I certify that this is a copy of the authorised version of this Statutory Rule 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 4 February 2021

### **TASMANIA**

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# REGISTRATION TO WORK WITH VULNERABLE PEOPLE (RISK ASSESSMENT FOR CHILD-RELATED ACTIVITIES) ORDER 2014

### STATUTORY RULES 2014, No. 80

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### REGISTRATION TO WORK WITH VULNERABLE PEOPLE (RISK ASSESSMENT FOR CHILD-RELATED ACTIVITIES) ORDER 2014

I make the following order under section 26 of the Registration to Work with Vulnerable People Act 2013.

Dated 20 June 2014.

DR. VANESSA GOODWIN
Minister for Justice

### 1. Short title

This order may be cited as the *Registration to* Work with Vulnerable People (Risk Assessment for Child-related Activities) Order 2014.

#### 2. Commencement

This order takes effect on the day on which the Registration to Work with Vulnerable People Act 2013 commences.

### 3. Interpretation

In this order –

Act means the Registration to Work with Vulnerable People Act 2013;

*applicant* means a person who has applied for registration under the Act in the category

of registration that is child-related activity.

## 4. Application of order

This order applies in respect of the conduct of –

- (a) a risk assessment of an applicant; and
- (b) an additional risk assessment of a registered person.

### 5. Matters to be taken into account

- (1) In conducting a risk assessment of an applicant, the Registrar may take into account the following matters:
  - (a) whether the applicant has had multiple changes in his or her name;
  - (b) whether the applicant has used multiple aliases;
  - (c) whether the applicant has had multiple changes of address within a short period of time at any point in time before the application;
  - (d) whether the applicant has had multiple changes of employer within a short period of time at any point in time before the application;

- (e) whether the applicant has had large periods of unemployment;
- (f) whether the applicant has been the subject of an allegation or a finding by an entity that the applicant has engaged in
  - (i) sexual misconduct against, with or in the presence of a child, including the grooming of a child for a sexual act; or
  - (ii) a serious physical assault of a child;
- (g) whether the applicant has been convicted of, or charged with, an offence specified in Schedule 1;
- (h) whether the applicant is, or has been, the subject of an order under the *Children*, *Young Persons and Their Families Act* 1997, the *Family Violence Act* 2004 or the *Justices Act* 1959 and the applicant's conduct has been a factor in the making of the order:
- (i) whether the applicant has been the subject of any disciplinary action for misconduct at his or her place of employment, or a place where he or she volunteers;
- (j) whether the applicant has included information in the application that may be false or misleading;

- (k) whether the applicant has failed to include any relevant information in the application;
- (l) any other matter not referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) or (k) that the Registrar considers relevant in conducting the risk assessment of the applicant.
- (2) In conducting an additional risk assessment of a registered person, the Registrar may take into account the following matters:
  - (a) the matters specified in section 28(1A) of the Act;
  - (b) whether the registered person has had multiple changes in his or her name;
  - (c) whether the registered person has used multiple aliases;
  - (d) whether the registered person has had multiple changes of address within a short period of time at any point in time before the application;
  - (e) whether the registered person has had multiple changes of employer within a short period of time at any point in time before the application;
  - (f) whether the registered person has had large periods of unemployment;

- (g) whether the registered person has been the subject of an application or a finding by an entity that the applicant has engaged in –
  - (i) sexual misconduct against, with or in the presence of a child, including the grooming of a child for a sexual act; or
  - (ii) a serious physical assault of a child;
- (h) whether the registered person has been convicted of, or charged with, an offence specified in Schedule 1;
- (i) whether the registered person is, or has been, the subject of an order under the *Children, Young Persons and Their Families Act 1997*, the *Family Violence Act 2004* or the *Justices Act 1959* and the registered person's conduct has been a factor in the making of the order;
- (j) whether the registered person has been the subject of any disciplinary action for misconduct at his or her place of employment, or a place where he or she volunteers;
- (k) whether the registered person has provided any information that may be false or misleading;

- (l) whether the registered person has failed to provide any relevant information;
- (m) any other matter not referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k) or (l) that the Registrar considers relevant in conducting the additional risk assessment of the registered person.
- (3) The matters referred to in subclauses (1) and (2) are to be taken into account in conducting a risk assessment, or an additional risk assessment, by determining the nature of the behaviour, or alleged behaviour, of the applicant, or registered person, that is relevant to the matters referred to in those subclauses.

