



Australian Capital Territory

# **Working with Vulnerable People (Background Checking) Act 2011**

**A2011-44**

**Republication No 16 (RI)**

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Reissued: 23 September 2022 for textual correction in schedule 2,  
items 5 and 6

Last amendment made by [A2020-29](#)  
(republishing for amendments by [A2019-13](#),  
[A2019-38](#) and [A2020-29](#))

## About this republication

### The republished law

This is a republication of the *Working with Vulnerable People (Background Checking) Act 2011* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 February 2021. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 February 2021.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



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# Working with Vulnerable People (Background Checking) Act 2011

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Australian Capital Territory

# Working with Vulnerable People (Background Checking) Act 2011

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

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R16 (R1)  
23/09/22

Working with Vulnerable People (Background Checking)  
Act 2011

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Effective: 01/02/21-19/02/21

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Working with Vulnerable People (Background Checking) Act 2011*.

### 4 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*spent*, for a conviction—see the *Spent Convictions Act 2000*, section 7.' means that the term '*spent*' is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 5 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

## 6 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

### 6A Best interests of vulnerable people paramount consideration

- (1) A person making a decision under this Act must regard the best interests of vulnerable people as the paramount consideration.
- (2) In forming a view about the best interests of vulnerable people, a person making a decision under this Act must take into account the safety, welfare and protection of vulnerable people.

## Part 2 Important concepts

### 7 Who is a *vulnerable person*?

In this Act:

*vulnerable person* means—

- (a) a child; or
- (b) an adult who is—
  - (i) disadvantaged; and
  - (ii) accessing a regulated activity in relation to the disadvantage.

#### Examples—disadvantaged

- 1 an adult with a physical or mental disability
- 2 an adult who suffers social or financial hardship
- 3 an adult who cannot communicate, or who has difficulty communicating, in English

### 8 What is a *regulated activity*?

(1) In this Act:

*regulated activity*—

- (a) means an activity or service—
  - (i) mentioned in schedule 1; or
  - (ii) that is an NDIS activity; or
  - (iii) prescribed by regulation; but
- (b) does not include an activity or service declared by the Minister under subsection (2).

- (2) The Minister may declare that a stated activity or service is not a regulated activity.
- (3) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

### **8A What is an *NDIS activity*?**

In this Act:

***NDIS activity*** means a support or a service provided to people with a disability by a registered NDIS provider under the [NDIS Act](#).

### **9 When is a person *engaged* in a regulated activity?**

A person is ***engaged*** in a regulated activity if the person—

- (a) has contact with a vulnerable person as part of engaging in the activity; and

*Note* ***Contact***, between a person and a vulnerable person as part of engaging in a regulated activity—see s 10.

- (b) is engaged in the activity in any capacity and whether—
  - (i) for reward or otherwise; or
  - (ii) under an arrangement with someone else or otherwise.

#### **Examples—capacity in which engaged in activity**

- 1 employee
- 2 contractor or subcontractor
- 3 consultant
- 4 self-employed person
- 5 apprentice
- 6 volunteer
- 7 agent
- 8 supervisor

- 9 person on a work experience placement for an educational or vocational course
- 10 person carrying out work for a sentence, including a community service order
- 11 minister of religion for a religious organisation

## 10 What is *contact* with a vulnerable person?

In this Act:

***contact***, between a person and a vulnerable person as part of engaging in a regulated activity, means contact that—

- (a) would reasonably be expected as a normal part of engaging in the activity; and
- (b) is more than incidental to engaging in the activity; and

**Example—incidental**

a person works in the same building as a vulnerable person, but does not have any physical contact or face-to-face communication with the vulnerable person

- (c) is 1 or more of the following:
  - (i) physical contact, including engaging in the activity at the same place as the vulnerable person;
  - (ii) oral communication, whether face-to-face or by telephone;
  - (iii) written communication, including—
    - (A) electronic communication; or
    - (B) dealing with a record relating to the vulnerable person;
  - (iv) making a decision that affects the vulnerable person; and



- (d) for an NDIS activity—is more than incidental contact under the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018* (Cwlth), rule 6.

**Examples—contact**

- 1 A water main bursts at a school during school hours. A plumber is called to the school to fix the problem. Despite working near children, the plumber’s contact with the children is not contact for this Act for either of the following reasons:
  - (a) it would not reasonably be expected as a normal part of plumbing;
  - (b) it is incidental to the plumber’s activity.
- 2 A school janitor routinely carries out minor repairs at a school during school hours. The janitor’s contact with the children is contact for this Act as the contact—
  - (a) would reasonably be expected as a normal part of the janitor’s activities; and
  - (b) is not incidental to the janitor’s activities; and
  - (c) is physical contact, as the janitor is carrying out the activities in the same place as children.

**11 Who is an employer?**

In this Act:

**employer**, in relation to a regulated activity—

- (a) means an entity for whom a person engages in the activity; and
- (b) includes an entity who—
  - (i) in the course of business, arranges for the placement of a person in employment with others; and
  - (ii) engages a person under a contract to perform work; and

- (iii) engages a worker to perform work as a volunteer for the person under an agreement (whether written or unwritten).

**Examples—employer**

- 1 principal contractor is an employer of a subcontractor
- 2 charitable organisation is an employer of a volunteer
- 3 religious organisation is an employer of a minister of religion
- 4 a registered NDIS provider is an employer of a person engaged in an NDIS activity

*Note* **Entity** includes an unincorporated body and a person (including a person occupying a position) (see [Legislation Act](#), dict, pt 1).

**11A Meaning of *relevant offence***

In this Act:

***relevant offence*** means any of the following offences (whether committed in the ACT or elsewhere):

- (a) a sexual offence;
- (b) an offence against the person;
- (c) an offence involving violence;
- (d) an offence involving dishonesty or fraud;
- (e) an offence relating to property;
- (f) an offence involving possession of, or trafficking in, a drug of dependence or controlled drug;
- (g) an offence against an animal;
- (h) a driving offence;
- (i) a disqualifying offence.

*Note* A reference to an offence includes a reference to a related ancillary offence, eg attempt (see [Legislation Act](#), s 189).

**11B      Meaning of *disqualifying offence* etc**

In this Act:

*class A disqualifying offence* means an offence against a provision of a law mentioned in schedule 3, part 3.2, column 2 if—

- (a) any condition mentioned in column 4 for the offence is met; and
- (b) the person who committed the offence is not engaged, or seeking registration to engage, only in a kinship care activity.

*class B disqualifying offence*—

- (a) means an offence against a provision of a law mentioned in schedule 3, part 3.3, column 2, if any condition mentioned in column 4 for the offence is met; and
- (b) for a person engaged, or seeking registration to engage, only in a kinship care activity—includes an offence mentioned in schedule 3, part 3.2, column 2, if any condition mentioned in column 4 for the offence is met.

*disqualifying offence* means a class A disqualifying offence or a class B disqualifying offence.

## Part 3 Requirement for registration

### 12 When is a person required to be registered?

- (1) A person is required to be registered—
  - (a) to engage in a regulated activity; or
  - (b) if the person is one of the key personnel of a registered NDIS provider that is providing an NDIS activity.
- (2) However, a person is not required to be registered to engage in a regulated activity if the person is—
  - (a) under 16 years old; or
  - (b) engaged in the activity for not more than—
    - (i) 3 days in any 4-week period; and
    - (ii) 7 days in any 12-month period; or
  - (c) registered under a corresponding law and—
    - (i) the activity is substantially similar to a regulated activity the person is allowed to engage in under the corresponding law; and
    - (ii) the person is engaged in the activity for not more than 28 days in any 12-month period; or

*Note* **Corresponding law**—see the dictionary.

