

I certify that this is the authorised version of this Act as at 1 February 2021, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 February 2021.

Robyn Webb  
Chief Parliamentary Counsel  
Dated 1 February 2021



TASMANIA

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## **REGISTRATION TO WORK WITH VULNERABLE PEOPLE ACT 2013**

**No. 65 of 2013**

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# **REGISTRATION TO WORK WITH VULNERABLE PEOPLE ACT 2013**

**No. 65 of 2013**

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

**[Royal Assent 13 December 2013]**

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*.

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## 2. Commencement

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

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

## 3. Interpretation

In this Act, unless the contrary intention appears –

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

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

***category of registration*** means a category of registration that is specified in section 4A or that is prescribed in accordance with that section;

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

***class of vulnerable persons***, in relation to a category of registration, means the class of persons specified in section 4A(3) in respect of the category of registration;

***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*;

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***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;

***determined***, in relation to a regulated activity, means determined under section 7A;

***disqualifying offence*** means an offence that is specified in an order under section 54D to be a disqualifying offence;

***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 –

- (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;

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***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);

***NDIS participant*** means a participant, within the meaning of the *National Disability Insurance Scheme Act 2013* of the Commonwealth;

***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 –
  - (i) a proceeding for the alleged offence is not finalised; or
  - (ii) the charge has lapsed, been withdrawn, been

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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
- (e) a statutory authority established by or under an Act of another jurisdiction; or
- (f) a body, whether corporate or unincorporate, that is established

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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 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;

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

***Registrar*** means the person appointed as Registrar under section 11;

***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;

***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 –

- (a) an activity or service prescribed for the purposes of section 4A in respect of a category of registration; and
- (b) an activity or service determined under section 7A in respect of a category of registration;

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***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
- (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
- (ba) a disqualifying offence; or
- (c) an offence, whether committed in Tasmania, another jurisdiction or

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

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- (d) any other entity, or other body, prescribed by the regulations to be a reporting body;

***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 in respect of whom a regulated activity is provided.

**4A. Categories of registration**

- (1) For the purposes of this Act, the following are the categories of registration:
  - (a) child-related activity;
  - (b) vulnerable adult-related activity;
  - (c) child and vulnerable adult-related activity;
  - (d) child and vulnerable adult-related (NDIS endorsed) activity;
  - (e) a category of activity or service prescribed by the regulations as a category of registration.
- (2) For the purposes of this Act, an activity or service may be prescribed, or determined, in respect of a category of registration.
- (3) An activity or service may only be prescribed, or determined, in respect of –
  - (a) the category of registration referred to as child-related activity – if the activity or service relates to or involves a child; or
  - (b) the category of registration referred to as vulnerable adult-related activity – if the

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- activity or service relates to or involves an adult who is a vulnerable person; or
- (c) the category of registration referred to as child and vulnerable adult-related activity – if the activity or service relates to or involves a vulnerable person other than an NDIS participant; or
  - (d) the category of registration referred to as child and vulnerable adult-related (NDIS endorsed) activity – if the activity or service relates to or involves an NDIS participant; or
  - (e) a category of activities or services prescribed by the regulations as, or determined under section 7A in respect of, a category of registration – if the activity or service relates to or involves a vulnerable person.

**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

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(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;
  - (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 more than incidental, within the meaning of section 6 of the *National Disability Insurance Scheme (Practice Standards – Worker Screening) Rules 2018* of the Commonwealth, to taking part in the regulated activity; and
- (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;

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(iii) written communication,  
including electronic  
communication.

(iv - v) . . . . .

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

**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 in respect of a category of registration.
- (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.

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- (3) The determination ceases to have effect when the first of the following occurs:
  - (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. 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**

- (1) Nothing in this Act prevents an employer from requiring an employee to be registered in a category of registration while engaging, on behalf of the employer, in a regulated activity in respect of a member of the class of vulnerable

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persons to whom the category relates, even though the employee is a person that is not required to be registered to engage in the regulated activity under section 15(2).

- (2) If an employer requires an employee to be registered as specified in subsection (1), the provisions of this Act, apart from Part 3, in relation to registration apply in relation to the employee as if the employee were 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.

### **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 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;

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- (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.