# 6. Conduct of risk assessments and additional risk assessments

(1) In this clause –

### *matter*, in relation to –

- (a) a risk assessment, means a matter referred to in clause 5(1) taken into account by the Registrar in conducting the risk assessment; or
- (b) an additional risk assessment, means a matter referred to in clause 5(2) taken into account by

the Registrar in conducting the additional risk assessment.

- (2) If the Registrar considers it relevant to do so in relation to a matter that he or she is taking into account in conducting a risk assessment, or an additional risk assessment, the Registrar may consider
  - (a) the nature, gravity and circumstances of an offence, misconduct, disciplinary proceeding or other relevant information relating to the matter, and how this is relevant to child-related activity; and
  - (b) the length of time that has passed since the matter occurred; and
  - (c) the vulnerability of the victim at the time of the matter occurring, including
    - (i) the age of the victim; and
    - (ii) the age difference between the applicant, or registered person, and the victim; and
    - (iii) the applicant's, or registered person's, relationship to the victim or position of authority over the victim at the time of the matter occurring; and
  - (d) the applicant's, or registered person's, criminal, misconduct, disciplinary or other relevant history, including whether

there is a pattern of concerning conduct; and

- (e) the applicant's, or registered person's, conduct since the matter occurred; and
- (f) all other relevant circumstances in respect of the offending, misconduct or other relevant history of the applicant, or registered person, and the impact on the eligibility of the applicant, or registered person, to be engaged in child-related activity.

7. . . . . . . . .

#### 8. Conduct not to be taken into account

The Registrar must not take into account any conduct by the applicant that constituted an offence at the time the conduct occurred but would not have constituted an offence at the time the application for registration under the Act was made.

### 9. Making of submissions to Registrar

(1) At any time before the Registrar completes a risk assessment of an applicant, or an additional risk assessment of a registered person, the applicant, or the registered person, may provide information to the Registrar that the applicant, or the registered person, believes may be relevant

- to the risk assessment or additional risk assessment.
- (2) The Registrar may take any information provided under subclause (1) into account when conducting a risk assessment or additional risk assessment.

# 10. Issue of notices of intent to refuse, suspend or cancel registration

- (1) The Registrar must provide a proposed negative notice to a person if
  - (a) the person's criminal history indicates that he or she has been convicted of an offence specified in Schedule 1; and
  - (b) at the time of the commission of the offence, other than an offence specified in item 1, 2, 8, 12, 14, 36, 53, 54, 105 or 106 of Schedule 1, the person was an adult and the victim of the offence was a child.
- (2) The Registrar must issue to a registered person a notice of intention to suspend or cancel the registered person's registration if
  - (a) the registered person's criminal history indicates that the registered person has been convicted of an offence specified in Schedule 1; and

(b) at the time of the commission of the offence, other than an offence specified in item 1, 2, 8, 12, 14, 36, 53, 54, 105 or 106 of Schedule 1, the registered person was an adult and the victim of the offence was a child.

# 11. Changes in relevant information of non-registered person

(1) In this clause –

affected person means a person who has been provided with a proposed negative notice, or whose registration has been cancelled, under the Act;

*relevant date*, in respect of an affected person, means the date that –

- (a) the proposed negative notice was provided in respect of the affected person; or
- (b) the registration of the affected person was cancelled.
- (2) For the purposes of section 19(3)(b) of the Act, any of the following matters constitutes significant and exceptional change in the circumstances of an affected person:
  - (a) the affected person was not found guilty in respect of proceedings, or those

proceedings were withdrawn, and those proceedings –

- (i) were pending at the relevant date; and
- (ii) were taken into account when making the negative notice or cancelling the registration;
- (b) since the relevant date
  - (i) the affected person has had a finding of guilt quashed or set aside; and
  - (ii) that finding of guilt had been taken into account when making the negative notice or cancelling the registration;
- (c) a finding in relation to any other matter that had been taken into account when making the negative notice, or cancellation of the registration, in respect of the affected person has been quashed, set aside or otherwise expressly or impliedly ceased to have effect, since the relevant date.
- (3) Nothing in subclause (2) prevents the Registrar from allowing an application under section 19 of the Act that does not meet the requirements of that subclause if the Registrar is satisfied that there has been a significant and exceptional

change in the person's circumstances since the relevant date.

## 12. Changes in information of registered person

For the purposes of section 46 of the Act, any of the following information constitutes new relevant information in respect of a registered person:

- (a) the registered person is suspected of having committed a relevant offence;
- (b) the registered person has been charged with a relevant offence;
- (c) the registered person has been convicted of a relevant offence;
- (d) the registered person has been found guilty of a relevant offence.