  - (d) a close relative of each vulnerable person taking part in the activity with whom the person has contact; or
  - (e) engaged in the activity as a volunteer and—
    - (i) is a close relative of a vulnerable person taking part, or who normally takes part, in the activity; and

- (ii) a close relative of each vulnerable person taking part in the activity is engaged, or expected to be engaged, in the activity; or

**Examples**

- 1 playgroup
- 2 a club sporting event for children at which a parent of each child is expected to be present
- 3 a pottery class for children in which a parent of each child also takes part

- (f) engaged in the activity in the same capacity as a vulnerable person; or

**Examples**

- 1 players in a sporting team
- 2 work colleagues

- (g) engaged in the activity as a school student on a work experience placement or doing practical training; or

- (h) an employer or supervisor of a vulnerable person, unless the vulnerable person is engaged in a regulated activity; or

**Examples**

- 1 A person supervising a school student on a work experience placement at a childcare centre is required to be registered.
- 2 A person supervising a school student on a work experience placement at an accounting firm is not required to be registered.

- (i) engaged in the 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* (Cwlth); or

- (iii) a health practitioner; or

- (iv) a lawyer; or

- (v) a staff member of, or volunteer for, an approved provider under the *Aged Care Act 1997* (Cwlth); or
  - (vi) a financial services licensee under the Corporations Act; or
  - (j) engaged in the activity for a Commonwealth or Territory government agency and the only contact the person has with a vulnerable person is providing a service to the vulnerable person at a public counter or shopfront, or by telephone; or
- Example**  
an administrative worker employed by Centrelink or Medicare
- (k) engaged in the activity and the only contact the person has with a vulnerable person is providing information to, or receiving information from, the vulnerable person by telephone; or
- Example**  
an employee or volunteer working on a helpline or at a call centre
- (l) engaged in the activity and the only contact the person has with a vulnerable person is working with a record of the vulnerable person; or
  - (m) engaged in the activity for a declared state of emergency; or
- Note* A state of emergency may be declared under the *Emergencies Act 2004*, s 156.
- (n) engaged in the activity for a Territory or national event and the commissioner declares that the person is not required to be registered for the activity; or
- Examples—Territory or national event**
- 1 Paralympics
  - 2 World Youth Day
- Note* **Commissioner** means the commissioner for fair trading (see the dictionary).
- (o) a person prescribed by regulation.

- (3) Subsection (2) (b) does not apply to a person if the activity engaged in is—
- (a) an overnight camp for children; or
  - (b) an NDIS activity that involves contact with a vulnerable person.

- (4) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (5) In this section:

**close relative**, of a vulnerable person—

- (a) means the vulnerable person's—

- (i) domestic partner; or

*Note* **Domestic partner**—see the [Legislation Act](#), s 169.

- (ii) father, mother, grandfather, grandmother, stepfather, stepmother, father-in-law or mother-in-law; or
- (iii) son, daughter, grandson, granddaughter, stepson, stepdaughter, son-in-law or daughter-in-law; or
- (iv) brother, sister, half-brother, half-sister, stepbrother, stepsister, brother-in-law or sister-in-law; or
- (v) uncle, aunt, uncle-in-law or aunt-in-law; or
- (vi) nephew, niece or cousin; but

- (b) does not include a kinship carer of the vulnerable person.

**day** includes part of a day.

**key personnel**, of a registered NDIS provider—see the [NDIS Act](#), section 11A.

**school** means a high school or secondary college.

**13 Offences—person engage in regulated activity for which person not registered**

- (1) A person commits an offence if the person—
- (a) engages in a regulated activity; and
  - (b) is required to be registered to engage in the activity; and
  - (c) does not have a registration allowing the person to engage in the activity.

Maximum penalty: 50 penalty units.

*Note 1* A person with conditional registration might not be allowed to engage in all regulated activities (see s 42 and s 54A).

*Note 2* A person whose registration is suspended does not have a registration allowing the person to engage in a regulated activity (see s 59 (5)).

*Note 3* The employer for the regulated activity also commits an offence (see s 14).

- (2) An offence against subsection (1) is a strict liability offence.
- (3) A person commits an offence if the person—
- (a) engages in a regulated activity; and
  - (b) is required to be registered to engage in the activity; and
  - (c) does not have a registration allowing the person to engage in the activity; and
  - (d) knows, or is reckless about whether, the person—
    - (i) is engaging in a regulated activity; and
    - (ii) is required to be registered to engage in the activity.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (4) Strict liability applies to subsection (3) (c).



- (5) This section does not apply to a person if—
- (a) the person is not registered; but
  - (b) the person engages in a regulated activity under section 15 or section 16.

*Note 1* An unregistered person who has applied for registration may engage in a regulated activity for which the person is required to be registered in certain circumstances (see s 15 and s 16).

*Note 2* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 58).

#### **14 Offences—employer engage person in regulated activity for which person not registered**

- (1) An employer commits an offence if—
- (a) the employer engages a person in a regulated activity; and
  - (b) the person is required to be registered to engage in the activity; and
  - (c) the person does not have a registration allowing the person to engage in the activity.

Maximum penalty: 50 penalty units.

*Note 1* A person with conditional registration might not be allowed to engage in all regulated activities (see s 42 and s 54A).

*Note 2* A person whose registration is suspended does not have a registration allowing the person to engage in a regulated activity (see s 59 (5)).

- (2) An offence against subsection (1) is a strict liability offence.
- (3) An employer commits an offence if—
- (a) the employer engages a person in a regulated activity; and
  - (b) the person is required to be registered to engage in the activity; and

- (c) the person does not have a registration allowing the person to engage in the activity; and
- (d) the employer knows, or is reckless about whether—
  - (i) the employer is engaging the person in a regulated activity; and
  - (ii) the person is required to be registered to engage in the activity.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (4) Strict liability applies to subsection (3) (c).
- (5) This section does not apply to an employer if an unregistered person engages in a regulated activity for the employer under section 15 or section 16.

*Note 1* An unregistered person who has applied for registration may engage in a regulated activity for which the person is required to be registered in certain circumstances (see s 15 and s 16).

*Note 2* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see [Criminal Code](#), s 58).

## 15 **When unregistered person may be engaged in regulated activity—supervised employment**

- (1) This section applies to an unregistered person if—
  - (a) the person has applied for registration under section 17; and
  - (b) the commissioner has not—
    - (i) imposed an interim bar on the person under section 15A; or
    - (ii) registered the person under section 41; or
    - (iii) given the person a negative notice under section 40; and

- (c) the person has not withdrawn the application.
- (2) The person may engage in a regulated activity for which the person is required to be registered if—
- (a) the person is eligible; and
  - (b) the person included a named employer for the activity on the person's application for registration; and
- Note* **Named employer**—see s 18 (1) (d) (i).
- (c) the named employer has agreed to engage the person in the activity; and
  - (d) a registered person is present at all times while the unregistered person is engaged in the activity; and
  - (e) for an NDIS activity—
    - (i) the person is registered under a corresponding law; or
    - (ii) if the person is not registered under a corresponding law—
      - (A) the employer has put in place strategies to manage any potential risk of harm to a vulnerable person; and
      - (B) the registered person mentioned in paragraph (d) is registered to engage in an NDIS activity.
- Note* An unregistered person who is engaging in a regulated activity under this section commits an offence under s 13 if the person continues to engage in the activity after—
- (a) the person's application for registration is withdrawn (see s 20); or
  - (b) the person is given a negative notice (see s 40).
- (3) To remove any doubt, nothing in this section prevents an employer refusing to engage an unregistered person in a regulated activity.

