

TASMANIA

REGISTRATION TO WORK WITH VULNERABLE PEOPLE BILL 2013

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REGISTRATION TO WORK WITH VULNERABLE PEOPLE BILL 2013

*(Brought in by the Minister for Human Services, the
Honourable Cassandra Stanwell O'Connor)*

A BILL FOR

**An Act to provide for background checking and
registration of people who work with vulnerable people
and for related purposes**

Be it enacted by His 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 Act 2013*.

2. Commencement

The provisions of this Act commence on a day
or days to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention
appears –

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additional risk assessment means an additional risk assessment conducted under section 46(2)(a);

another jurisdiction means another State, a Territory or the Commonwealth;

child means a person who has not attained the age of 18 years;

conditional registration means a registration that is subject to conditions;

corresponding law means –

- (a) a law of another jurisdiction corresponding, or substantially corresponding, to this Act; or
- (b) a law of another jurisdiction prescribed by the regulations as a corresponding law;

criminal history, in relation to a person, means any convictions of, and findings of guilt against, the person for relevant offences, other than an annulled conviction, within the meaning of the *Annulled Convictions Act 2003*;

employer, in relation to a regulated activity, has the meaning given by section 7;

engaged, in relation to a regulated activity, has the meaning given by section 5;

entity means –

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-
- (a) an individual; or
 - (b) an individual occupying a position; or
 - (c) a Tasmanian public authority; or
 - (d) a body of persons, corporate or unincorporate;

named employer, in relation to a regulated activity, means the employer named on an application for registration in accordance with section 20(1)(e)(i);

negative notice means a notice provided under section 32(3)(a) that notifies a person that the Registrar refuses to register the person and the reasons for the refusal;

negative risk assessment means the determination by the Registrar, following a risk assessment of a person, that the Registrar is satisfied that the person poses an unacceptable risk of harm to a vulnerable person;

non-conviction information, in relation to a person, means any of the following information about a relevant offence or alleged relevant offence:

- (a) the person has been charged with the offence but –

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- (i) a proceeding for the alleged offence is not finalised; or
 - (ii) the charge has lapsed, been withdrawn, been discharged or been struck out;
- (b) the person has been acquitted of the alleged offence;
- (c) the person has been served with an infringement notice for the alleged offence;
- (d) the person has had a conviction for the offence annulled, within the meaning of the *Annulled Convictions Act 2003*;

other jurisdiction's public authority means –

- (a) a government department or agency of the government of another jurisdiction, or part of such a government department or agency; or
- (b) a university established under the law of another jurisdiction; or
- (c) a police service of another jurisdiction; or
- (d) a municipal council of another jurisdiction; or

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- (e) a statutory authority established by or under an Act of another jurisdiction; or
 - (f) a body, whether corporate or unincorporate, that is established by or under an Act of another jurisdiction for a public purpose; or
 - (g) a company incorporated under the Corporations Act that is controlled by one or more municipal councils of another jurisdiction or another company that is so controlled; or
 - (h) a company incorporated under the Corporations Act that is controlled by –
 - (i) the Crown in right of that other jurisdiction; or
 - (ii) a statutory authority referred to in paragraph (e); or
 - (iii) another company incorporated under the Corporations Act that is so controlled;

proposed conditional registration notice
means a notice provided under section 36(1) that notifies a person that

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the Registrar intends to register the person conditionally;

proposed negative notice means a notice provided under section 30(1) that notifies a person that the Registrar intends to refuse to register the person;

Registrar means the person appointed as Registrar under section 11;

registration means registration under section 33;

registration card means a working with vulnerable people registration card provided to a person under section 42(1);

registration number means the unique identifying number specified on a person's registration card in accordance with section 42(2)(c);

regulated activity means an activity or service that is prescribed by the regulations to be a regulated activity;

regulations means regulations made and in force under this Act;

relevant offence means –

- (a) an offence under the *Poisons Act 1971* or the *Misuse of Drugs Act 2001* or a similar offence committed in another jurisdiction or elsewhere; or

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-
- (b) any of the following offences, whether committed in Tasmania, another jurisdiction or elsewhere:
 - (i) a sexual offence;
 - (ii) an offence against a person;
 - (iii) an offence involving violence;
 - (iv) an offence involving dishonesty or fraud;
 - (v) an offence relating to property;
 - (vi) an offence against an animal;
 - (vii) a driving offence; or
 - (c) an offence, whether committed in Tasmania, another jurisdiction or elsewhere, relating to another offence specified in this definition and comprising any of the following behaviours:
 - (i) attempting to commit the offence;
 - (ii) inciting, instigating, aiding or abetting the commission of the other offence;

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- (iii) being an accessory after the fact to the other offence;

required to be registered means required by section 15 to be registered to engage in a regulated activity;

risk assessment, in relation to a person, has the meaning given by section 25;

risk assessment order means an order made by the Minister under section 26 and in force;

role-based registration means the registration of a person that is subject to the condition set out in section 35(2)(f) that the person may engage only in the specified regulated activities for the specified employer;

State-owned company means a company incorporated under the Corporations Act that is controlled by –

- (a) the Crown; or
- (b) a Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*; or
- (c) a statutory authority; or

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- (d) another company incorporated under the Corporations Act that is so controlled;

statutory authority means a body or authority, whether incorporated or not, that is established or constituted by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority but does not include an Agency, within the meaning of the *State Service Act 2000*;

taking part, in relation to a regulated activity, includes, but is not limited to –

- (a) providing a service; and
- (b) being provided with a service; and
- (c) supervising, coaching or instructing a group or team; and
- (d) being a member of a group or team;

Tasmanian public authority means –

- (a) an Agency, within the meaning of the *State Service Act 2000*, or part of such an Agency; or
- (b) the University of Tasmania; or

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- (c) the Police Service; or
- (d) a council; or
- (e) a Government Business Enterprise within the meaning of the *Government Business Enterprises Act 1995*; or
- (f) a statutory authority; or
- (g) a body, whether corporate or unincorporate, that is established by or under an Act for a public purpose; or
- (h) a company incorporated under the Corporations Act that is controlled by one or more councils or another company that is so controlled; or
- (i) a State-owned company;

vulnerable person has the meaning given by section 4;

working day means any day other than a Saturday or Sunday or a statutory holiday within the meaning of the *Statutory Holidays Act 2000*.

4. Vulnerable person defined

In this Act –

vulnerable person means –

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- (a) a child; or
- (b) an adult who is accessing a regulated activity.