**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
  - (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;

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- (b) the categories of registration in 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;
  - (g) the categories of registration 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 –

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- (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 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.

## **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 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

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- (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
  - (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**

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

- (1) Subject to subsection (2), a person is required to be registered in a category of registration if the person engages, in relation to a person who is a member of the class of vulnerable persons to whom that category of registration relates, in a regulated activity that is prescribed, or determined, in respect of that category of registration.
- (2) However, a person is not required to be registered in relation to a regulated activity that is prescribed or determined in respect of a category of registration –
  - (a) if –
    - (i) the person is registered under a corresponding law; and
    - (ii) the regulated activity is substantially similar to an activity or service that the person is allowed, by that registration, to engage in under the corresponding law; and
    - (iii) the class of persons in relation to whom the person engages in a regulated activity is substantially similar to the class of vulnerable persons to whom the registration

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- under the corresponding law relates; and
- (iv) the registration under a corresponding law has not been renewed after the person has, in the opinion of the Registrar, become a resident of this State; or
- (b) 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
- (c) if the person is –
- (i) engaged in the regulated activity (other than a regulated activity that consists of an overnight camp, excursion or stay) for a particular employer in circumstances that do not involve the person being in contact with a vulnerable person; and
- (ii) so engaged in the regulated activity for that particular employer in those circumstances

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on not more than 7 days in any calendar year; or

- (d) if the person is a member of a class of persons prescribed by the regulations as not being required to hold registration under this Act in a category of registration in respect of which the regulated activity is prescribed or determined; or
  - (e) if the person is engaged in a regulated activity in circumstances that are prescribed in the regulations as circumstances in which a person is not required to hold registration under this Act in a category of registration in respect of which the regulated activity is prescribed or determined.
- (3) For the purpose 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 that day, is taken to be engagement in the regulated activity on that day.
- (4) Subsection (2) does not apply to a person engaged in a regulated activity if –
- (a) the person has been provided with a negative notice in respect of an application for registration in a category of registration in respect of which the

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regulated activity is prescribed or determined; or

- (b) the person's registration in a category of registration for which the regulated activity is prescribed or determined has been cancelled under section 51.

**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 in a category of registration allowing engagement in that regulated activity in relation to the class of vulnerable persons to whom that category of registration relates, must not engage in the regulated activity knowing, or with reckless disregard as to whether or not, he or she –
  - (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

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- (b) the person engages in a regulated activity under section 18.

**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 regulated 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.

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**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 in relation to a class of vulnerable persons and is not so registered with a registration in a category of registration allowing that engagement in relation to the class of vulnerable persons, the employer of the person must not engage the person, or require the person to be engaged, in the regulated activity in relation to a class of vulnerable persons, 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 in relation to that class of vulnerable persons.

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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.

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

- (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 reward; and
  - (b) the person is registered in the class of volunteer.

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 regulated activity for financial or other material benefit or reward; and

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

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

- (1) In this section –

*approved risk management plan* means a plan in a form approved by the Registrar for the purposes of 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
  - (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 –

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- (i) registered the person; or
    - (ii) provided to the person a negative notice in relation to the application; or
    - (iii) provided to the person a notice under subsection (5); 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
  - (ba) the named employer is satisfied that the eligible person has applied for registration under section 19 and that the application has not been determined; and
  - (bb) the named employer –
    - (i) has an approved risk management plan that is relevant to the eligible person being engaged in that regulated activity for that named employer; and

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- (ii) is implementing that plan in respect of the eligible person while the eligible person is engaged in that regulated activity under this section; and
  - (c) unless the regulations have prescribed that this paragraph does not apply to the regulated activity, a registered person is present at all times while the unregistered person is engaged in the regulated activity.
- (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 engage in the regulated activity before the person is registered.
- (6) An applicant who is the subject of a determination made under subsection (4) may, at any time after 6 months after the notice in respect of that determination is provided to the applicant under subsection (5), apply to the Registrar to review that determination.

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- (7) On receiving an application under subsection (6) to review a determination, the Registrar may –
  - (a) confirm that determination; or
  - (b) reverse that determination.
- (8) On completing a review under subsection (7), the Registrar is to provide the applicant, and all relevant named employers notified under subsection (5) in relation to the original application, with a notice stating whether or not the applicant is entitled to engage in the regulated activity before the person is registered.