(4) In this section:

*eligible*—a person is *eligible* if—

- (a) the person has not previously been given a negative notice under this Act or a corresponding law; and
- (b) the person has not had a previous registration suspended or cancelled; and
- (c) the person's most recent registration (if any) was not conditional.

### **15A Interim bar—supervised employment**

(1) Despite section 15, the commissioner may impose an interim bar on an unregistered person, stopping the person from engaging in either of the following activities, if the commissioner reasonably believes that the person poses an unacceptable risk of harm to a vulnerable person:

- (a) a regulated activity involving children;
- (b) an NDIS activity.

*Note* A decision under s (1) is a reviewable decision (see s 61).

- (2) The commissioner must tell the person, in writing, about the person's interim bar.
- (3) The interim bar takes effect on the day after the day the commissioner tells the person, in writing, about the interim bar, and continues until the earlier of—
  - (a) the day the commissioner notifies the person, in writing, that the bar is removed; or
  - (b) the day the person's application for registration is decided.
- (4) A person may apply to the commissioner to remove an interim bar that has been in effect for at least 6 months.

- (5) The commissioner must, on application—
- (a) remove the person's interim bar; or
  - (b) refuse to remove the person's interim bar.

*Note* A decision under s (5) (b) is a reviewable decision (see s 61).

- (6) The commissioner must not refuse to remove a person's interim bar unless the commissioner reasonably believes the person poses an unacceptable risk of harm to a vulnerable person.

**16 When unregistered person may be engaged in regulated activity—kinship carer**

- (1) This section applies to an unregistered person if the person—
- (a) is engaged in a kinship care activity; and
  - (b) is required to be registered to engage in the activity.
- (2) The person may engage in the regulated activity if—
- (a) the person has applied for registration under section 17; and
  - (b) the commissioner has not given the person a negative notice under section 40; and
  - (c) the person has not withdrawn the application; and
  - (d) the person is eligible.
- (3) In this section:  
*eligible*—see section 15 (4).

## Part 4 Applying for registration

### 16A Meaning of *application*—pt 4

In this part:

*application*, for registration, includes an application for renewal of registration.

### 17 Application for registration

- (1) A person may apply to the commissioner for registration under this Act, other than registration to engage in a regulated activity for which the person is not eligible to be registered.

*Note* A fee may be determined under s 68 for this provision.

- (2) A person who has an adult conviction or finding of guilt for a class A disqualifying offence is not eligible to be registered to engage in—
- (a) a regulated activity involving children; or
  - (b) an NDIS activity.

*Note* If the person is registered to engage in another regulated activity, the registration is subject to the condition that the person not engage in a regulated activity involving children or an NDIS activity (see s 42A).

- (3) A registered person may apply to the commissioner, not later than the day the person's registration expires, to renew the person's registration.
- (4) If a person applies to renew their registration, the person's registration remains in force until the application is decided.
- (5) This section is subject to section 22.

**18 Application for registration—contents**

- (1) An application for registration must include—
- (a) the applicant’s name and any previous name; and
  - (b) the applicant’s current home address, and any previous home address in the 5 years before applying; and
  - (c) evidence of the applicant’s identity; and

**Example**

100 points of identification

- (d) if the applicant engages, or intends to engage, in a regulated activity for a particular employer, or in an NDIS activity—
    - (i) the employer (the *named employer*) for the activity; and
    - (ii) the named employer’s address and contact details; and
    - (iii) the capacity in which the applicant engages, or intends to engage, in the activity for the named employer; and
    - (iv) if the named employer is a registered NDIS provider—the provider’s registration number; and
  - (e) anything else prescribed by regulation.
- (2) The application must be accompanied by—
- (a) a consent by the applicant for the commissioner to—
    - (i) check the applicant’s criminal history, non-conviction information and any other information about the applicant that may be relevant in deciding the application; and

*Note 1* **Criminal history**, about a person—see s 24.

*Note 2* **Non-conviction information**, about a person—see s 25.

- (ii) seek information or advice from any entity in relation to the applicant's—
  - (A) application under section 33; or
  - (B) registration under section 53; and
- (iii) contact the named employer (if any) in relation to the status of the applicant's application or registration; and

*Note* For example, the commissioner must tell a person's employer if the commissioner refuses to consider the person's application further (see s 19 (3)), if the person withdraws an application (see s 20 (3) (a)), if the commissioner refuses to register the person (see s 40 (2) (b)), if there is a change in an applicant's registration status as a result of an additional risk assessment (see s 54), or if a person's registration is suspended or cancelled (see s 59 (2) (b)) or surrendered (see s 60 (3)).

- (b) a written statement by the applicant stating—
  - (i) whether the applicant has been convicted or found guilty of a relevant offence outside Australia; and
  - (ii) if the applicant has been convicted or found guilty of a relevant offence outside Australia—details of the offence; and
- (c) a written statement by the applicant about whether an allegation has been made, or an investigation has commenced, in relation to a regulated activity engaged in by the applicant, and if so, the details of the allegation or investigation; and

**Examples—allegation or investigation**

- 1 a complaint or investigation about noncompliance of an approved care and protection organisation under the *Children and Young People Act 2008*, div 10.4.3 involving conduct by the applicant
- 2 an allegation or investigation of misconduct within a regulated activity



(d) anything else prescribed by regulation.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

(3) The commissioner must tell the applicant in writing about the following:

- (a) the rights and obligations of the applicant under this Act;
- (b) information the applicant may supply to support the application;
- (c) the risk assessment guidelines mentioned in division 5.2 and where to find a copy.

*Note* The commissioner may tell the applicant about the matters in s (3) in any way the commissioner considers appropriate, including on a form or in guidelines made for this Act.

## **18A Application for registration for NDIS activity—additional contents**

(1) An application for registration to engage in an NDIS activity must also be accompanied by—

- (a) consent by the applicant for the commissioner to—
  - (i) give information about the status of the applicant's application to the NDIS quality and safeguards commission, a registered NDIS provider or an entity administering a corresponding law; and
  - (ii) give information about the applicant to the NDIS quality and safeguards commission or a law enforcement agency, if the commissioner is satisfied on reasonable grounds that the information is relevant to preventing harm or a risk of harm to a vulnerable person; and

- (iii) if the commissioner decides to register the applicant—
  - request information or advice from any entity the commissioner considers may be able to give information or advice that is relevant to whether a registered person continues to pose no risk or an acceptable risk of harm to a vulnerable person; and
- (b) a written statement by the applicant about whether the applicant—
  - (i) has previously been given a negative notice (however described) under this Act or a corresponding law; and
  - (ii) has had a relevant civil penalty imposed upon them; and
  - (iii) has either of the following made against them:
    - (A) a family violence order under the *Family Violence Act 2016* or a law of another jurisdiction that substantially corresponds to that Act;
    - (B) a protection order under the *Personal Violence Act 2016* or a law of another jurisdiction that substantially corresponds to that Act; and
  - (iv) has parental responsibility for a child or young person for whom any care and protection order under the *Children and Young People Act 2008*, or a law of another jurisdiction that substantially corresponds to that Act, is or has been in place; and
- (c) anything else prescribed by regulation.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

(2) In this section:

***law enforcement agency*** means each of the following:

- (a) the Australian Federal Police;
- (b) the police service or force of a State, another territory or a foreign country;
- (c) the Australian Criminal Intelligence Commission;
- (d) an entity prescribed by regulation.