### **SCHEDULE 1 – OFFENCES**

Clauses 5 and 10

- 1. An offence under section 8 of the *Animal Welfare Act 1993*
- **2.** An offence under section 9 of the *Animal Welfare Act 1993*
- 3 5. . . . . . . . .
  - **6.** An offence under section 95 of the *Children*, *Young Persons and Their Families Act 1997*
  - 7. An offence under section 17(4) of the Classification (Publications, Films and Computer Games) Enforcement Act 1995
  - **8.** An offence under section 72 of the *Classification* (*Publications*, *Films and Computer Games*) Enforcement Act 1995
  - **9.** An offence under section 72A of the Classification (Publications, Films and Computer Games) Enforcement Act 1995

- **10.** An offence under section 73 of the *Classification* (*Publications*, *Films and Computer Games*) Enforcement Act 1995
- **11.** An offence under section 73A of the Classification (Publications, Films and Computer Games) Enforcement Act 1995
- **12.** An offence under section 74 of the *Classification* (*Publications*, *Films and Computer Games*) Enforcement Act 1995
- **13.** An offence under section 74A of the Classification (Publications, Films and Computer Games) Enforcement Act 1995
- **14.** An offence under section 122 of the *Criminal Code Act 1924*
- **15.** An offence under section 124 of the *Criminal Code Act 1924*
- **16.** An offence under section 125 of the *Criminal Code Act 1924*
- **17.** An offence under section 125A of the *Criminal Code Act 1924*
- **18.** An offence under section 125B of the *Criminal Code Act 1924*

- **19.** An offence under section 125C of the *Criminal Code Act 1924*
- **20.** An offence under section 125D(1) of the *Criminal Code Act 1924*
- **21.** An offence under section 125D(3) of the *Criminal Code Act 1924*
- **22.** An offence under section 126 of the *Criminal Code Act 1924*
- **23.** An offence under section 127 of the *Criminal Code Act 1924*
- **24.** . . . . . . . .
- **25.** An offence under section 129 of the *Criminal Code Act 1924*
- **26.** An offence under section 130 of the *Criminal Code Act 1924*
- **27.** An offence under section 130A of the *Criminal Code Act 1924*
- **28.** An offence under section 130B of the *Criminal Code Act 1924*

- **29.** An offence under section 130C of the *Criminal Code Act 1924*
- **30.** An offence under section 130D of the *Criminal Code Act 1924*
- **31.** An offence under section 133 of the *Criminal Code Act 1924*
- **32.** An offence under section 137 of the *Criminal Code Act 1924*
- **33.** An offence under section 138 of the *Criminal Code Act 1924*
- **34.** . . . . . . . .
- **35.** An offence under section 152 of the *Criminal Code Act 1924*
- **36.** An offence under section 158 of the *Criminal Code Act 1924*
- **37.** An offence under section 159 of the *Criminal Code Act 1924*
- **38.** An offence under section 161 of the *Criminal Code Act 1924*

- **39.** An offence under section 162 of the *Criminal Code Act 1924*
- **40.** An offence under section 162A of the *Criminal Code Act 1924*
- **41.** An offence under section 163 of the *Criminal Code Act 1924*
- **42.** An offence under section 165A of the *Criminal Code Act 1924*
- **43.** An offence under section 166 of the *Criminal Code Act 1924*
- 44. . . . . . . . .
- **45.** An offence under section 169 of the *Criminal Code Act 1924*
- **46.** An offence under section 170 of the *Criminal Code Act 1924*
- **47.** An offence under section 172 of the *Criminal Code Act 1924*
- **48.** An offence under section 175 of the *Criminal Code Act 1924*

- **49.** An offence under section 176 of the *Criminal Code Act 1924*
- **50.** An offence under section 177 of the *Criminal Code Act 1924*
- **51.** An offence under section 178 of the *Criminal Code Act 1924*
- **52.** An offence under section 178A of the *Criminal Code Act 1924*
- **53.** An offence under section 178D of the *Criminal Code Act 1924*
- **54.** An offence under section 178E of the *Criminal Code Act 1924*
- **55.** An offence under section 183 of the *Criminal Code Act 1924*
- **56.** An offence under section 184 of the *Criminal Code Act 1924*
- **57.** An offence under section 184A of the *Criminal Code Act 1924*
- **58.** An offence under section 185 of the *Criminal Code Act 1924*