5. *Engaged in a regulated activity defined*

- (1) A person, including a vulnerable person, is engaged in a regulated activity if the person –
 - (a) has contact with a vulnerable person as part of taking part in the regulated activity; and
 - (b) is taking part in the regulated activity in any capacity and whether –
 - (i) for reward or not; or
 - (ii) under an arrangement with another person or otherwise.

Note Examples of some types of capacity in which a person can engage in an activity are as follows:

- (a) employee;
- (b) contractor or subcontractor;
- (c) consultant;
- (d) self-employed person;
- (e) apprentice;
- (f) volunteer;
- (g) agent;
- (h) supervisor;
- (i) person on a work experience placement for an educational or vocational course;

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- (j) person carrying out work for a sentence, including a community service order;
 - (k) member of a management committee of an unincorporated body or association;
 - (l) minister of religion for a religious organisation.
- (2) Also, a person, including a vulnerable person, is engaged in a regulated activity if –
 - (a) the regulated activity is conducted in residential premises; and
 - (b) the person resides in the residential premises; and
 - (c) the person, although not taking part in the regulated activity, may meet or be in the immediate vicinity of a vulnerable person who is at the premises for the purpose of taking part in the regulated activity.

6. *Contact with a vulnerable person defined*

In this Act –

contact, between a person and a vulnerable person as part of taking part in a regulated activity, means contact that –

- (a) would reasonably be expected as a normal part of taking part in the regulated activity; and
- (b) is not incidental to taking part in the regulated activity; and

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(c) is one or more of the following:

- (i) physical contact, including taking part in the regulated activity at the same place as the vulnerable person;
- (ii) oral communication, whether face-to-face or by telephone;
- (iii) written communication, including electronic communication;
- (iv) dealing with a record relating to the vulnerable person;
- (v) making a decision that affects the vulnerable person.

7. *Employer defined*

In this Act –

employer, in relation to a regulated activity, means an entity for whom a person engages in the regulated activity.

Note Examples of what constitutes an employer are as follows:

- (a) principal contractor is an employer of a subcontractor;

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- (b) charitable organisation is an employer of a volunteer;
- (c) religious organisation is an employer of a minister of religion.

8. Employer not limited to background checks in this Act

Nothing in this Act prevents an employer from conducting a check in relation to an employee's, or potential employee's, background that the employer could otherwise legally conduct.

9. Employer may require registration

Nothing in this Act prevents an employer from requiring an employee to be registered to engage in a regulated activity even though the employee is not required by this Act to be so registered.

10. Notes and examples

A note or example –

- (a) is part of this Act; and
- (b) is not exhaustive; and
- (c) may extend, but not limit, the meaning of the provision in respect of which it appears.

PART 2 – REGISTRAR

11. Registrar

- (1) Subject to and in accordance with the *State Service Act 2000*, a person may be appointed as Registrar for the purposes of this Act.
- (2) The Secretary of the Department may appoint a State Service officer or State Service employee employed in the Department to be the Registrar and that State Service officer or State Service employee may hold the office of Registrar in conjunction with his or her other State Service employment.

12. Advisory committees

- (1) The Minister may establish such advisory committees as he or she considers appropriate to advise the Registrar or the Minister, or both, in relation to the administration of this Act.
- (2) Both the Minister and the Registrar may refer matters to an advisory committee for consideration and the committee is to report to and advise the Minister or Registrar, or both, as specified in the referral, on those matters.
- (3) The Registrar is a member, and the chairperson, of each advisory committee.
- (4) A member of an advisory committee, other than the Registrar, holds office as a member for the

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term, and on the conditions, specified in his or her instrument of appointment.

- (5) The Minister may provide for the regulation of the proceedings of an advisory committee in writing provided to the committee.
- (6) Except as provided otherwise by the Minister, an advisory committee may regulate its own proceedings.

13. Provision of notices by Registrar

A notice may be provided by the Registrar to a person or entity –

- (a) in the case of a natural person –
 - (i) by giving it to the person; or
 - (ii) by leaving it at, or sending it by post to, the person's residential address, postal address or place or address of business or employment; or
 - (iii) by emailing it to the person's email address; or
- (b) in any other case –
 - (i) by leaving it at, or sending it by post to, the person or entity's postal address or place or address of business or office; or

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- (ii) by emailing it to the person or entity's email address.

14. Delegation by Registrar

The Registrar may delegate any of his or her functions and powers under this Act, other than this power of delegation.

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Part 3 – Requirement for Registration

PART 3 – REQUIREMENT FOR REGISTRATION

15. Person required to be registered to engage in regulated activity

(1) In this section –

close relative, in relation to a vulnerable person, means the vulnerable person's –

- (a) husband or wife, or partner within the meaning of the *Relationships Act 2003*; or
- (b) father, mother, grandfather, grandmother, stepfather, stepmother, father-in-law or mother-in-law; or
- (c) son, daughter, grandson, granddaughter, stepson, stepdaughter, son-in-law or daughter-in-law; or
- (d) brother, sister, half-brother, half-sister, stepbrother, stepsister, brother-in-law or sister-in-law; or
- (e) uncle, aunt, uncle-in-law or aunt-in-law; or
- (f) nephew, niece or cousin –

but does not include a person referred to in paragraph (a), (b), (c), (d), (e) or (f) if that person has been given the care of the vulnerable person under section 69(1)(a)

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of the *Children, Young Persons and Their Families Act 1997*;

day includes part of a day;

emergency has the same meaning as in the *Emergency Management Act 2006*;

emergency management worker has the same meaning as in the *Emergency Management Act 2006*;

school means –

- (a) a State school within the meaning of the *Education Act 1994*; or
- (b) a registered school within the meaning of the *Education Act 1994*; or
- (c) a centre, unit or institute of the State which provides educational instruction at any level up to, and including, the final year of secondary education, including –
 - (i) the Tasmanian Academy continued under section 5 of the *Education and Training (Tasmanian Academy) Act 2008*; and
 - (ii) a college within the meaning of the *Education and Training (Tasmanian Academy) Act 2008*; and

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(iii) TasTAFE within the meaning of the *Training and Workforce Development Act 2013*.

(2) A person is required to be registered to engage in a regulated activity.