**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, in relation to a class of vulnerable persons, for the purposes of this section;

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

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be special circumstances in relation to that relevant regulated activity.

- (2) A person may engage in, in relation to a class of vulnerable persons, a relevant regulated activity for which he or she is 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 relation to a class of vulnerable persons, 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 under section 53 within the prescribed

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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 purpose of determining the number of days for which a person is engaged, in relation to a member of a class of vulnerable persons, in a relevant regulated activity, any engagement, in relation to a member of the class of vulnerable persons, 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.

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**PART 4 – APPLYING FOR REGISTRATION**

**19. Application for registration**

- (1) A person may apply to the Registrar for registration under this Act in respect of one or more categories of registration.
- (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 in relation to an application in a category of registration, or whose registration in a category of registration has been cancelled, may only apply under that subsection for registration in that category if –
  - (a) the application is made after 5 years after the day on which the person was provided with the negative notice or the

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cancellation of the registration took effect; or

- (b) the Registrar is satisfied that there has been significant and exceptional change in the person's circumstances since that day.
- (4) If an application by a person for registration has been refused, or the registration of a person has been cancelled, under a corresponding law, the provisions of subsection (3) apply to that person as if the refusal or cancellation were the provision of a negative notice or cancellation under this Act.

**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
  - (daa) the category of registration, or the categories of registration, in which the applicant is applying to be registered; and

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- (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
- (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 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

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- (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 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

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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;
- (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.

(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.

(1B) For the purposes of subsection (1) –

(a) the additional information or additional documents that may be required under that subsection include, but are not limited to, references or medical reports in relation to the applicant; and

(b) a requirement may relate to additional information or additional documents that do not exist at the time at which the requirement is made.

(2) If an applicant does not comply with a requirement under subsection (1), the Registrar may dismiss the application.

(3) If an application is dismissed under subsection (2), the Registrar is to notify, in writing, the applicant and any employer specified in the application, of that dismissal.

**23. Registrar may request interview**

- (1) The Registrar may request that an applicant attend an interview to provide additional information that the Registrar considers he or she needs to determine the application.
- (2) If an applicant agrees to attend an interview requested under subsection (1), the applicant may have another person present during the interview to provide the applicant with support.
- (3) If an applicant does not comply with a request under subsection (1), the Registrar may dismiss the application.
- (4) If an application is dismissed under subsection (3), the Registrar is to notify, in writing, the applicant and any employer specified in the application, of that dismissal.

**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.

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

- (1) An applicant must notify the Registrar of any change in information relating to his or her name, address or employer –
  - (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.

- (2) It is sufficient compliance with subsection (1) if the applicant provides notification of the change of name, address or employer by providing it to the Registrar –
  - (a) directly, in a manner approved by the Registrar; or
  - (b) by lodging it with that part of the responsible Department in relation to the *State Service Act 2000* known as Service Tasmania.

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**24B. Withdrawal of application**

- (1) An applicant may withdraw his or her application for registration by notice, in writing, to the Registrar.
- (2) If an applicant withdraws an application under subsection (1) after one or more of the circumstances specified in subsection (3) occur, the Registrar is to –
  - (a) record the withdrawal of the application on the Register; and
  - (b) notify the person, and any named employer specified in the application, in accordance with section 32(3) as if the Registrar had refused to register the person under that section.
- (3) For the purposes of subsection (2), the following circumstances are specified:
  - (a) the applicant has been provided with a notice, under section 18(5), stating that the applicant is not entitled to engage in the regulated activity before the person is registered;
  - (b) the applicant is required to provide additional information or additional documents under section 22;
  - (c) the applicant has been requested to attend an interview under section 23;

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- (d) the applicant has been provided with a proposed negative notice under section 30.

## **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, other than matters specified in section 28(1A), that the Registrar must or may take into account in conducting a risk assessment; and
  - (b) specify how the matters referred to in paragraph (a) must or may be taken into account; and

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- (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
  - (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.

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- (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) Section 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.

***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.
- (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

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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
- (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).

- (2) The risk assessment is to be conducted in accordance with the regulations and the risk assessment order.

29. . . . .