***relevant civil penalty*** means a civil penalty prescribed by regulation.

## **19 Application for registration—additional information**

- (1) The commissioner may, in writing, require an applicant to give the commissioner additional information in writing or documents that the commissioner reasonably needs to decide the application.
- (2) If the applicant does not comply with a requirement under subsection (1), the commissioner may refuse to consider the application further.
- (3) If the commissioner refuses to consider the application further, the commissioner must tell the following of the refusal:
  - (a) the applicant;
  - (b) the named employer (if any).

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

**20 Application for registration—withdrawal**

- (1) An applicant may withdraw an application at any time by written notice to the commissioner.
- (2) However, an applicant must not withdraw an application if the commissioner has imposed an interim bar on the person under section 15A.
- (3) If an application is withdrawn the commissioner—
  - (a) must tell the named employer (if any) that the application has been withdrawn; and
  - (b) need take no further action on the application.

*Note* If an unregistered person engaging in a regulated activity under s 15 withdraws the person's application for registration, the person commits an offence under s 13 if the person continues to engage in the activity.

**21 Offences—applicant fail to disclose charge, conviction or finding of guilt for relevant offence**

- (1) A person commits an offence if—
  - (a) the person has applied for registration; and
  - (b) the commissioner has not—
    - (i) told the person that the person has been registered; or
    - (ii) given the person a negative notice; and
  - (c) the person is charged with a relevant offence; and
  - (d) the person does not tell the commissioner about the charge in writing within 10 working days after the day the person is charged.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
- (a) the person has applied for registration; and
  - (b) the commissioner has not—
    - (i) told the person that the person has been registered; or
    - (ii) given the person a negative notice; and
  - (c) the person is convicted or found guilty of a relevant offence; and
  - (d) the person does not tell the commissioner about the conviction or finding of guilt in writing within 10 working days after the day the person is convicted or found guilty.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

**21A Offence—applicant fail to disclose change in relevant information**

- (1) A person commits an offence if—
- (a) the person has applied for registration; and
  - (b) the commissioner has not—
    - (i) told the person that the person has been registered; or
    - (ii) given the person a negative notice; and
  - (c) there has been a change in relevant information about the person since the person applied for registration; and
  - (d) the person does not tell the commissioner about the change in relevant information, in writing, within 10 working days after the day the information changes.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

(3) In this section:

**relevant information**, about a person, means information about—

- (a) an allegation or investigation mentioned in section 18 (2) (c); or
- (b) for a person who has applied for registration to engage in an NDIS activity—a matter mentioned in section 18A (1) (b).

## 22 Restriction on reapplying for registration

(1) This section applies to a person if—

- (a) the person is given a negative notice; or

*Note* **Negative notice**—see s 40 (2).

- (b) the person’s registration is cancelled.

(2) The person may apply for registration under section 17 only if—

- (a) it is at least 5 years after the day—

- (i) the person was given the negative notice; or
- (ii) the cancellation took effect; or

*Note* For when a cancellation takes effect, see s 59 (4).

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

- (i) the person was given the negative notice; or
- (ii) the cancellation took effect

### **Examples—change in relevant information**

- 1 a person has been acquitted of a previously pending charge for a relevant offence
- 2 a person’s conviction for a relevant offence has been quashed

- (3) However, subsection (2) (a) does not apply to a person if—
- (a) the negative notice was given or registration cancelled because the person was not eligible, or stopped being eligible, to be registered under section 17 (2); and
  - (b) the person is applying for registration to engage in a regulated activity involving children or an NDIS activity.

**Examples—change in relevant information**

- 1 the person's conviction for the class A disqualifying offence is quashed
- 2 the person becomes a kinship carer for a child

*Note* A negative notice must be given under s 40 (1) (a) if the person is not eligible to be registered. Registration is automatically cancelled under s 56A if the person is not eligible to be registered.

- (4) The risk assessment guidelines may provide for what constitutes a change in relevant information about the person.

## Part 5 Risk assessments

### Division 5.1 Important concepts

#### 23 Meaning of *risk assessment*

(1) In this Act:

*risk assessment*, for a person, means an assessment by the commissioner of whether the person poses an unacceptable risk of harm to a vulnerable person.

**Examples—harm**

- 1 sexual
- 2 physical
- 3 emotional
- 4 financial

(2) It does not matter whether the risk of harm arises from neglect, abuse or other conduct by the person.

#### 24 Meaning of *criminal history*

In this Act:

*criminal history*, about a person, means any conviction of, or finding of guilt against, the person for a relevant offence.

*Note* A conviction does not include a spent conviction or an extinguished conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i) and s 19H (1) (c) (i)).

#### 25 Meaning of *non-conviction information*

In this Act:

*non-conviction information*, about a person, means any of the following information:

- (a) the person has an outstanding charge for a relevant offence;



- (b) the person has been charged with a relevant offence but the charge has lapsed, been withdrawn or discharged, or struck out;
- (c) the person has been acquitted of an alleged relevant offence;
- (d) the person has had a conviction for an alleged relevant offence quashed or set aside;
- (e) the person has been served with an infringement notice for an alleged relevant offence;
- (f) the person has a spent conviction for a relevant offence.

*Note* The *Spent Convictions Act 2000* sets out which convictions can be spent (see that [Act](#), s 11) and when a conviction is spent (see that [Act](#), s 12).

## Division 5.2 Risk assessment guidelines

### 27 Risk assessment guidelines

- (1) The commissioner must make guidelines (*risk assessment guidelines*) about how risk assessments are to be conducted under this Act.
- (2) A guideline may apply, adopt or incorporate an instrument, as in force from time to time.

*Note 1* The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disallowed (see s 47 (7)).

*Note 2* A reference to an instrument includes a reference to a provision of an instrument (see [Legislation Act](#), s 14 (2)).

- (3) A risk assessment guideline is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

## 28 Risk assessment guidelines—content

- (1) The risk assessment guidelines must provide for—
  - (a) matters the commissioner must or may take into account in conducting a risk assessment; and
  - (b) how those matters must or may be taken into account.
- (2) The risk assessment guidelines must provide for the following to be taken into account in conducting a risk assessment for a person in relation to a regulated activity:
  - (a) the person’s criminal history;

*Note* The risk assessment guidelines must provide for certain matters in relation to relevant offences in the person’s criminal history (see s 29).
  - (b) non-conviction information about the person;

*Note* The risk assessment guidelines must provide for certain matters in relation to relevant offences, and alleged relevant offences, in the person’s non-conviction information (see s 30).
  - (c) whether the person was previously given a negative notice under this Act or a corresponding law;
  - (d) whether the person was previously registered under this Act or a corresponding law (including whether the registration was suspended or cancelled);

- (e) any other information the commissioner believes on reasonable grounds is or may be relevant in deciding whether, in engaging in the activity, the applicant poses a risk of harm to a vulnerable person.