(3) However, a person is not required to be registered to engage in a regulated activity –

(a) if the person is under 16 years old; or

(b) if the person –

(i) is engaged in the regulated activity (other than a regulated activity that consists of an overnight camp for children) for a particular employer in circumstances that involve the person being only in incidental physical contact with a vulnerable person; and

(ii) is so engaged in the regulated activity for that particular employer in those circumstances for not more than 3 days in any 4-week period and for not more than 7 days in any calendar year; or

(c) if –

(i) the person is engaged in the regulated activity (other than a

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regulated activity that consists of an overnight camp for children) for a particular employer in circumstances that involve the person being in more than incidental physical contact with a vulnerable person; and

- (ii) at the same time as the person is so engaged in the regulated activity for that particular employer, a registered person, or another person who is exempted from the requirement to be registered to engage in the regulated activity, is also present and engaged in the regulated activity for that particular employer; and
 - (iii) the person is so engaged in the regulated activity for that particular employer for not more than 3 days in any 4-week period and for not more than 7 days in any calendar year; or
- (d) if the person is registered under a corresponding law and –
- (i) the regulated activity is substantially similar to an activity or service the person is allowed, by that registration, to engage in under the corresponding law; and

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- (ii) the person is engaged in the regulated activity for not more than 28 days in any 12-month period; or
- (e) if the person is a close relative of each vulnerable person who is taking part in the regulated activity and with whom the person has contact; or
- (f) if the person is engaged in the regulated activity as a volunteer and –
 - (i) is a close relative of a vulnerable person taking part, or who normally takes part, in the regulated activity; and
 - (ii) a close relative of each other vulnerable person taking part in the regulated activity is engaged, or is expected to be engaged, in the regulated activity; or
- (g) if the person is engaged in the regulated activity in the same capacity as the vulnerable person with whom the person has contact; or
- (h) if the person is engaged in the regulated activity as a school student on a work experience placement or doing practical training; or
- (i) if the person is an employer or supervisor of a vulnerable person, unless the

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vulnerable person is engaged in a regulated activity; or

- (j) if the person is engaged in the regulated activity as –
 - (i) a police officer, including a police officer (however described) of another jurisdiction; or
 - (ii) an AFP appointee within the meaning of the *Australian Federal Police Act 1979* of the Commonwealth; or
 - (iii) a correctional officer, within the meaning of the *Corrections Act 1997*; or
 - (iv) a registered health practitioner under the Health Practitioner Regulation National Law (Tasmania); or
 - (v) an Australian lawyer; or
 - (vi) a staff member of, or volunteer for, an approved provider under the *Aged Care Act 1997* of the Commonwealth; or
 - (vii) a financial services licensee under the Corporations Act; or
- (k) if the person is engaged in the regulated activity for a Tasmanian public authority

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or an agency of the Commonwealth (including a body, corporate or unincorporate, established under an Act of the Commonwealth) and the only contact the person has with a vulnerable person is providing a service to the vulnerable person at a public counter or shopfront or by telephone; or

- (l) if the person is engaged in the regulated activity and the only contact the person has with a vulnerable person is providing information to, or receiving information from, the vulnerable person by telephone; or
- (m) if the person is engaged in the regulated activity and the only contact the person has with a vulnerable person is working with a record of the vulnerable person; or
- (n) if the person is an emergency management worker and is engaged in the regulated activity for the purposes of dealing with an emergency; or
- (o) if the person is engaged in the regulated activity for a Tasmanian, national or international event and the Minister has declared, by order, that the person, or persons of a class which includes the person, are not required to be registered for the regulated activity; or
- (p) if the person is a member of a class of persons prescribed by the regulations as

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not required to be registered for the regulated activity.

Note Examples, for the purposes of subsection (3)(b) and (c), of a person who engages in an activity for a particular employer are as follows:

- (a) a person who engages in the activity of coaching sport by coaching hockey for a particular school and also for different school *is engaged* in that activity of coaching sport for 2 different employers, and the time periods referred to in subsection (3)(b) and (c) are to be calculated independently for each employer;
- (b) a person who engages in the activity of coaching sport by coaching 2 different sports for a particular school *is engaged* in that activity of coaching sport for one employer, and the time periods referred to in subsection (3)(b) and (c) are to be calculated as the total time spent in coaching both sports for that school.
- (4) An order under subsection (3)(o) is a statutory rule for the purposes of the *Rules Publication Act 1953*, and section 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* applies to it.

16. Offence to engage in regulated activity unless registered

- (1) A person who is required to be registered to engage in a regulated activity, but is not so registered with a registration allowing engagement in that regulated activity, must not engage in the regulated activity knowing, or with reckless disregard as to whether or not, he or she –

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- (a) is engaging in the regulated activity; or
- (b) is required to be registered with such registration to engage in the regulated activity; or
- (c) is registered with such registration.

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

(2) This section does not apply to a person if –

- (a) the person is not registered; but
- (b) the person engages in a regulated activity under section 18.

17. Offence for employer to engage unregistered person in regulated activity

- (1) An employer must not engage a person, or require a person to be engaged, in a regulated activity for the first time if the person –
 - (a) is required to be registered to engage in the activity; and
 - (b) is not so registered with a registration allowing that engagement.

Penalty: Fine not exceeding 50 penalty units.

- (2) If a person is required to be registered to engage in a regulated activity and is not so registered with a registration allowing that engagement, the

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employer of the person must not engage the person, or require the person to be engaged, in the regulated activity knowing, or with reckless disregard as to whether or not –

- (a) the employer is engaging the person in a regulated activity; or
- (b) the person is not so registered with a registration allowing that engagement.

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

- (3) This section does not apply to an employer if an unregistered person engages in a regulated activity for the employer under section 18.

18. Unregistered person may engage in regulated activity in certain supervised employment circumstances

- (1) In this section –

eligible person means a person –

- (a) who has not previously been given a negative notice or a substantially similar notice under a corresponding law; and
- (b) who has not had a previous registration suspended or cancelled; and

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- (c) whose most recent registration, if any, was not conditional.
- (2) This section applies to an eligible person who is not registered if –
 - (a) the person has applied for registration under section 19; and
 - (b) the Registrar has not –
 - (i) registered the person; or
 - (ii) provided to the person a negative notice in relation to the application; and
 - (c) the person has not withdrawn the application.
- (3) An eligible person may engage in a regulated activity for which he or she is required to be registered if –
 - (a) the eligible person included a named employer for the regulated activity on his or her application for registration; and
 - (b) the named employer has agreed to engage the eligible person in the regulated activity; and
 - (c) a registered person is present at all times while the unregistered person is engaged in the regulated activity.

PART 4 – APPLYING FOR REGISTRATION

19. Application for registration

- (1) A person may apply to the Registrar for registration under this Act.
- (2) An application –
 - (a) if an application for registration form is approved by the Registrar under section 59, is to be in that form; and
 - (b) is to contain the information, and be accompanied by the documents, required under section 20; and
 - (c) is to be accompanied by the fee prescribed by the regulations; and
 - (d) is to be lodged in the manner prescribed by the regulations or, if no manner is so prescribed, in a manner approved by the Registrar.
- (3) Despite subsection (1), a person who has been provided with a negative notice or whose registration has been cancelled may apply for registration under that subsection only if –
 - (a) at least 5 years have passed since the day on which the person was provided with the negative notice or the cancellation of the registration took effect; or

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- (b) there has been a change in the relevant information about the person since that day.