***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 –

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

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- (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.
- (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 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

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- 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.
- (2B) In subsection (2A) –
- law* means law of the Commonwealth, a State or a Territory.
- (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.
  - (4) This section does not apply if the Registrar conducts a risk assessment of a person and is

satisfied that the person has been convicted of a disqualifying offence.

**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) is to be made before 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.

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- (4) The Registrar is to notify the applicant, in writing, of the Registrar's determination under subsection (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
  - (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

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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.

- (2A) The Registrar is to refuse to register a person if the Registrar is satisfied that the person has been convicted of a disqualifying offence.
- (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
  - (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.
- (4) Despite subsection (3)(a), the Registrar is not required to notify a person of the reasons for a

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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
- (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

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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.

## **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 of a person, the Registrar –

- (a) is to register the person –
  - (i) in a category of registration; and
  - (ii) either in the class of employee/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

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- (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 employee/volunteer if the person engages, or intends to engage, in any regulated activity that he or she is registered to 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.
- (3) In and on registering a person, the Registrar is to comply with any relevant risk assessment order.

**33A. Authority of registration**

Unless otherwise specified in respect of a person's registration, the registration of a person in a category of registration that relates to members of a class of vulnerable persons authorises the person to engage, in relation to members of that class of vulnerable persons, in any regulated activity prescribed or determined in respect of that category of registration.

**34. Term of registration**

- (1) The registration of a person is for the term, not exceeding 5 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.
- (1A) Despite subsection (1), the regulations may prescribe a category of registration in respect of which a registration may not be made subject to a condition.
- (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 registered 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;

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- (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;
  - (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 registered 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 –
  - (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.

**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) is to be made before 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

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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 –

(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

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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 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 –

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*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) 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

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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 –
- (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

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- (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; 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.

**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.

**41A. Amendment of class of registration**

- (1) A person who is registered in the class of volunteer may apply to the Registrar to amend the person’s registration to that of class of employee/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

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- (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 employee/volunteer; or
  - (b) refuse to so 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, 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

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registration to the class of  
employee/volunteer.

***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
  - (daa) the category of registration; and
  - (da) the class of registration; 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.
- (2) An application –
  - (a) must be in writing; and

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- (b) . . . . .
  - (c) must be accompanied by the prescribed fee.
- (3) On receipt of an application, the Registrar is 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.

- (1A) The Registrar may, by notice in writing to a person whose registration has been suspended under section 51, require the person to surrender his or her registration card.

- (1B) A person to whom notice of a requirement is given under subsection (1A) must comply with that requirement within 10 working days after notice of the requirement is given to the person.

Penalty: Fine not exceeding 50 penalty units.

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

- (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. . . . .

**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.

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

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- (5) If the Registrar conducts an additional risk assessment of a registered person and is satisfied 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.

**46A. Requiring information – registered person**

- (1) The Registrar may, by notice in writing to a registered person, require the registered person to provide information or documents that the Registrar considers he or she needs, for the purposes of –
- (a) conducting an additional risk assessment in relation to the registered person; or
  - (b) determining whether or not the registered person has engaged in reportable behaviour and whether or not the person poses a risk to a vulnerable person in light of that behaviour.
- (2) A requirement under subsection (1) may specify a period of not less than 15 working days within

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which the registered person is to provide the additional information or additional documents.

- (3) For the purposes of subsection (1) –
  - (a) the additional information or additional documents that may be required under that subsection include, but are not limited to, references or medical reports in relation to the registered person, and
  - (b) a requirement may relate to additional information or additional documents that do not exist at the time at which the requirement is made.
- (4) If a registered person does not comply with a requirement under subsection (1), the Registrar may determine to cancel the registered person's registration.
- (5) If the Registrar determines to cancel a registered person's registration under subsection (4), the Registrar is to provide, in accordance with section 50, notice in writing of the intention to cancel the person's registration and, if appropriate, is to cancel, in accordance with section 51, the person's registration.

**46B. Requesting interview – registered person**

- (1) The Registrar may request a registered person to attend an interview to provide information that the Registrar considers he or she needs, for the purposes of –

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- (a) conducting an additional risk assessment in relation to the registered person; or
  - (b) determining whether or not the registered person has engaged in reportable behaviour and whether or not the person poses a risk to a vulnerable person in light of that behaviour.
- (2) If a registered person does not comply with a requirement under subsection (1), the Registrar may determine to cancel the registered person's registration.
- (3) If the Registrar determines under subsection (2) to cancel a registered person's registration, the Registrar is to provide, in accordance with section 50, notice in writing of the intention to cancel the person's registration and, if appropriate, is to cancel, in accordance with section 51, 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.