**Examples—par (e)**

- 1 an order made against the person made under the *Family Violence Act 2016* or *Personal Violence Act 2016*
- 2 a care and protection order under the *Children and Young People Act 2008* for a child for whom the person has or had parental responsibility under that Act
- 3 a professional disciplinary proceeding against the person

*Note* The risk assessment guidelines must provide for certain matters to be taken into account in relation to other information—see s 31.

- (3) The risk assessment guidelines must provide that—
  - (a) the applicant may make submissions to the commissioner in relation to any matter the commissioner must or may take into account in conducting a risk assessment; and
  - (b) the commissioner must not take into account any information about an applicant unless satisfied on reasonable grounds that the information is accurate.

## **29 Risk assessment guidelines—criminal history**

- (1) The risk assessment guidelines must provide for the following to be taken into account in relation to any relevant offence included in a person's criminal history:
  - (a) the nature, gravity and circumstances of the offence;
  - (b) the relevance of the offence;
  - (c) how long ago the offence was committed;
  - (d) the age of the person and the victim at the time of the offence;

- (e) whether the person's circumstances have changed since the offence was committed;
  - (f) the person's attitude to the offence;
  - (g) if the person has undergone a program of treatment or intervention for the offence—any assessment of the person following the program;
  - (h) if the offence was committed outside Australia—whether the offence is an offence in Australia;
  - (i) whether the person has committed any other relevant offence;
  - (j) any submission made by the person to the commissioner in relation to the matters mentioned in paragraphs (a) to (i).
- (2) In addition, the risk assessment guidelines must provide for whether the person has exceptional circumstances that justify the person being registered if—
- (a) the person's criminal history includes an adult conviction or finding of guilt for a class B disqualifying offence; and
  - (b) the person applies for registration to engage in—
    - (i) a regulated activity involving children; or
    - (ii) an NDIS activity.

*Note* A person with an adult conviction or finding of guilt for a class A disqualifying offence is not eligible to be registered to engage in a regulated activity involving children or an NDIS activity (see s 17 (2)).

### **30 Risk assessment guidelines—non-conviction information**

- (1) The risk assessment guidelines must provide for the following to be taken into account in relation to any relevant offence, or any alleged relevant offence, included in a person's non-conviction information:
- (a) the nature, gravity and circumstances of the offence or alleged offence;

- (b) the relevance of the offence or alleged offence;
  - (c) how long ago the offence or alleged offence was committed;
  - (d) the age of the person and the victim at the time of the offence or alleged offence;
  - (e) the truthfulness, completeness and reliability of any information or evidence provided by the person who made the allegation or provided the initial information;
  - (f) the nature, extent and outcome of any investigation into the offence or alleged offence;
  - (g) any formal statement made by the person to a police officer, including any answer given in a recorded interview, in relation to the offence or alleged offence;
  - (h) any evidence given by the person in a court proceeding for the offence or alleged offence;
  - (i) whether this was the person's first offence or alleged offence;
  - (j) any submission made by the person to the commissioner in relation to the matters mentioned in paragraphs (a) to (i).
- (2) In addition, the risk assessment guidelines must provide for whether the person has exceptional circumstances that justify the person being registered if—
- (a) the person's non-conviction information includes an outstanding charge for a disqualifying offence committed when the person was an adult; and
  - (b) the person applies for registration to engage in—
    - (i) a regulated activity involving children; or
    - (ii) an NDIS activity.

### 31 Risk assessment guidelines—other information

The risk assessment guidelines must provide for the following to be taken into account in relation to any other information the commissioner believes on reasonable grounds is or may be relevant in deciding whether, in engaging in a regulated activity, the applicant poses a risk of harm to a vulnerable person:

- (a) how the information was obtained;

**Examples**

- 1 tip off from a member of the public
- 2 a media report

- (b) the relevance of the information;
- (c) the truthfulness, completeness and reliability of the information;
- (d) any submission made by the person to the commissioner in relation to the matters mentioned in paragraphs (a) to (c).

## Division 5.3 Conducting risk assessments

### 32 Risk assessments

- (1) On application by a person for registration, the commissioner must conduct a risk assessment for the person.

*Note* The commissioner need not conduct a risk assessment if the application has been withdrawn (see s 20 (3) (b)).

- (2) The risk assessment must be conducted in accordance with the risk assessment guidelines.
- (3) However, the commissioner need not take any further action on the risk assessment if the person—
- (a) applies for registration to engage in—
    - (i) a regulated activity involving children; or
    - (ii) an NDIS activity; and

- (b) the commissioner becomes aware the person is not eligible, or stops being eligible, under section 17 (2) to be registered to engage in the activity.

*Note* Under s 17 (2), a person is not eligible to be registered to engage in a regulated activity involving children or an NDIS activity if the person has an adult conviction or finding of guilt for a class A disqualifying offence.

### **33 Commissioner may request information from an entity to conduct risk assessments**

- (1) The commissioner may, in writing, request information or advice from any entity the commissioner considers may be able to give information or advice that will assist the commissioner in conducting a risk assessment for a person.

#### **Examples—entity**

- 1 the chief police officer
  - 2 an administrative unit
  - 3 an employer for a regulated activity
- (2) An entity that receives a request from the commissioner must, as far as practicable, comply with the request.
- (3) An entity that gives the commissioner information or advice in response to a request under this section does not contravene any duty of confidentiality the entity has under a territory law or agreement, despite anything to the contrary in the law or agreement.
- (4) An entity commits an offence if—
- (a) the commissioner makes a request under subsection (1); and
  - (b) the entity fails to comply with the request.

Maximum penalty: 50 penalty units.

- (5) Subsection (4) does not apply if the entity has a reasonable excuse for failing to comply with the request.

(6) An offence against this section is a strict liability offence.

(7) In this section:

*information* does not include information that, under the *Children and Young People Act 2008*, section 857, must not be given to a person.

### 34 Independent advisors—appointment

(1) The commissioner must appoint 7 or more people as independent advisors the commissioner may ask for advice about—

(a) whether to give a person a role-based registration; or

(b) any other aspect of a risk assessment for a person.

*Note 1* For the making of appointments (including acting appointments), see the *Legislation Act*, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see *Legislation Act*, s 207).

(2) The people appointed—

(a) must include the following:

(i) at least 1 Aboriginal or Torres Strait Islander person;

(ii) at least 1 person with experience or expertise in relation to refugees and migrants;

(iii) at least 1 person who is a psychologist with experience or expertise in forensic or clinical psychology;

(iv) at least 1 person with experience or expertise in relation to children and young people;

(v) at least 1 person with experience or expertise in relation to people with a disability;

(vi) at least 1 person with experience or expertise in relation to people with mental illness;



- (vii) at least 1 person with experience or expertise in relation to people with drug or alcohol dependency; and
  - (b) may include 1 or more people with experience or expertise in any other field the commissioner considers relevant to a matter mentioned in subsection (1) (a) or (b).
- (3) An appointment as an independent advisor must be for not longer than 3 years.

*Note* A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 (1) (c)).

- (4) An appointment is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

- (5) The conditions of an independent advisor's appointment are the conditions agreed between the commissioner and the person, subject to any determination under the [Remuneration Tribunal Act 1995](#).

### **35 Independent advisors—advice**

- (1) This section applies if the commissioner wishes to ask an independent advisor for advice about a matter mentioned in section 34 (1) (a) or (b).
- (2) The commissioner may ask 1 or more independent advisors for the advice.
- (3) The request for advice must be made, and the advice must be given, in accordance with the risk assessment guidelines.