20. Contents of application for registration

(1) An application for registration must include –

- (a) the applicant's name, any previous name and any alias and previous alias; and
- (b) the applicant's current home address; and
- (c) evidence of the applicant's identity that is acceptable to the Registrar; and
- (d) the regulated activities that the applicant engages or intends to engage in; and
- (e) if the applicant engages or intends to engage in a particular regulated activity for a particular employer, or if the applicant is required by his or her employer or potential employer to be registered in relation to a particular regulated activity although the person is not required by this Act to be so registered –
 - (i) the employer for the activity; and
 - (ii) that employer's address and contact details; and
 - (iii) the capacity in which the applicant engages or intends to engage in the activity for that

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employer, or the capacity in
which the applicant is or will be
employed by that employer; and

- (f) the applicant's date and place of birth;
and
 - (g) any other information prescribed by the
regulations; and
 - (h) any other information that is relevant to
the determination of the application.
- (2) An application for registration must be
accompanied by –
- (a) a consent by the applicant for the
Registrar to –
 - (i) check the applicant's criminal
history, non-conviction
information and any other
information about the applicant
that may be relevant in
determining the application; and
 - (ii) obtain information and advice
from any entity, any other
jurisdiction's public authority,
any other government agency or
part of such another government
agency and any body, corporate
or unincorporate, under
section 29 in relation to the
application or under section 45 in
relation to the applicant's

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registration, should registration be granted; and

- (iii) contact any employer specified in accordance with subsection (1)(e) in relation to the status of the application or the applicant's registration, should registration be granted; and

- (b) a written statement by the applicant stating whether the applicant –

- (i) has been convicted or found guilty of a relevant offence outside Australia; and
 - (ii) has been charged with a relevant offence outside Australia (if that charge has not been withdrawn or otherwise determined) –

and, if so, giving details of the offence or charge; and

- (c) any other document prescribed by the regulations.

21. Registrar to notify applicant of certain matters

On receipt of an application for registration, the Registrar must notify the applicant, in writing, of the following:

- (a) the rights and obligations of the applicant under this Act;

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- (b) the information the applicant may supply to support the application;
 - (c) the risk assessment order.

22. Requiring additional information

- (1) The Registrar may require an applicant to provide additional information or additional documents that the Registrar considers he or she needs to determine the application.
- (2) If an applicant does not comply with a requirement under subsection (1), the Registrar may refuse to consider the application further.

23. Offence to give false or misleading information

In making an application for registration, or in providing additional information required by the Registrar under section 22, a person must not –

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

Penalty: Fine not exceeding 50 penalty units.

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24. Offence for applicant to fail to disclose charge or conviction for relevant offence

If, after lodging an application for registration, the applicant is charged with, convicted of or found guilty of a relevant offence before being registered or provided with a negative notice, the applicant must notify the Registrar of that charge, conviction or finding of guilt, in writing and within 10 working days after the day the applicant is so charged, convicted or found guilty.

Penalty: Fine not exceeding 50 penalty units.

PART 5 – RISK ASSESSMENTS

Division 1 – Meaning of risk assessment

25. Risk assessment defined

A risk assessment is an assessment by the Registrar as to whether the person poses no risk, an acceptable risk or an unacceptable risk of harm to vulnerable persons, whether by reason of neglect, abuse or other conduct by the person.

Note Examples of types of harm to a vulnerable person are sexual, physical, emotional and financial.

Division 2 – Risk assessment orders

26. Risk assessment order

- (1) The Minister may make orders in relation to the conduct of risk assessments.
- (2) Without limiting the generality of subsection (1), an order may –
 - (a) provide for the matters that the Registrar must or may take into account in conducting a risk assessment including, but not limited to –
 - (i) the person’s criminal history; and
 - (ii) the non-conviction information about the person; and
 - (iii) whether the person previously has been provided with a negative

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- notice or a similar notice under a corresponding law; and
- (iv) whether the person was registered previously under this Act or a corresponding law; and
- (b) specify how the matters referred to in paragraph (a) must or may be taken into account; and
- (c) specify the matters that the Registrar must not take into account in conducting a risk assessment; and
- (d) provide for the making of submissions to the Registrar in relation to any matter he or she must take into account in conducting a risk assessment; and
- (e) provide for what constitutes a change in relevant information about a person for the purposes of making an application for registration under section 19(3)(b); and
- (f) provide for matters relating to –
 - (i) the provision of a proposed negative notice; and
 - (ii) the reconsideration by the Registrar of his or her negative risk assessment that led to the issue of a proposed negative notice; and

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- (g) provide for what constitutes new relevant information about a registered person for the purposes of section 46.
 - (3) An order may adopt, wholly or in part and with or without modification, and either specifically or by reference, any standards, rules, codes, specifications or other instruments, whether the standards, rules, codes, specifications or other instruments are published or issued before or after the commencement of this section.
 - (4) A reference in subsection (3) to standards, rules, codes, specifications or other instruments includes a reference to an amendment of those standards, rules, codes, specifications or other instruments, whether the amendment is published or issued before or after the commencement of this section.
 - (5) An order is a statutory rule within the meaning of the *Rules Publication Act 1953*.
 - (6) Sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order as if the order were regulations.

27. Availability of risk assessment order

- (1) The Registrar is to make the risk assessment order available to the public for inspection in the manner determined by the Registrar.
- (2) On the request of a person, the Registrar is to provide a copy of the risk assessment order, or part of the risk assessment order, to that person.

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Division 3 – Conducting risk assessments

28. Risk assessments

- (1) On receipt of an application for registration, the Registrar is to conduct a risk assessment of the applicant.
- (2) The risk assessment is to be conducted in accordance with the regulations and the risk assessment order.

29. Registrar may obtain information to conduct risk assessments

- (1) The Registrar may request and obtain information and advice from any of the following as the Registrar considers appropriate to assist him or her in conducting a risk assessment of a person:
 - (a) any entity;
 - (b) any other jurisdiction's public authority;
 - (c) any other government agency, or part of such a government agency;
 - (d) any body, corporate or unincorporate, established by or under the statute law of a jurisdiction other than Tasmania or another jurisdiction.
- (2) On receipt of a request under subsection (1), an entity is to give the information and advice requested and, in doing so, does not contravene

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any duty of confidentiality the entity has under any law or agreement, despite anything to the contrary in the law or agreement.

