

DRAFT SECOND READING SPEECH

HON GUY BARNETT MP

Registration to Work with Vulnerable People Amendment Bill 2025

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Madam Speaker, I move that the Bill now be read a second time.

This Bill amends the *Registration to Work with Vulnerable People Act 2013* (known as the RWVP Act). This reflects one of the agreement items from the 15 August meeting of the Standing Council of Attorneys-General (known as SCAG), which was:

to urgently work towards implementation, by the end of 2025, of mutual recognition of negative notices (known as declined applications or refusals of Working With Children Checks) so that a person denied a check, or whose check has been revoked, in one jurisdiction cannot be granted or hold a working with children check in another jurisdiction.

Tasmania's RWVP Act currently provides for a robust working with children and vulnerable people registration process. Ahead of its time, the Act already provides that a person denied registration, or who has had their registration cancelled, in another jurisdiction cannot apply for registration in Tasmania for a period of 5 years unless there has been a significant and exceptional change in circumstances.

Currently, when a person is already registered in Tasmania, an interstate decision to deny or cancel their equivalent registration would result in a risk assessment under our Act. The Government has already implemented amendments recommended by the Commission of Inquiry to ensure suspensions are used during risk assessment process when appropriate. However, the SCAG agreement, with our full support, is to take this a step further so the Registrar must cancel a Tasmanian registration following interstate cancellation or suspension.

A consultation draft of the Bill was prepared to ensure Tasmania's fulfilment of the SCAG Agreement. The draft was released for both public and targeted consultation, with a total of 18 submissions received. We appreciated both the support given for these important objectives, and the stakeholders who raised issues for further consideration.

In particular, I appreciate the interim Commissioner for Children and Young People's submission. I am pleased to say all the Commissioner's recommendations for the Bill have been addressed, and other matters raised are part of our ongoing work as part of the SCAG Agreement to harmonise processes with other jurisdictions.

I will now go through the amendments made by the Bill.

Firstly, the Bill provides under section 51 that the Registrar must cancel a person's registration in a category of registration if the Registrar is satisfied that, while the person holds registration in that category under the Act:

- The person has been refused registration in an equivalent category of registration under a corresponding law; or
- The person's registration in an equivalent category of registration under a corresponding law has been cancelled.

This amendment ensures that, where a person is already registered in Tasmania, an interstate decision to deny or cancel their registration would result in immediate cancellation rather than a risk assessment as is currently the case.

In addition to mutual recognition of refusals and cancellations, the Bill goes further than the SCAG agreement to also enable the mutual recognition of suspensions under amendments to section 49, and what are known as interim bars on people working while their application is being considered under section 18. This is in response to the submission made by the Commissioner for Children and Young People on the consultation draft, who noted the work of some other jurisdictions in this area.

Suspensions are dealt with as part of the risk assessment process which occurs when new relevant information about a person is obtained. Section 49 of the Act deals with the grounds for suspension or cancellation of registration. The Bill amends this section to introduce new paragraph providing that, for the avoidance of doubt, the Registrar must suspend a person's registration when conducting an additional risk assessment of the person on the grounds that the person's registration under a corresponding law has been suspended under that corresponding law. The Registrar can then see if the interstate decision progresses to a cancellation, in which case the Bill ensures that the Tasmanian registration is also cancelled.

The Bill also introduces an amendment to section 20 to require applicants to proactively disclose any history of negative registration decisions in other jurisdictions.

If an applicant does not disclose this history, it will still be uncovered through the current checking process. However, having a positive requirement for disclosure is a useful step. Any dishonest withholding of information in an application is relevant to the risk assessment process.

In response to a submission from the Commissioner for Children and Young People, a further amendment has been introduced in the Bill to provide that people holding registration are required to disclose any history of negative notices in other jurisdictions. The Bill includes a new section 47A, making it an offence for a registered person to fail to disclose these matters, similarly to the current requirement to disclose offences.

Finally, the Bill amends section 19 of the Act. The current effect of section 19 of the Act is that a person whose registration has been refused, or who has had their registration cancelled, under a corresponding law, may only apply for registration if:

- the application is made after a period of 5 years has elapsed; or
- the Registrar is satisfied that there has been significant and exceptional change in the person's circumstances.

Different jurisdictions have different requirements such as different exclusion periods for reapplication following a refusal of an application for, or cancellation of, a person's registration.

The Bill amends section 19 to restrict a person whose registration has been refused, or who has had their registration cancelled, under a corresponding law, from applying for registration in equivalent categories in Tasmania for as long as they are ineligible to apply for registration under the corresponding law.

The consultation draft provided that this would be in addition to the current circumstances under which they are allowed to apply, namely after 5 years or if there are significant and exceptional circumstances. This is no longer the case in the tabled Bill, following consideration of the submission of the Commissioner for Children and Young People. This provides for even greater consistency in the mutual recognition model.

It is also important to note that any applicant for registration in Tasmania is subject to a thorough risk assessment to determine whether they continue to present a risk to vulnerable people.

A new subsection 19(5) ensures that only the refusal or cancellation made in the original jurisdiction is considered by the Registrar, and not the resultant refusals or cancellations made by other jurisdictions mutually recognising the decision of the originating jurisdiction. This is so that the eligibility to re-apply is tied to the original jurisdiction that cancelled the registration or refused an application.

It is also important to acknowledge the way in which procedural fairness is dealt with in the national mutual recognition scheme. Appeal rights in relation to a decision under a corresponding law will continue to be exercised under that corresponding law. Further, these are important new powers of the Registrar and must be exercised carefully, as any powers are. For example, the Registrar must be satisfied that a person's registration has been cancelled interstate before

cancelling that person's registration here. It is an important principle of administrative law that if a decision-maker makes an error in relation the exercise of their powers, such as a case of mistaken identity, then the decision made has no legal effect and will be set aside by the decision-maker.

These amendments are part of a broader framework of reforms currently being led by the SCAG in relation to working with children checks. Tasmania will continue to contribute to the development of these very important reforms which aim to strengthen protection for children and achieve greater consistency between working with children check scheme across jurisdictions.

Such reforms recognise the crucial role these safeguards play in ensuring the safety and protection of children and vulnerable people in our community.

It is my hope this Bill will proceed urgently through both this place, and the other place, to ensure Tasmania gives effect to this national agreement.

Madam Speaker, I commend the Bill to the House.