### **36 Independent advisors—ending appointment**

The commissioner may end a person's appointment as an independent advisor—

- (a) if the person does not provide advice within a reasonable time when asked by the commissioner; or

- (b) for misbehaviour; or
- (c) for physical and mental incapacity, if the incapacity substantially affects the exercise of the person's ability to give advice to the commissioner; or
- (d) if the commissioner becomes aware that the person has at any time been convicted in Australia of an offence punishable by imprisonment for 1 year or longer; or
- (e) if the commissioner becomes aware that the person has at any time been convicted outside Australia of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for 1 year or longer.

*Note* A person's appointment also ends if the person resigns (see [Legislation Act](#), s 210).

## Division 5.4 Negative risk assessments

### 37 Proposed negative notices

- (1) This section applies if—
  - (a) the commissioner conducts a risk assessment for a person; and
  - (b) the commissioner is satisfied that the person poses an unacceptable risk of harm to a vulnerable person (a ***negative risk assessment***).
- (2) The commissioner must tell the person in writing (a ***proposed negative notice***) that the commissioner intends to refuse to register the person.
- (3) A proposed negative notice must state—
  - (a) the reasons for the negative risk assessment; and

- (b) that, if the person would like the commissioner to reconsider the decision, the person may take the steps mentioned in section 38 (1); and
  - (c) that, if the person does not take the steps mentioned in section 38 (1), the commissioner must give the person a negative notice.
- (4) Despite subsection (3) (a), the commissioner must not tell the person the reasons for the negative risk assessment if the information must not be given to the person under this Act or any other law in force in the ACT.
- (5) The commissioner must not, without the person's consent, tell a named employer—
- (a) that a proposed negative notice has been given to a person; or
  - (b) the reasons for giving the person the notice.

### **38 Reconsideration of negative risk assessments**

- (1) If the commissioner gives a person a proposed negative notice, the person may—
- (a) within 10 working days after the commissioner gives the person the proposed negative notice, tell the commissioner in writing that the person intends to ask the commissioner to reconsider the decision; and
  - (b) within 20 working days after the commissioner gives the person the notice, ask the commissioner in writing to reconsider the decision.
- (2) If the person asks the commissioner to reconsider the decision, the commissioner must, as soon as practicable, conduct a risk assessment (a *revised risk assessment*) for the person.

*Note* A revised risk assessment may result in registration (see s 41), which may be conditional (see s 42), or a negative notice (see s 40).

- (3) The person may give the commissioner, and the commissioner must consider in conducting the revised risk assessment, any new or corrected information the person believes is relevant.

### 39 Extensions of period for reconsideration of negative risk assessment

- (1) On written application by a person, the commissioner may extend the period mentioned in section 38 (1) (a) or (b).

*Note* The commissioner may extend the period even if it has ended (see [Legislation Act](#), s 151C).

- (2) The commissioner may extend the period only if the commissioner is satisfied on reasonable grounds that it is appropriate to extend the period given the person's circumstances.

#### Examples—when period may be extended

- 1 a person did not receive a proposed negative notice because the person was unexpectedly hospitalised
  - 2 a person needs more than 20 working days to obtain relevant information because the information is from a foreign country
- (3) The commissioner must tell the person in writing of a decision under subsection (1) and—
- (a) if the commissioner extends the period—state the extended period; or
  - (b) if the commissioner refuses to extend the period—the reasons for the decision.

*Note* The commissioner must also give the person a reviewable decision notice in relation to a decision to—

- (a) extend the period for a stated period; or
- (b) refuse to extend the period (see s 62).

## **40 Negative notices**

- (1) The commissioner must refuse to register a person—
- (a) for an application for registration to engage in a regulated activity involving children or an NDIS activity—if the commissioner becomes aware the person is not eligible, or stops being eligible, under section 17 (2) to be registered to engage in the activity; or
- Note* Under s 17 (2), a person is not eligible to be registered to engage in a regulated activity involving children or an NDIS activity if the person has an adult conviction or finding of guilt for a class A disqualifying offence.
- (b) if—
- (i) the commissioner conducts a revised risk assessment for a person; and
- (ii) the commissioner is satisfied that the person poses an unacceptable risk of harm to a vulnerable person; or
- (c) if the commissioner gives the person a proposed negative notice and—
- (i) the person does not tell the commissioner that the person intends to ask the commissioner to reconsider the decision under section 38 (1) (a); or
- (ii) the person—
- (A) tells the commissioner that the person intends to ask the commissioner to reconsider the decision under section 38 (1) (a); but
- (B) does not ask the commissioner to reconsider the decision under section 38 (1) (b).

- (2) If the commissioner refuses to register a person, the commissioner must—
- (a) tell the person in writing (a *negative notice*) that the commissioner refuses to register the person and the reasons for the refusal; and
  - (b) tell the named employer (if any) in writing that a negative notice has been given to the person.
- (3) If an unregistered person is engaging in an NDIS activity under section 15 and the person receives a negative notice, the person must tell the following about the negative notice:
- (a) the person's named employer (if any);
  - (b) each vulnerable person with whom the person has contact as part of engaging in the activity.
- Note* If an unregistered person engaging in a regulated activity under s 15 is given a negative notice, the person commits an offence under s 13 if the person continues to engage in the activity.
- (4) For subsection (2) (b) and subsection (3), the commissioner must not, without the person's consent, tell a named employer or vulnerable person the reasons for giving the person the negative notice.

## **Part 6                      Registration**

### **Division 6.1              Registration**

#### **41                      Registration**

- (1) This section applies if the commissioner—
  - (a) conducts a risk assessment or a revised risk assessment for a person; and
  - (b) is satisfied that the person poses no risk or an acceptable risk of harm to a vulnerable person (a *positive risk assessment*).
- (2) The commissioner must—
  - (a) register the person; and
  - (b) tell the person, in writing—
    - (i) of the positive risk assessment; and
    - (ii) that the person is registered; and
    - (iii) the person's unique identifying number; and
    - (iv) if the registration is conditional under section 42A (Conditional registration—class A disqualifying offence)—
      - (A) what the condition is; and
      - (B) the reasons for the condition; and
    - (v) the day the registration ends; and
    - (vi) anything else prescribed by regulation; and

- (c) if the registration is conditional under section 42A—tell the named employer (if any) in writing—
  - (i) that the person’s registration is conditional; and
  - (ii) what the condition is.
- (3) For subsection (2) (c), the commissioner must not, without the person’s consent, tell the named employer the reasons for the condition.
- (4) Registration must be for not longer than 5 years.

## 42 Conditional registration

A registration may be subject to conditions.

### Examples—conditions

- 1 a registered person must not drive a motor vehicle if a vulnerable person is a passenger
- 2 a registered person must not have unsupervised contact with a vulnerable person
- 3 a registered person must not supervise another registered person
- 4 a registered person may be engaged by any employer but only in a stated regulated activity

## 42A Conditional registration—class A disqualifying offence

A registration of a person who has an adult conviction or finding of guilt for a class A disqualifying offence is automatically subject to the condition that the person must not engage in—

- (a) a regulated activity involving children; or
- (b) an NDIS activity.

*Note 1* Sections 43 to 46 do not apply to a condition under this section.

*Note 2* For a kinship carer, a class A disqualifying offence is treated as if it were a class B disqualifying offence (see s 11B).



## **42B Conditional registration—role-based registration**

- (1) The commissioner may register a person (a *role-based registration*) subject to 1 or both of the following conditions:
  - (a) that the person engage only in stated regulated activities;
  - (b) that the person engage in regulated activities only for a stated employer.