- **59.** An offence under section 186(1) of the *Criminal Code Act 1924*
- **60.** An offence under section 189 of the *Criminal Code Act 1924*
- **61.** An offence under section 191 of the *Criminal Code Act 1924*
- **62.** An offence under section 191A of the *Criminal Code Act 1924*
- **63.** An offence under section 192(1) of the *Criminal Code Act 1924*
- **64.** An offence under section 240(4) of the *Criminal Code Act 1924*
- **65 66.** . . . . . . . .
  - **67.** An offence under section 269A of the *Criminal Code Act 1924*
  - **68.** An offence under section 297 of the *Criminal Code Act 1924*
  - **69.** An offence under section 298 of the *Criminal Code Act 1924*

| <b>70</b> | <b>- 7</b> 2 | 1. |  |  |  |  |  |  |  |  |
|-----------|--------------|----|--|--|--|--|--|--|--|--|
|-----------|--------------|----|--|--|--|--|--|--|--|--|

- **72.** An offence under section 272.8 of the *Criminal Code Act 1995* of the Commonwealth
- **73.** An offence under section 272.9 of the *Criminal Code Act 1995* of the Commonwealth
- **74.** An offence under section 272.10 of the *Criminal Code Act 1995* of the Commonwealth
- **75.** An offence under section 272.11 of the *Criminal Code Act 1995* of the Commonwealth
- **76.** An offence under section 272.12 of the *Criminal Code Act 1995* of the Commonwealth
- **77.** An offence under section 272.13 of the *Criminal Code Act 1995* of the Commonwealth
- **78.** An offence under section 272.14 of the *Criminal Code Act 1995* of the Commonwealth
- **79.** An offence under section 272.15 of the *Criminal Code Act 1995* of the Commonwealth
- **79A.** An offence under section 272.15A of the *Criminal Code Act 1995* of the Commonwealth

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| 80.          | An offence under section 272.18 of the <i>Criminal Code Act 1995</i> of the Commonwealth |
|--------------|--|
| 81.          | An offence under section 272.19 of the <i>Criminal Code Act 1995</i> of the Commonwealth |
| 82.          | An offence under section 272.20 of the <i>Criminal Code Act 1995</i> of the Commonwealth |
|              |  |
| <b>83.</b> . |  |
| 84.          | An offence under section 273.6 of the <i>Criminal Code Act 1995</i> of the Commonwealth  |
| 85.          | An offence under section 273.7 of the <i>Criminal Code Act 1995</i> of the Commonwealth  |
|              |  |
| 86 - 87.     |  |
| 88.          | An offence under section 471.19 of the <i>Criminal Code Act 1995</i> of the Commonwealth |
| 89.          | An offence under section 471.20 of the <i>Criminal Code Act 1995</i> of the Commonwealth |

**90.** An offence under section 471.22 of the *Criminal* 

Code Act 1995 of the Commonwealth

- **91.** An offence under section 471.24 of the *Criminal Code Act 1995* of the Commonwealth
- **92.** An offence under section 471.25 of the *Criminal Code Act 1995* of the Commonwealth
- **93.** An offence under section 471.26 of the *Criminal Code Act 1995* of the Commonwealth
- 94 95. . . . . . . . .
  - **96.** An offence under section 474.22 of the *Criminal Code Act 1995* of the Commonwealth
  - **96A.** An offence under section 474.22A of the *Criminal Code Act 1995* of the Commonwealth
    - **97.** An offence under section 474.23 of the *Criminal Code Act 1995* of the Commonwealth
  - **97A.** An offence under section 474.23A of the *Criminal Code Act 1995* of the Commonwealth
    - **98.** An offence under section 474.24A of the *Criminal Code Act 1995* of the Commonwealth
    - **99.** An offence under section 474.25A of the *Criminal Code Act 1995* of the Commonwealth

- **100.** An offence under section 474.25B of the *Criminal Code Act 1995* of the Commonwealth
- **100A.** An offence under section 474.25C of the *Criminal Code Act 1995* of the Commonwealth
  - **101.** An offence under section 474.26 of the *Criminal Code Act 1995* of the Commonwealth
  - **102.** An offence under section 474.27 of the *Criminal Code Act 1995* of the Commonwealth
  - **103.** An offence under section 474.27A of the *Criminal Code Act 1995* of the Commonwealth
- **103A.** An offence under section 474.27AA of the *Criminal Code Act 1995* of the Commonwealth
  - **104.** An offence under section 233BAB of the *Customs Act 1901* of the Commonwealth if the offence relates to items of child pornography or child abuse material as defined in that section
  - **105.** An offence under section 8 of the *Family Violence Act 2004*
  - **106.** An offence under section 9 of the *Family Violence Act 2004*