Division 4 – Negative risk assessments

30. Proposed negative notices

(1) If the Registrar –

- (a) conducts a risk assessment of a person; and
- (b) is satisfied that the person poses an unacceptable risk of harm to vulnerable persons generally –

the Registrar is to notify the person, in writing, that the Registrar intends to refuse to register the person.

(2) A notice under subsection (1) is to state –

- (a) the reasons for the negative risk assessment; and
- (b) that the person may request the Registrar –
 - (i) in accordance with the procedure prescribed by the regulations or otherwise set out in the notice; and
 - (ii) within 20 working days after receiving the notice –

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to reconsider the negative risk assessment that led to the provision of the notice; and

- (c) that, if the person does not so request the Registrar to reconsider the negative risk assessment, the Registrar must provide to the person a negative notice.

- (3) The Registrar is not to notify a named employer –

- (a) that a proposed negative notice has been provided to a person; or
- (b) the reasons for providing the person with the proposed negative notice.

31. Extension of period to request reconsideration of negative risk assessment

- (1) A person who has been provided with a proposed negative notice may apply (once only) for an extension of the period of 20 working days within which the person, as specified in that notice, may request the reconsideration of a negative risk assessment.
- (2) An application under subsection (1) –
 - (a) is to be in writing; and
 - (b) may be made before or after the expiration of the period of 20 working days referred to in that subsection.

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- (3) On receipt of an application under subsection (1), the Registrar may –
- (a) extend the period of 20 working days referred to in that subsection (once only) for such longer period as the Registrar considers appropriate if satisfied on reasonable grounds that it is appropriate in the circumstances to extend that period; or
 - (b) refuse to so extend that period of 20 working days.
- (4) The Registrar is to notify the applicant, in writing, of the Registrar's determination under section 31(3) and –
- (a) if the Registrar extends that period, is to specify the extended period in the notice; or
 - (b) if the Registrar refuses to extend the period, is to specify the reasons for the refusal in the notice.

32. Refusal to register a person and negative notices

- (1) The Registrar is to refuse to register a person if –
- (a) the Registrar reconsiders a negative risk assessment of a person at the request of a person provided with a proposed negative notice in respect of that negative risk assessment; and

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- (b) the Registrar remains satisfied that the person poses an unacceptable risk of harm to vulnerable persons generally.
- (2) Also, the Registrar is to refuse to register a person if –
 - (a) the Registrar has provided to the person a proposed negative notice; and
 - (b) the person does not request the Registrar –
 - (i) in accordance with the procedure prescribed by the regulations or otherwise set out in the proposed negative notice; and
 - (ii) within 20 working days after receiving the proposed negative notice or such extended period as the Registrar allows under section 31(3) –

to reconsider the negative risk assessment that led to the provision of the proposed negative notice.
- (3) If the Registrar refuses to register a person, the Registrar is to –
 - (a) notify the person, in writing, of that refusal to register the person and the reasons for it; and

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- (b) notify any named employer, in writing, of the provision of a negative notice to the person but not of –
 - (i) the reasons for refusing to register the person; or
 - (ii) any information obtained, or used, in the conduct of the risk assessment.

PART 6 – REGISTRATION

Division 1 – Registration

33. Registration

(1) In this section –

positive risk assessment means the determination by the Registrar following a risk assessment of a person that the Registrar is satisfied that the person poses no, or poses an acceptable, risk of harm to –

- (a) any particular class of vulnerable persons; or
- (b) all vulnerable persons generally.

(2) If the Registrar makes a positive risk assessment for a person, the Registrar is to –

- (a) register the person so as to allow that person to engage in the relevant regulated activities or all regulated activities; and
- (b) notify the person, in writing, of the positive risk assessment and that the person has been so registered; and
- (c) notify any named employer, in writing, that the person has been registered.

(3) In and on registering a person, the Registrar is to comply with any relevant risk assessment order.

34. Term of registration

- (1) The registration of a person is for the term, not exceeding 3 years, determined by the Registrar.
- (2) The registration of a person commences on the day the person is registered or a later day determined by the Registrar and specified in the notice provided to the person under section 33(2)(b).

35. Conditional registration

- (1) The registration of a person is subject to such conditions as are determined by the Registrar.
- (2) Without limiting the conditions to which the registration of a person may be made subject, those conditions may include any of the following conditions:
 - (a) that the person –
 - (i) must not engage in a specified regulated activity; or
 - (ii) must not engage in any regulated activity other than the specified regulated activity;
 - (b) that the registered person must not drive a motor vehicle if a vulnerable person is a passenger;
 - (c) that the registered person must not have unsupervised contact with a vulnerable person;

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- (d) that the registered person must not supervise another registered person;
 - (e) that the registered person may be engaged by any employer but only in the regulated activity specified;
 - (f) that the person may engage only in the specified regulated activity for the specified employer.
- (3) Before imposing a role-based registration, the Registrar may –
 - (a) if independent advisors have been appointed under the regulations, consult with at least 3 independent advisors, in accordance with the risk assessment order; and
 - (b) consult with other persons, in accordance with the risk assessment order; and
 - (c) consider any relevant advice given by the independent advisors and persons consulted.

36. Proposed conditional registration

- (1) If the Registrar intends to register a person conditionally, the Registrar is to notify the person, in writing, of that intention.
- (2) A proposed conditional registration notice is to state –

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- (a) what the condition is and the reasons for proposing to register the person subject to that condition; and
 - (b) that the person may request the Registrar –
 - (i) in accordance with the procedure prescribed by the regulations or otherwise set out in the notice; and
 - (ii) within 20 working days after receiving the notice –to reconsider the determination to make the registration subject to any particular condition or to all conditions; and
 - (c) that, if the person does not so request the Registrar to reconsider the determination to make the registration subject to the conditions, the Registrar must register the person subject to all conditions.
- (3) The Registrar is not to notify a named employer –
- (a) that a proposed conditional registration notice has been given to a person; or
 - (b) the reasons for intending to make the registration of the person subject to conditions.

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37. Extension of period for requesting consideration of proposed conditional registration

- (1) A person who has been provided with a proposed conditional registration notice may apply (once only) for an extension of the period of 20 working days within which the person, as specified in that notice, may request the reconsideration of the determination to make the registration subject to any particular condition, or all conditions, specified in that notice.
- (2) An application under subsection (1) –
 - (a) is to be in writing; and
 - (b) may be made before or after the expiration of the period of 20 working days referred to in that subsection.
- (3) On receipt of an application under subsection (1), the Registrar may –
 - (a) extend the period of 20 working days referred to in that subsection (once only) for such longer period as the Registrar considers appropriate if satisfied on reasonable grounds that it is appropriate in the circumstances to extend that period; or
 - (b) refuse to so extend that period of 20 working days.
- (4) The Registrar is to notify the applicant, in writing, of the Registrar's determination under subsection (3) and –

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- (a) if the Registrar extends the period, is to specify the extended period in the notice; or
 - (b) if the Registrar refuses to extend the period, is to specify the reasons for the refusal in the notice.