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(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

(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 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

(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 –

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- (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.

**48A. Offence for employer to fail to notify change of employee or volunteer engagement**

- (1) An employer must, within 10 working days after an employee or volunteer commences or ceases to be engaged in a regulated activity for that employer, notify the Registrar, in writing, of the commencement or cessation, as the case may be.

Penalty: Fine not exceeding 10 penalty units.

- (2) It is sufficient compliance with subsection (1) if the employer provides notification of the commencement or cessation –
  - (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) by providing it to the Registrar –

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- (i) directly, in a manner approved by the Registrar; or
- (ii) by lodging it with that part of the responsible Department in relation to the *State Service Act 2000* known as Service Tasmania.

***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
  - (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 if the Registrar –
  - (a) has conducted an additional risk assessment of the person; and

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- (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.

**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
  - (ab) if the person engages in a regulated activity allowed by the registration for an employer and the Registrar is aware of that employer, the Registrar is to notify that employer, in writing, of the suspension while the additional risk assessment is conducted; 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,

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

- (1A) A registered person who is the subject of a determination to suspend made under section 49(2) may, after 6 months after the notice in respect of that determination is given to the registered person under subsection (1)(a), apply to the Registrar to review that determination.
- (1B) On receiving an application to review under subsection (1A), the Registrar may –
  - (a) confirm that determination; or
  - (b) reverse that determination.
- (1C) On completing a review under subsection (1B), the Registrar is to give to the registered person, and all relevant employers notified under subsection (1) in relation to the suspension, a notice stating whether or not the registered person is entitled to engage in a regulated activity while an additional risk assessment is conducted.

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- (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; and
  - (d) if the person engages in a regulated activity allowed by the registration for an employer and the Registrar is aware of that employer, is to notify that employer, in writing, of the interim suspension.
- (3) If the Registrar imposes an interim suspension of a person's registration under subsection (2)(a) –
- (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

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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.

**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 –
  - (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.
- (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 –

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- (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
- (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

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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.

**51. Suspension or cancellation of registration**

(1) The Registrar is to suspend or cancel a person’s registration 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.

(1A) The Registrar must cancel a person’s registration if the Registrar is satisfied that the person has been convicted of a disqualifying offence.

(2) If the Registrar suspends or cancels a person’s registration under subsection (1) or (1A), the Registrar –

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- (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 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.
- (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 –
- (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

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- (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.
- (2B) In subsection (2A) –
- law* means law of the Commonwealth, a State or a Territory.
- (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 under this Act by providing to the Registrar notice of the surrender.
- (2) The surrender of the registration takes effect on the day on which the notice surrendering the registration is provided to the Registrar.
- (3) A person who surrenders his or her registration in accordance with subsection (1) must surrender his or her registration card to the Registrar no later than 10 working days after the surrender takes effect.

Penalty: Fine not exceeding 50 penalty units.

- (3A) It is a defence in proceedings for an offence against subsection (3) if the defendant establishes that, at the relevant time, the registration card –
  - (a) was lost; or

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

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**PART 6A – REGISTRAR’S POWERS IN RELATION TO  
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ACT**

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

- (1) If the Registrar reasonably considers that an entity may have information relevant to the Registrar’s powers and functions under this Act, the Registrar, by written notice provided to the entity, may require the entity to deliver or provide to the Registrar any information or document, or a copy of a document, in its possession or to which it has access, as specified in the notice.
- (2) . . . . .
- (3) The Registrar, by written notice provided to any of the following bodies, may request the body 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:
  - (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;
  - (ba) a registry established by the Commonwealth for the purposes of recording information relating to the registration, licensing or other

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

- (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 (1) 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.
- (5) If a requirement made under subsection (1) to deliver or provide information, a document or a copy of a document requires the entity to provide 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.

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- (6) An entity or a body required or requested to deliver or provide any information, document or copy of a document under this section must –
- (a) comply with the requirement or request; or
  - (b) provide a reasonable excuse for its failure to comply with the requirement or request.