| <b>107.</b> . |  |
|---------------|--|
| 108.          | An offence under section 6 of the Misuse of Drugs Act 2001         |
| 109.          | An offence under section 7 of the Misuse of Drugs Act 2001         |
| 110 - 111.    |  |
| 112.          | An offence under section 12 of the Misuse of Drugs Act 2001        |
| 113.          | An offence under section 13 of the Misuse of Drugs Act 2001        |
| 114.          | An offence under section 14 of the Misuse of Drugs Act 2001        |
| 115.          | An offence under section 33 of the <i>Poisons Act</i> 1971         |
| <b>116.</b> . |  |
| 117.          | An offence under section 7A of the <i>Police Offences Act 1935</i> |

| 118.       | An offence under section 8(1A)(a) of the <i>Police</i> Offences Act 1935 |
|------------|--|
| 119.       |  |
| 120.       | An offence under section 13A of the <i>Police</i> Offences Act 1935      |
| 121.       | An offence under section 13B of the <i>Police</i> Offences Act 1935      |
| 122.       | An offence under section 13C of the <i>Police</i> Offences Act 1935      |
| 123 - 125. |  |
| 126.       | An offence under section 35(2) of the <i>Police</i> Offences Act 1935    |
| 127.       | An offence under section 35(3) of the <i>Police</i> Offences Act 1935    |
| 128.       | An offence under section 36 of the <i>Police</i> Offences Act 1935       |
| 129 - 131. |  |

- **132.** An offence under section 7(1)(a) of the Sex Industry Offences Act 2005
- **133.** An offence under section 7(1)(d) of the Sex Industry Offences Act 2005
- **134.** An offence under section 7(2) of the Sex Industry Offences Act 2005
- 135. . . . . . . . .
- **136.** An offence under section 9(1) of the Sex Industry Offences Act 2005
- **137.** An offence under section 9(2) of the Sex Industry Offences Act 2005
- **138.** An offence in another jurisdiction that, if committed in Tasmania, would be an offence specified in this Schedule
- **139.** An offence that includes as an element the intention to commit an offence specified in this Schedule
- **140.** An offence of attempting, or of conspiracy or incitement, to commit an offence specified in this Schedule

- **141.** An offence, not already specified in this Schedule, relating to murder
- **142.** An offence, not already specified in this Schedule, relating to manslaughter
- **143.** An offence, not already specified in this Schedule, involving the intentional wounding of, or causing of grievous bodily harm to, a child by an adult
- **144.** A sexual offence, not already specified in this Schedule, committed against, or in the presence of, a child

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**SCHEDULE 2** – . . . . . . . .

Printed and numbered in accordance with the *Rules Publication Act* 1953.

Notified in the *Gazette* on 25 June 2014.

This order is administered in the Department of Justice.

### **NOTES**

The foregoing text of the Registration to Work with Vulnerable People (Risk Assessment for Child-related Activities) Order 2014 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.

| Citation  | Serial Number      | Date of commencement |
|---|--------------------|----------------------|
| Registration to Work with Vulnerable  | S.R. 2014, No. 80  | 1.7.2014             |
| People (Risk Assessment for Child-<br>related Activities) Order 2014  |                    | Expires              |
| Registration to Work with Vulnerable<br>People (Risk Assessment for Child-<br>related Activities) Amendment<br>Order 2016 | S.R. 2016, No. 98  | 23.11.2016           |
| Registration to Work with Vulnerable<br>People (Risk Assessment for Child-<br>Related Activities) Amendment<br>Order 2019 | S.R. 2019, No. 4   | 13.2.2019            |
| Registration to Work with Vulnerable<br>People (Risk Assessment for Child-<br>related Activities) Amendment<br>Order 2020 | S.R. 2020, No. 100 | 1.2.2021             |

### TABLE OF AMENDMENTS

| Provision affected | How affected  |
|--------------------|---|
| Clause 3           | Amended by S.R. 2020, No. 100                       |
| Clause 4           | Substituted by S.R. 2016, No. 98                    |
| Clause 5           | Substituted by S.R. 2016, No. 98                    |
| Clause 6           | Substituted by S.R. 2016, No. 98                    |
|                    | Amended by S.R. 2020, No. 100                       |
| Clause 7           | Revoked by S.R. 2016, No. 98                        |
| Clause 9           | Substituted by S.R. 2016, No. 98                    |
| Clause 10          | Substituted by S.R. 2016, No. 98                    |
|                    | Amended by S.R. 2019, No. 4 and S.R. 2020, No. 100  |
| Clause 11          | Amended by S.R. 2016, No. 98 and S.R. 2020, No. 100 |
| Schedule 1         | Substituted by S.R. 2016, No. 98                    |
|                    | Amended by S.R. 2020, No. 100                       |
| Schedule 2         | Revoked by S.R. 2016, No. 98                        |