38. Reconsideration of proposed conditional registration

(1) In this section –

relevant period means –

- (a) the period of 20 working days specified in section 36(2)(b)(ii); or
 - (b) if that period is extended under section 37, the extended period.
- (2) If a person requests the Registrar, in writing and within the relevant period, to reconsider the determination to make his or her registration subject to any particular condition or all conditions specified in the proposed conditional registration notice, the Registrar is to reconsider the determination as soon as practicable after receiving the request.
- (3) In reconsidering the determination to make a person's registration subject to any particular condition or all conditions specified in the proposed conditional registration notice, the Registrar is to take into account any relevant

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new or corrected information provided by the person.

- (4) After reconsidering the determination to make the registration of a person subject to any particular condition or all conditions specified in the proposed conditional registration notice, the Registrar may determine to –
- (a) register the person unconditionally if satisfied that all conditions specified in that notice are unnecessary; or
 - (b) register the person subject to some of the conditions but not to other conditions specified in the notice if satisfied that some conditions are necessary but others are not necessary; or
 - (c) register the person subject to all conditions specified in that notice if satisfied that all conditions are necessary.

39. Registration after proposed conditional registration notice

- (1) In this section –

relevant period means –

- (a) the period of 20 working days specified in section 36(2)(b)(ii); or
- (b) if that period is extended under section 37, the extended period.

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- (2) After providing a person with a proposed conditional registration notice, the Registrar is to register the person subject to all conditions specified in that notice if the person does not request the Registrar, under section 38 and within the relevant period, to reconsider the determination to make the person's registration subject to any or all such conditions.
 - (3) Also, after providing a person with a proposed conditional registration notice, the Registrar is to register the person subject to a condition specified in that notice if –
 - (a) the person requests the Registrar, under section 36(2)(b) and within the relevant period, to reconsider the determination to make the person's registration subject to the condition; and
 - (b) on reconsidering that determination, the Registrar determines under section 38(4)(b) or (c) to register the person subject to the condition.
 - (4) After providing a person with a proposed conditional registration notice, the Registrar is to register the person unconditionally if, on reconsidering on the request of the person the determination to make a person's registration subject to all conditions specified in that notice, the Registrar determines under section 38(4)(a) to register the person unconditionally.
 - (5) On registering a person under this section, the Registrar is to –

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- (a) notify the person, in writing –
 - (i) of that registration; and
 - (ii) if the registration is subject to a condition, of the condition and the reasons for the condition; and
- (b) notify any named employer, in writing –
 - (i) of that registration; and
 - (ii) if the registration is subject to a condition, of the condition.

40. Amendment of conditional registration

- (1) A person with conditional registration may apply to the Registrar to amend the person's registration, including by removing or amending a condition of the registration.
- (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.

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- (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; or
 - (b) refuse to amend the registration.
- (6) The Registrar is to –
- (a) notify the applicant, in writing, of his or her determination to amend or refuse to amend the registration under subsection (5) and –
 - (i) if the Registrar amends the registration, is to specify in the notice the details of the amendment; and
 - (ii) 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, in writing, any employer for whom the applicant engages in the relevant regulated activity and of which the Registrar is aware –
 - (i) of the amendment of the applicant's registration; and
 - (ii) of the details of the amendment.

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41. Offence for registered person to contravene condition of registration

A person who has conditional registration must not, knowingly or with reckless disregard, contravene a condition of that registration.

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

Division 2 – Registration cards

42. Registration card

- (1) If the Registrar registers a person, the Registrar must provide the person with a working with vulnerable people registration card.
- (2) The registration card for a person must contain –
 - (a) the person's name and date of birth; and
 - (b) a photograph of the person's face; and
 - (c) a unique identifying number; and
 - (d) the date the registration expires; and
 - (e) any other matter prescribed by the regulations.

43. Replacement registration cards

- (1) If a registration card is lost, stolen, destroyed or damaged, the holder of the card may apply for a replacement registration card.

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- (2) An application –
- (a) must be in writing; and
 - (b) must be accompanied by or contain a statement setting out the circumstances in which the registration card was lost, stolen, destroyed or damaged; and
 - (c) must be accompanied by the prescribed fee.
- (3) On receipt of an application, the Registrar –
- (a) if satisfied that the applicant is registered and that the registration card has been lost, stolen, destroyed or damaged, is to provide the applicant with a replacement registration card; or
 - (b) if not so satisfied, is to refuse to provide the applicant with a replacement registration card.

44. Surrender of registration card

- (1) A person whose registration is cancelled under section 51 must surrender his or her registration card to the Registrar within 10 working days after the cancellation takes effect.

Penalty: Fine not exceeding 50 penalty units.

- (2) It is a defence in proceedings for an offence against subsection (1) if the defendant establishes that, at the relevant time, the registration card –

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- (a) was lost; or
- (b) had been stolen; or
- (c) had been destroyed by another person or destroyed accidentally by the defendant.

Division 3 – Monitoring registered persons

45. Registrar may obtain information from entities about registered people

- (1) The Registrar may request and obtain information and advice from any of the following that the Registrar considers may be able to provide information or advice, or both, relevant to whether a registered person continues to pose no risk, or an acceptable risk, of harm to a vulnerable person:
 - (a) an entity;
 - (b) another jurisdiction's public authority;
 - (c) any other government agency, or part of such a government agency;
 - (d) a body, corporate or unincorporate, established by or under the statute law of a jurisdiction other than Tasmania or another jurisdiction.

Note An example of obtaining information is the obtaining of an updated criminal history report from the Commissioner of Police.

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- (2) On receipt of a request under subsection (1), an entity is to give the information and advice requested and, in doing so, 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.

46. Additional risk assessments

- (1) In this section –

positive additional risk assessment means the determination by the Registrar following an additional risk assessment of a person that the Registrar is satisfied that the person poses no, or poses an acceptable, risk of harm to –

- (a) any particular class of vulnerable persons; or
- (b) all vulnerable persons generally.
- (2) If the Registrar believes on reasonable grounds that there is new relevant information about a registered person, the Registrar is to –
- (a) conduct an additional risk assessment for the registered person taking into account the new relevant information; and
- (b) notify the registered person, in writing, that the additional risk assessment is being conducted.