### **Example—role-based registration**

a person with a criminal record is registered but may only work as a counsellor in a particular correctional centre

- (2) Before giving a person a role-based registration, the commissioner may—
  - (a) consult, in accordance with the risk assessment guidelines, with 1 or more independent advisors; and
  - (b) consider any relevant advice given.
- (3) A regulation may prescribe information that a person or an employer must give the commissioner before the commissioner may give the person a role-based registration.

## **42C Conditional registration—disqualifying offences**

- (1) This section applies if the commissioner decides to register a person who has—
  - (a) an outstanding charge for a disqualifying offence committed when the person was an adult; or
  - (b) an adult conviction or finding of guilt for a class B disqualifying offence.
- (2) Unless the commissioner is satisfied there are exceptional circumstances, the person's registration is subject to the condition that the person must not engage in—
  - (a) a regulated activity involving children; or

(b) an NDIS activity.

*Note 1* If the person is acquitted or the charges lapse or are withdrawn or discharged, the person may apply to the commissioner to have the condition removed (see s 47).

*Note 2* If the person has an adult conviction or finding of guilt for a class A disqualifying offence their registration is cancelled (see s 56A).

### 43 Proposed conditional registration

(1) If the commissioner intends to register a person conditionally (other than under section 42A), the commissioner must tell the person in writing (a ***proposed conditional registration notice***).

*Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (2) A proposed conditional registration notice must state—
- (a) what the condition is and the reasons for proposing to register the person conditionally; and
  - (b) that, if the person would like the commissioner to reconsider the decision, the person may take the steps mentioned in section 44 (1); and
  - (c) that if the person does not take the steps mentioned in section 44 (1), the commissioner must register the person conditionally.
- (3) The commissioner must not, without the person’s consent, tell a named employer—
- (a) that a proposed conditional registration notice has been given to a person; or
  - (b) the reasons for giving the person the proposed conditional registration notice.

#### **44 Reconsideration of proposed conditional registration**

- (1) If the commissioner gives a person a proposed conditional registration notice, the person may—
  - (a) within 10 working days after the commissioner gives the person the proposed conditional registration notice, tell the commissioner in writing that the person intends to ask the commissioner to reconsider the decision; and
  - (b) within 20 working days after the commissioner gives the person the notice, ask the commissioner in writing to reconsider the decision.
- (2) In making a request under subsection (1) (b), the person must give the commissioner any new or corrected information the person considers relevant.
- (3) If the person asks the commissioner to reconsider the decision, the commissioner must, as soon as practicable—
  - (a) if the commissioner is satisfied that the condition is unnecessary—register the person unconditionally; or
  - (b) if the commissioner is satisfied that the condition is necessary—register the person subject to the condition.

*Note* The commissioner's decision to register a person subject to a condition is reviewable (see s 61).

#### **45 Extensions of period for reconsideration of proposed conditional registration**

- (1) On written application by a person, the commissioner may extend the period mentioned in section 44 (1) (a) or (b).

*Note* The commissioner may extend the period even if it has ended (see [Legislation Act](#), s 151C).

- (2) The commissioner may extend the period only if the commissioner is satisfied on reasonable grounds that it is appropriate to extend the period given the person's circumstances.

**Examples—when period may be extended**

- 1 a person did not receive a proposed conditional registration notice because the person was unexpectedly hospitalised
- 2 a person needs more than 20 working days to obtain relevant information because the information is from a foreign country

- (3) The commissioner must tell the person in writing of a decision under subsection (1) and—

- (a) if the commissioner extends the period—state the extended period; or
- (b) if the commissioner refuses to extend the period—the reasons for the decision.

*Note* The commissioner must also give the person a reviewable decision notice in relation to a decision to—

- (a) extend the period for a stated period; or
- (b) refuse to extend the period (see s 62).

## **46 Notice of conditional registration**

- (1) The commissioner must register a person subject to a condition if the commissioner gives the person a proposed conditional registration notice and—

- (a) the person does not tell the commissioner that the person intends to ask the commissioner to reconsider the decision under section 44 (1) (a); or

- (b) the person—

- (i) tells the commissioner that the person intends to ask the commissioner to reconsider the decision under section 44 (1) (a); but

- (ii) does not ask the commissioner to reconsider the decision under section 44 (1) (b).

*Note* The commissioner must also register a person subject to a condition if the commissioner has reconsidered the decision and is satisfied that the condition is necessary (see s 44 (3) (b)).

- (2) If a registration is subject to a condition, the commissioner must—
  - (a) register the person; and
  - (b) tell the person, in writing—
    - (i) of the positive risk assessment; and
    - (ii) that the person is registered subject to a condition including—
      - (A) what the condition is; and
      - (B) the reasons for the condition; and
    - (iii) the person's unique identifying number; and
    - (iv) the day the registration ends; and
    - (v) anything else prescribed by regulation; and
  - (c) tell the named employer (if any) in writing—
    - (i) that the person's registration is conditional; and
    - (ii) what the condition is.
- (3) For subsection (2) (c), the commissioner must not, without the person's consent, tell the named employer the reasons for the condition.

## 47 Conditional registration—amendment

- (1) A person with conditional registration may apply to the commissioner to amend the person's registration (including by removing or amending a condition of the registration) if there has been a change in relevant information about the person since the person was registered subject to a condition.

### Examples—change in relevant information

- 1 a person has been acquitted of a previously pending charge for a relevant offence
  - 2 a person's conviction for a relevant offence has been quashed
- (2) The risk assessment guidelines may provide for what constitutes a change in relevant information about the person.
- (3) The commissioner may, in writing, require the applicant to give the commissioner the additional information in writing or documents the commissioner reasonably needs to decide the application.
- (4) If the applicant does not comply with a requirement under subsection (3), the commissioner may refuse to consider the application further.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (5) On application by a person to amend a conditional registration, the commissioner must—
- (a) amend the registration; or
  - (b) refuse to amend the registration.
- (6) The commissioner must—
- (a) tell the applicant in writing of a decision under subsection (5) and—
    - (i) if the commissioner amends the registration—state the details of the amendment; and

- (ii) if the commissioner refuses to amend the registration—the reasons for the decision; and

*Note* The commissioner must also give the applicant a reviewable decision notice in relation to a decision to refuse to amend the applicant's registration (see s 62).

- (b) if the commissioner amends the registration—tell the named employer (if any) in writing—
  - (i) that the applicant's registration has been amended; and
  - (ii) the details of the amendment.

**47A Restrictions on reapplying for amendment of conditional registration**

- (1) This section applies to a person with conditional registration if—
  - (a) the person has applied for an amendment of the person's registration under section 47; and
  - (b) the commissioner has refused to amend the registration.
- (2) The person may apply for an amendment of the person's conditional registration under section 47 only if it is at least 5 years after the day the commissioner refused to amend the registration.

**48 Offences—registered person contravene condition of registration**

- (1) A person commits an offence if—
  - (a) the person's registration is subject to a condition; and
  - (b) the person contravenes a requirement of the condition.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.

- (3) A person commits an offence if—
- (a) the person’s registration is subject to a condition; and
  - (b) the person contravenes a requirement of the condition; and
  - (c) the person knows, or is reckless about whether, the person is contravening the requirement.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (4) Strict liability applies to subsection (3) (a).

