
 - (ii) the provision to the Registrar on the request of the Registrar of further information in relation to the reportable behaviour of a person, the particulars of the person or related matters; and
 - (iii) the keeping by reporting bodies of information and records relating to reportable behaviour; and
 - (iv) the amendment and withdrawal of a notification referred to in subparagraph (i); and

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 2 – Registration to Work with Vulnerable People Act 2013 Amended

s. 36

- (v) any other matter relating to reportable behaviour and the reporting of it; and

36. Section 61 substituted

Section 61 of the Principal Act is repealed and the following section is substituted:

61. Savings and transitional provision consequent on *Registration to Work with Vulnerable People Amendment Act 2015*

If a person, immediately before the day on which the *Registration to Work with Vulnerable People Amendment Act 2015* received the Royal Assent, was registered in the class of employee –

- (a) that person is taken to be registered in the class of employee/volunteer subject to the same conditions, if any, and for the same term and the Registrar is to amend the Register accordingly; and
- (b) a reference in that person's registration card to the class of employee is taken to be a reference to the class of employee/volunteer.

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

s. 37 Part 3 – Registration to Work with Vulnerable People Act 2013 Further Amended

**PART 3 – REGISTRATION TO WORK WITH
VULNERABLE PEOPLE ACT 2013 FURTHER
AMENDED**

37. Principal Act

In this Part, the *Registration to Work with Vulnerable People Act 2013** is referred to as the Principal Act.

38. Section 15 amended (Person required to be registered to engage in regulated activity)

Section 15 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3)(b)(ii) “for not more than 3 days in any 4-week period and for not more than 7 days in any calendar year;” and substituting “for not more than 7 days in any calendar year;”;
- (b) by omitting from subsection (3)(c)(iii) “for not more than 3 days in any 4-week period and for not more than 7 days in any calendar year;” and substituting “for not more than 7 days in any calendar year;”;
- (c) by inserting the following paragraph after paragraph (d) in subsection (3):

*No. 65 of 2013

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 3 – Registration to Work with Vulnerable People Act 2013 Further
Amended

s. 38

-
- (da) if –
- (i) the person is not a resident of Australia; and
 - (ii) the person is engaged in the regulated activity (other than a regulated activity that consists of an overnight camp for children) for one continuous period of not more than 28 days in any 12-month period; and
 - (iii) at the same time as the person is so engaged in the regulated activity, a registered person is also present and engaged in the regulated activity; or
- (d) by omitting subparagraphs (iv) and (v) from subsection (3)(j);
- (e) by inserting the following subsection after subsection (3):
- (3A) For the purposes of determining the number of days for which a person is engaged in a regulated activity, any engagement in the regulated activity on a particular day, regardless of the actual time spent engaging in that activity on

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 39 Part 3 – Registration to Work with Vulnerable People Act 2013 Further Amended

that day, is taken to be engagement in the regulated activity for the whole of that particular day.

39. Section 16A inserted

After section 16 of the Principal Act, the following section is inserted in Part 3:

16A. Offence for registered person in volunteer class to engage in regulated activity for financial or other material benefit or reward

- (1) A registered person who is registered in the class of volunteer must not engage in a regulated activity for financial or other material benefit or reward.

Penalty: Fine not exceeding 50 penalty units.

- (2) If a registered person applies, before or on the day of first engaging in a regulated activity for financial or other material benefit or reward, to amend his or her registration to the class of employee/volunteer, subsection (1) does not apply for the period –
- (a) commencing on the day on which the registered person first engages in the registered activity for

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

Part 3 – Registration to Work with Vulnerable People Act 2013 Further
Amended

s. 40

financial or other material benefit
or reward; and

- (b) ending when the Registrar
notifies the registered person of
the Registrar's determination of
the application under
section 41A.

40. Section 17A inserted

After section 17 of the Principal Act, the
following section is inserted in Part 3:

**17A. Offence for employer to engage person
registered in class of volunteer in regulated
activity for person's financial or other
material benefit or advantage**

- (1) An employer must not engage a person,
or require a person to be engaged, in a
regulated activity for the first time if –
- (a) that engagement will result in the
person receiving from the
employer a financial or other
material benefit or advantage; and
- (b) the person is registered in the
class of volunteer.

Penalty: Fine not exceeding 50 penalty
units.

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

s. 40 Part 3 – Registration to Work with Vulnerable People Act 2013 Further
Amended

- (2) If a registered person applies, before or on the day of first engaging in a regulated activity for financial or other material benefit or reward, to amend his or her registration to the class of employee/volunteer, subsection (1) does not apply for the period –
 - (a) commencing on the day on which the registered person first engages in the registered activity for financial or other material benefit or reward; and
 - (b) ending when the Registrar notifies the registered person of the Registrar's determination of the application under section 41A.

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

Part 4 – Registration to Work with Vulnerable People Regulations 2014
Amended

s. 41

**PART 4 – REGISTRATION TO WORK WITH
VULNERABLE PEOPLE REGULATIONS 2014
AMENDED**

41. Principal Regulations

In this Part, the *Registration to Work with Vulnerable People Regulations 2014** are referred to as the Principal Regulations.

42. Part 2A inserted

Before Part 3 of the Principal Regulations, the following Part is inserted:

**PART 2A – PRESCRIBED MATTERS FOR PURPOSES
OF CERTAIN SECTIONS OF ACT**

4P. Matters prescribed for section 18A of Act

(1) In this regulation –

child protection service has the same meaning as in regulation 4M;

Secretary means the Secretary of the responsible Department in relation to the *Children, Young Persons and Their Families Act 1997*.

*S.R. 2014, No. 68

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

s. 42 Part 4 – Registration to Work with Vulnerable People Regulations 2014
Amended

- (2) For the purposes of the definition of *relevant regulated activity* in section 18A(1) of the Act, the regulated activity of child protection service is prescribed to be a relevant regulated activity.
- (3) For the purposes of the definition of *special circumstances* in section 18A(1) of the Act, the following circumstances are special circumstances in relation to the relevant regulated activity of child protection service:
 - (a) the Secretary, under section 69(1) of the *Children, Young Persons and Their Families Act 1997*, has placed a child or young person, within the meaning of that Act, in the care of a person so as to require the person to engage in that relevant regulated activity;
 - (b) the Secretary, under section 69(1) of the *Children, Young Persons and Their Families Act 1997*, has placed a child or young person, within the meaning of that Act, in the care of a person (the *carer*) so as to require the carer to engage in that relevant regulated activity and another person –
 - (i) resides with the carer; and

Registration to Work with Vulnerable People Amendment Act
2015
Act No. of

Part 4 – Registration to Work with Vulnerable People Regulations 2014
Amended

s. 42

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- (ii) by the operation of section 5(2) of the Act, is also engaged in that relevant regulated activity.

*Registration to Work with Vulnerable People Amendment Act
2015
Act No. of*

s. 43

Part 5 – Miscellaneous

PART 5 – MISCELLANEOUS

43. Amendment of regulations does not bar further amendment or repeal

The amendment by this Act of any regulations does not bar their subsequent amendment or repeal by regulation.