Note An example of new relevant information is information that a registered person is suspected of having committed, has been

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charged with or has been convicted or found guilty of a relevant offence.

- (3) If after conducting an additional risk assessment of a registered person the Registrar makes a positive additional risk assessment, the Registrar may do one or more of the following:
 - (a) leave the person's registration unchanged;
 - (b) add a condition to the person's registration, including a condition preventing or limiting the person's ability to engage in a regulated activity;
 - (c) amend a condition of the person's registration;
 - (d) remove a condition from the person's registration.
- (4) If the Registrar adds a condition to, or amends a condition of, a registered person's registration under subsection (3)(b) or (c) –
 - (a) the Registrar is to proceed under section 36; and
 - (b) sections 36, 37 and 38 apply as if the additional risk assessment were the registered person's first risk assessment and the Registrar intended to register the person conditionally.
- (5) If the Registrar conducts an additional risk assessment of a registered person and is satisfied

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that he or she poses an unacceptable risk of harm to vulnerable persons generally or to all the classes of vulnerable person to which the regulated activities allowed by the registration apply, the Registrar –

- (a) is to determine to cancel the person's registration; and
- (b) is to proceed under section 50 to provide notice of the intention to cancel the person's registration and, if appropriate, is to proceed under section 51 to cancel the person's registration.

47. Offence for registered person to fail to disclose charge, conviction or finding of guilt for relevant offence

- (1) A registered person who is charged with a relevant offence must take all reasonable steps to inform the Registrar of that charge –
 - (a) in writing; and
 - (b) within 10 working days after the day he or she is so charged.

Penalty: Fine not exceeding 50 penalty units.

- (2) A registered person who is convicted of, or found guilty of, a relevant offence must notify the Registrar of that conviction or finding of guilt –
 - (a) in writing; and

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- (b) within 10 working days after the day he or she is so convicted or found guilty.

Penalty: Fine not exceeding 50 penalty units.

48. Offence for registered person to fail to notify change of name or address

A registered person whose name or address changes must notify the Registrar of that change –

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

Division 4 – Suspending or cancelling registration

49. Grounds for suspension or cancellation of registration

- (1) The Registrar has grounds for determining to suspend or cancel a person's registration if –
 - (a) the person's registration is subject to a condition; and

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- (b) the person contravenes the condition; and
 - (c) the Registrar reasonably believes that suspension or cancellation is appropriate.
 - (2) If the Registrar determines to conduct an additional risk assessment of a person, the Registrar has grounds for determining to suspend the person's registration while the assessment is conducted.
 - (3) The Registrar has grounds for determining to cancel a person's registration in relation to a regulated activity if the Registrar –
 - (a) has conducted an additional risk assessment of the person; and
 - (b) is satisfied that the person poses an unacceptable risk of harm to vulnerable persons generally or to all the classes of vulnerable persons to which the regulated activities allowed by the registration apply.

50. Notice of proposed suspension or cancellation of registration

- (1) The Registrar must provide to a registered person notice, in writing, of the Registrar's intention to suspend or cancel the person's registration.
- (2) A notice of intention to suspend or cancel a person's registration must –

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- (a) set out the grounds for suspension or cancellation; and
- (b) state that the person may, within 10 working days after the day the Registrar provides the notice to the person, provide the Registrar with reasons, in writing, as to why the registration should not be suspended or cancelled.

51. Suspension or cancellation of registration

- (1) The Registrar is to suspend or cancel a person's registration in relation to a regulated activity if the Registrar –
 - (a) has provided, under section 50, notice to the person of his or her intention to suspend or cancel the registration; and
 - (b) has considered any reasons provided by the person in accordance with that notice; and
 - (c) is satisfied that the grounds for suspension or cancellation under section 49 exist.
- (2) If the Registrar suspends or cancels a person's registration under subsection (1), the Registrar –
 - (a) is to notify the person, in writing, of the suspension or cancellation and the grounds on which it is done; and
 - (b) if the person engages in a regulated activity allowed by the registration for an

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employer and the Registrar is aware of that employer, is to notify that employer, in writing, of the suspension or cancellation but not of the grounds on which it is done.

- (3) The suspension or cancellation of the person's registration takes effect –
 - (a) on the day after the day the Registrar notifies the person, under subsection (2)(a), of the suspension or cancellation of the person's registration; or
 - (b) if a later day is specified in that notification, on that later day.
- (4) While a person's registration is suspended, that registration is of no effect and the person does not have a registration allowing the person to engage in a regulated activity.

Division 5 – Surrendering registration

52. Surrendering registration

- (1) A registered person may surrender his or her registration by providing to the Registrar a notice of the surrender together with his or her registration card.
- (2) The notice must be –
 - (a) in writing and, if a form is approved under section 59 for the notice, in that form; and

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- (b) accompanied by –
 - (i) the person's registration card; or
 - (ii) if the card has been lost, stolen or destroyed, a written statement by the person stating that the card has been lost, stolen or destroyed.
- (3) The surrender of the registration takes effect –
 - (a) on the day the notice surrendering the registration and the registration card are provided to the Registrar; or
 - (b) if a later day is specified in that notice and the registration card has been provided to the Registrar, on that later day.
- (4) On the surrender of registration by a person, if –
 - (a) the person, immediately before the surrender, engages in a regulated activity allowed by the registration for an employer; and
 - (b) the Registrar is aware of that employer –

the Registrar is to notify that employer, in writing, of that surrender.

**PART 7 – NOTIFICATION AND REVIEW OF
DECISIONS**

53. Review of decisions

(1) In this section –

reviewable decision means –

- (a) the refusal under section 32 to register a person; or
- (b) the registration under section 39 of a person subject to a condition; or
- (c) the refusal under section 40(5)(b) to amend the registration of a person; or
- (d) the adding of a condition to, or the amendment of a condition of, the registration of a person under section 46(3)(b) or (c); or
- (e) the suspension or cancellation under section 51(1) of a person’s registration; or
- (f) the refusal under section 31(3)(b) to extend the period of 20 working days referred to in section 30(2)(b)(ii); or
- (g) the refusal under section 37 to extend the period of 20 working

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days referred to in
section 36(2)(b)(ii).