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 person in any civil or criminal proceedings, other than proceedings under this Act.
- (8) In complying with a requirement or request made under subsection (1) or (5), an entity or a body does not contravene any duty of confidentiality the entity or body 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:

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- (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 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

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- (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 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 or on 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.

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- (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 –
  - (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.

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

- (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 received in all courts and elsewhere as evidence of the matters

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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.

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

**53. Review of decisions**

(1) In this section –

*reviewable decision* means –

- (a) a refusal under section 32(1) or (2) 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).
- (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 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

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- (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 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

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- (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 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.

**PART 7A – REPORTABLE BEHAVIOUR**

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

- (1) If a reporting body becomes aware by any means, or suspects on reasonable grounds, that a registered person has engaged, or may have engaged, in reportable behaviour, the reporting body is to notify the Registrar, as soon as practicable, of the name and other identifying particulars of the person and of the behaviour.
- (2) Subsection (1) applies whether or not the reporting body became aware of the reportable behaviour before or after the commencement of this Act.

**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.

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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.

**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
- (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.

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**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 person or body (other than the Registrar) that is responsible 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
  - (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;

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- (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;
  - (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.

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- (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 –
  - (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, or 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 person's response to the notice provided under subsection (3)(b).

**54D. Disqualifying offence order**

- (1) The Minister may, by order, specify an offence under a law of this State, another State, a Territory or the Commonwealth, or of another country or part of a country, to be a disqualifying offence.
- (2) An order made under subsection (1) is a statutory rule within the meaning of the *Rules Publication Act 1953*.
- (3) 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.
- (4) The Registrar is to make an order made under subsection (1) available to the public for inspection in the manner determined by the Registrar.
- (5) On the request of a person, the Registrar is to provide to the person a copy of an order made under subsection (1).

**55. Infringement notices**

- (1) In this section –

*infringement offence* means an offence against this Act or the regulations that is

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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 –
  - (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
  - (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 –

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*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.
- (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 –

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- (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.
- (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

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- (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
- (d) provide for matters relating to registration cards, including offences in respect of registration cards; and
- (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

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- relating to reportable behaviour;  
and
  - (iv) the amendment and withdrawal of a notification referred to in subparagraph (i); and
  - (v) any other matter relating to reportable behaviour and the reporting of it; 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,

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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 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. 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 –

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- (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.

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**NOTES**

The foregoing text of the *Registration to Work with Vulnerable People Act 2013* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 February 2021 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Registration to Work with Vulnerable People Act 2013</i>	No. 65 of 2013	1.7.2014
<i>Registration to Work with Vulnerable People Amendment Act 2015</i>	No. 46 of 2015	27.11.2015
		1.4.2016
<i>Education (Consequential Amendments) Act 2016</i>	No. 47 of 2016	10.7.2017
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2017</i>	No. 29 of 2017	5.9.2017
<i>Justice and Related Legislation (Miscellaneous Amendments) Act 2018</i>	No. 29 of 2018	10.12.2018
<i>Registration to Work with Vulnerable People Amendment Act 2019</i>	No. 18 of 2019	1.2.2021

**TABLE OF AMENDMENTS**

Provision affected	How affected
Section 2A	Inserted by No. 46 of 2015, s. 4
Section 3	Amended by No. 46 of 2015, s. 5 and No. 18 of 2019, s. 4
Section 4	Amended by No. 18 of 2019, s. 5
Section 4A	Inserted by No. 18 of 2019, s. 6
Section 6	Amended by No. 46 of 2015, s. 6 and No. 18 of 2019, s. 7
Section 7A	Inserted by No. 46 of 2015, s. 7 Amended by No. 18 of 2019, s. 8
Section 7B	Inserted by No. 46 of 2015, s. 7
Section 9	Substituted by No. 18 of 2019, s. 9
Section 11A	Inserted by No. 46 of 2015, s. 8 Amended by No. 18 of 2019, s. 10