- (2) If the Registrar, or a person acting as the delegate of the Registrar, makes a reviewable decision –
 - (a) a person aggrieved by that decision may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision; and
 - (b) that decision is a reviewable decision for the purposes of the *Magistrates Court (Administrative Appeals Division) Act 2001*.
- (3) Despite section 36(1) of the *Magistrates Court (Administrative Appeals Division) Act 2001*, the review by the Magistrates Court (Administrative Appeals Division) of a reviewable decision made under this Act is to be held in private.
- (4) However, the Magistrates Court (Administrative Appeals Division) –
 - (a) is to order that the review, or any part of the review, of a reviewable decision made under this Act is to be held in public or only partly in private if the Registrar requests it; and
 - (b) may, on its own motion or the application of the applicant for the review, order that the review, or any part of the review, of a reviewable decision made under this Act is to be held in

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public or only partly in private if
satisfied that it is desirable to do so.

- (5) Without limiting an order under subsection (4)(a) or (b), such an order may specify the persons who may or may not be present at the review, or any part of the review, of a reviewable decision made under this Act.
- (6) The Magistrates Court (Administrative Appeals Division) –
 - (a) is to revoke or amend an order made under subsection (4)(a) if the Registrar requests it; and
 - (b) may, on its own motion or the application of the applicant for the review, revoke or amend an order made under subsection (4)(b).

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PART 8 – MISCELLANEOUS

54. Offence to use or divulge protected information

(1) In this section –

court includes a tribunal, authority and person having power to require the production of documents or the answering of questions;

divulge includes –

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

officer means –

- (a) the Registrar or a person who has been the Registrar; or
- (b) an independent advisor or a person who has been an independent advisor; or
- (c) any other person who is performing or exercising, or has performed or exercised, a function or power under this Act;

produce includes allow access to;

protected information means information about a person that is disclosed to, or obtained by, an officer because of the performance or exercise of a function or

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power under this Act by the officer or another person;

Note Examples of what is protected information are as follows:

- (a) information obtained by the Registrar in conducting a risk assessment of a person;
- (b) information disclosed by the Registrar in obtaining information or advice from an entity about a registered person.

use information includes make a record of the information.

- (2) An officer must not use protected information about another person.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

- (3) An officer must not do any act that divulges protected information about a person.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both.

- (4) Neither subsection (2) nor (3) applies if the information is used or divulged –

- (a) under this Act, another Act or a corresponding law; or
- (b) in relation to the performance or exercise of a function or power, as an officer,

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under this Act, another Act or a corresponding law; or

(c) in a court proceeding.

- (5) Neither subsection (2) nor (3) applies to the using or divulging of protected information about a person with the person's consent.
- (6) An officer need not divulge protected information to a court, or produce to a court a document containing protected information, unless it is necessary to do so for the purposes of this or another Act.

55. Infringement notices

(1) In this section –

infringement offence means an offence against this Act or the regulations that is prescribed by the regulations to be an infringement offence.

- (2) The Registrar may issue and serve an infringement notice on a person if he or she reasonably believes that the person has committed an infringement offence.
- (3) An infringement notice may not be served on an individual who has not attained the age of 16 years.
- (4) An infringement notice –

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- (a) is to be in accordance with section 14 of the *Monetary Penalties Enforcement Act 2005*; and
 - (b) is not to relate to more than 3 offences.
- (5) The regulations –
 - (a) may prescribe, for infringement offences, the penalties payable under infringement notices; and
 - (b) may prescribe different penalties for bodies corporate and unincorporate and for individuals.
- (6) The penalty prescribed for any infringement offence is not to exceed 20% of the maximum penalty that could be imposed, as the case requires, on a body corporate or unincorporate or on an individual by a court in respect of the offence.

56. Protection from liability

- (1) In this section –

official means –

- (a) the Registrar; or
 - (b) an independent advisor; or
 - (c) a person authorised by the Registrar under this Act to do or not do a thing; or

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- (d) another person engaged in the administration of this Act.
- (2) An official does not incur any personal liability in respect of any act done or omitted in good faith –
 - (a) in the performance or exercise, or the purported performance or exercise, of any function or power under this Act; or
 - (b) in the administration or execution, or purported administration or execution, of this Act.
- (3) A civil liability that would, but for this section, attach to an official or other person attaches to the Crown.

57. Exemption from *Right to Information Act 2009* and *Personal Information Protection Act 2004*

- (1) In this section –
 - official* means –
 - (a) the Registrar; or
 - (b) an independent advisor; or
 - (c) a person authorised by the Registrar under this Act to do or not do a thing; or
 - (d) another person engaged in the administration of this Act.

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- (2) The *Right to Information Act 2009* does not apply to information in the possession of an official for the purposes of this Act unless the information relates to the administration of a public authority within the meaning of that Act.
- (3) The *Personal Information Protection Act 2004* does not apply to the obtaining or possession of information by an official for the purposes of this Act.

58. Evidentiary certificates

- (1) In this section –
 - specified* means specified in a certificate referred to in subsection (2).
- (2) In any proceedings, the production of a certificate purporting to be signed by the Registrar and –
 - (a) stating that on a specified day, or during a specified period, a specified person was or was not registered; and
 - (b) if the person was registered, stating the details of the person's registration –

is evidence of the matters stated in it.

59. Approved forms

- (1) The Registrar may approve forms for the purposes of this Act.

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- (2) If the Registrar approves a form for a particular purpose, the approved form is to be used for the purpose.

60. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may –
 - (a) provide for the appointment of independent advisors from whom the Registrar may obtain advice in relation to –
 - (i) the registration of a person generally or as specified in the regulations; and
 - (ii) the conduct and determination of a risk assessment of a person; and
 - (b) provide for matters relating to registration, including the prescribing of information that a person or an employer must give the Registrar before the Registrar may impose a role-based registration on the person; and
 - (c) provide for the keeping of records by registered persons and their employers; and

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- (d) provide for matters relating to registration cards, including offences in respect of registration cards; and
 - (e) prescribe the fees payable under this Act.
 - (3) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
 - (4) The regulations may –
 - (a) provide that a contravention of any of the regulations is an offence; and
 - (b) in respect of such an offence, provide for the imposition of a fine not exceeding 50 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.
 - (5) The regulations may authorise any matter to be from time to time determined, applied, regulated or approved by the Registrar.
 - (6) The regulations may adopt, whether wholly or in part and with or without modification, and either specifically or by reference, any standards, rules, codes, guidelines or specifications, whether the standards, rules, codes, guidelines or specifications are published or issued before or after the commencement of this section.
 - (7) A reference in subsection (6) to standards, rules, codes, guidelines or specifications includes a

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reference to an amendment of those standards, rules, codes, guidelines or specifications, whether the amendment is published or issued before or after the commencement of this Act.

(8) The regulations may –

- (a) provide for savings and transitional matters necessary or expedient for bringing this Act into operation; and
- (b) provide for any of those savings or transitional provisions to take effect when this section commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

61. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Justice; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.