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Provision affected	How affected
Section 11B	Inserted by No. 46 of 2015, s. 8 Amended by No. 18 of 2019, s. 11
Section 15	Amended by No. 46 of 2015, s. 38 Subsection (3A) inserted by No. 46 of 2015, s. 38 Amended by No. 47 of 2016, s. 20, No. 29 of 2018, s. 42 Substituted by No. 18 of 2019, s. 12
Section 16	Amended by No. 18 of 2019, s. 13
Section 16A	Inserted by No. 46 of 2015, s. 39 Amended by No. 29 of 2018, s. 43
Section 17	Amended by No. 18 of 2019, s. 14
Section 17A	Inserted by No. 46 of 2015, s. 40 Amended by No. 29 of 2018, s. 44
Section 18	Amended by No. 46 of 2015, s. 9 and No. 18 of 2019, s. 15
Section 18A	Inserted by No. 46 of 2015, s. 10 Amended by No. 18 of 2019, s. 16
Section 19	Amended by No. 18 of 2019, s. 17
Section 20	Amended by No. 46 of 2015, s. 11 and No. 18 of 2019, s. 18
Section 22	Amended by No. 46 of 2015, s. 12 and No. 18 of 2019, s. 19
Section 23	Repealed by No. 46 of 2015, s. 13 Inserted by No. 18 of 2019, s. 20
Section 24A	Inserted by No. 18 of 2019, s. 21
Section 24B	Inserted by No. 18 of 2019, s. 21
Section 26	Amended by No. 46 of 2015, s. 14
Section 28	Amended by No. 46 of 2015, s. 15
Section 29	Repealed by No. 46 of 2015, s. 16
Section 30	Amended by No. 46 of 2015, s. 17 and No. 18 of 2019, s. 22
Section 31	Amended by No. 46 of 2015, s. 18
Section 32	Amended by No. 46 of 2015, s. 19 and No. 18 of 2019, s. 23
Section 33	Amended by No. 46 of 2015, s. 20, No. 29 of 2018, s. 45 and No. 18 of 2019, s. 24
Section 33A	Inserted by No. 18 of 2019, s. 25
Section 34	Amended by No. 18 of 2019, s. 26
Section 35	Amended by No. 18 of 2019, s. 27
Section 37	Amended by No. 46 of 2015, s. 21
Section 41A	Inserted by No. 46 of 2015, s. 22 Amended by No. 29 of 2018, s. 46
Section 42	Amended by No. 46 of 2015, s. 23 and No. 18 of 2019, s. 28
Section 43	Amended by No. 46 of 2015, s. 24
Section 44	Amended by No. 18 of 2019, s. 29
Section 45	Repealed by No. 46 of 2015, s. 25
Section 46A	Inserted by No. 18 of 2019, s. 30
Section 46B	Inserted by No. 18 of 2019, s. 30
Section 48	Substituted by No. 46 of 2015, s. 26

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Provision affected	How affected
Section 48A	Inserted by No. 18 of 2019, s. 31
Section 49	Amended by No. 18 of 2019, s. 32
Section 49A	Inserted by No. 46 of 2015, s. 27 Amended by No. 29 of 2017, Sched. 1 and No. 18 of 2019, s. 33
Section 50	Amended by No. 46 of 2015, s. 28
Section 51	Amended by No. 46 of 2015, s. 29 and No. 18 of 2019, s. 34
Section 52	Amended by No. 46 of 2015, s. 30 and No. 18 of 2019, s. 35
Section 52A	Inserted by No. 46 of 2015, s. 31 Amended by No. 29 of 2017, Sched. 1 and No. 18 of 2019, s. 36
Section 52B	Inserted by No. 46 of 2015, s. 31
Section 52C	Inserted by No. 46 of 2015, s. 31
Section 52D	Inserted by No. 46 of 2015, s. 31
Section 53	Amended by No. 46 of 2015, s. 32 and No. 18 of 2019, s. 37
Section 53A	Inserted by No. 46 of 2015, s. 33 Substituted by No. 18 of 2019, s. 38
Section 53B	Inserted by No. 46 of 2015, s. 33
Section 54A	Inserted by No. 46 of 2015, s. 34
Section 54B	Inserted by No. 46 of 2015, s. 34 Amended by No. 18 of 2019, s. 39
Section 54C	Inserted by No. 46 of 2015, s. 34
Section 54D	Inserted by No. 18 of 2019, s. 40
Section 60	Amended by No. 46 of 2015, s. 35
Section 61	Substituted by No. 46 of 2015, s. 36

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