*Note* The commissioner may suspend or cancel a person’s registration if the person’s registration is subject to a condition and the person contravenes a requirement of the condition (see s 57 (1)).

## Division 6.3 Monitoring registered people

### 53 Commissioner may request information from entities about registered people

- (1) The commissioner may, in writing, request information or advice from any entity the commissioner considers may be able to give information or advice that is relevant to whether a registered person continues to pose no risk or an acceptable risk of harm to a vulnerable person.

**Example**

an updated criminal history report from the chief police officer

- (2) An entity that receives a request from the commissioner must, as far as practicable, comply with the request.
- (3) An entity that gives the commissioner information or advice in response to a request under this section does not contravene any duty of confidentiality the entity has under a territory law or agreement, despite anything to the contrary in the law or agreement.



- (4) An entity commits an offence if—
- (a) the commissioner makes a request under subsection (1); and
  - (b) the entity fails to comply with the request.

Maximum penalty: 50 penalty units.

- (5) Subsection (4) does not apply if the entity has a reasonable excuse for failing to comply with the request.
- (6) An offence against this section is a strict liability offence.
- (7) In this section:

*information* does not include information that, under the *Children and Young People Act 2008*, section 857, must not be given to a person.

## **54 Additional risk assessments**

- (1) This section applies if the commissioner believes on reasonable grounds that there is new relevant information about a registered person.

### **Examples—new relevant information**

- 1 a registered person is suspected of having committed a relevant offence
- 2 a registered person has been charged with a relevant offence
- 3 a registered person has been convicted or found guilty of a relevant offence
- 4 a complaint or investigation is made about noncompliance of an approved care and protection organisation under the *Children and Young People Act 2008*, div 10.4.3 involving conduct by a registered person
- 5 an allegation or investigation of misconduct is made about a registered person within a regulated activity

- (2) The commissioner must—
- (a) conduct a risk assessment (an *additional risk assessment*) for the person taking into account the new relevant information; and
  - (b) tell the person in writing that the additional risk assessment is being conducted.

*Note* If the commissioner decides to conduct an additional risk assessment for a person, the commissioner may, while the assessment is conducted, make the person's registration subject to an interim condition (see s 54A) or suspend the person's registration (see s 57 (2)).

- (3) If the commissioner conducts an additional risk assessment for the person and is satisfied that the person poses no risk or an acceptable risk of harm to a vulnerable person, the commissioner may—
- (a) leave the person's registration unchanged; or
  - (b) add a condition to, or amend a condition of, the person's registration.
  - (c) remove a condition from the person's registration.

*Note 1* Section 43 sets out the commissioner's obligations if the commissioner intends to register a person conditionally.

*Note 2* The commissioner must cancel a person's registration if the commissioner has conducted an additional risk assessment for the person and is satisfied that that the person poses an unacceptable risk of harm to a vulnerable person (see s 57 (3)).

- (4) The risk assessment guidelines may provide for what constitutes new relevant information about a registered person.

## **54A Interim conditional registration**

- (1) If the commissioner decides to conduct an additional risk assessment for a person, the commissioner may make the person's registration subject to conditions (an *interim condition*) while the assessment is conducted.

### **Example—interim condition**

a person may engage in a regulated activity only if in the company of a registered person at all times

*Note 1* The commissioner must conduct an additional risk assessment for a person under s 54 if the commissioner believes on reasonable grounds that there is new relevant information about the person.

*Note 2* The commissioner may also suspend a person's registration while an additional risk assessment is being conducted for a person (see s 57 (2)).

- (2) The commissioner must give a person written notice of an intention to make the person's registration subject to an interim condition.

*Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (3) A notice of intention to make a person's registration subject to an interim condition must—
- (a) set out the reason for the interim condition; and
  - (b) state that the person may, within 10 working days after the day the commissioner gives the person the notice, give reasons why the person considers that the registration should not be made subject to the interim condition.
- (4) The commissioner must make a person's registration subject to an interim condition if the commissioner—
- (a) has given written notice to the person of an intention to make the person's registration subject to an interim condition; and
  - (b) has considered the reasons (if any) given by the person in accordance with the notice; and

(c) is satisfied that the reason for the interim condition exists.

*Note* The commissioner's decision to make a person's registration subject to an interim condition is reviewable (see s 61).

(5) The commissioner must—

(a) tell the person, in writing—

(i) that the person's registration is subject to an interim condition; and

(ii) what the interim condition is; and

(iii) the reason for the interim condition; and

(b) tell the person's employer (if any), in writing—

(i) that the person's registration is subject to an interim condition; and

(ii) what the interim condition is.

(6) For subsection (5) (b), the commissioner must not, without the person's consent, tell the person's employer the reasons for the interim condition.

(7) The interim condition takes effect—

(a) on the day after the day the commissioner tells the person, in writing, that the person's registration is subject to an interim condition; or

(b) if a later date is stated in the notice—on the later date.

**54B Offence—registered person contravene interim condition of registration**

- (1) A person commits an offence if—
- (a) the person’s registration is subject to an interim condition; and
  - (b) the person contravenes the condition.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

**55 Offences—registered person fail to disclose charge, conviction or finding of guilt for relevant offence**

- (1) A person commits an offence if the person—
- (a) is registered; and
  - (b) is charged with a relevant offence; and
  - (c) does not tell the commissioner about the charge in writing within 10 working days after the day the person is charged.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if the person—
- (a) is registered; and
  - (b) is convicted or found guilty of a relevant offence; and
  - (c) does not tell the commissioner about the conviction or finding of guilt in writing within 10 working days after the day the person is convicted or found guilty.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

**55A Offence—applicant fail to disclose change in relevant information**

- (1) A person commits an offence if—
- (a) the person is registered; and
  - (b) there has been a change in relevant information about the person since the person was registered; and
  - (c) the person does not tell the commissioner about the change in relevant information, in writing, within 10 working days after the day the information changes.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:

*relevant information*, about a person, means information about—

- (a) an allegation or investigation mentioned in section 18 (2) (c); or
- (b) for a person engaged in an NDIS activity—a matter mentioned in section 18A (1) (b).

**56 Offence—fail to notify change of name**

- (1) A person commits an offence if—
- (a) the person is registered; and
  - (b) the person’s name changes; and
  - (c) the person does not tell the commissioner in writing of the change within 10 working days after the day the change happens.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

## Division 6.4 Suspending or cancelling registration

### 56A Automatic cancellation—class A disqualifying offence

- (1) A person's registration is automatically cancelled if—
- (a) the person is registered to engage in—
    - (i) a regulated activity involving children; or
    - (ii) an NDIS activity; and
  - (b) the person is not eligible, or stops being eligible, under section 17 (2) to be registered to engage in the activity.

*Note* Under s 17 (2), a person is not eligible to be registered to engage in a regulated activity involving children or an NDIS activity if the person has an adult conviction or finding of guilt for a class A disqualifying offence.

- (2) As soon as the commissioner becomes aware of the person's ineligibility, the commissioner must—
- (a) tell the person, in writing, that their registration is cancelled; and
  - (b) tell the person's employer, in writing, that the person's registration is cancelled.

*Note* A registered person must tell the commissioner if they are charged with, or convicted or found guilty of, a disqualifying offence (see s 55).

- (3) For subsection (2) (b), the commissioner must not, without the person's consent, tell the person's employer the ground for suspension or cancellation.

### 57 Grounds for suspension or cancellation of registration

- (1) The commissioner may suspend or cancel a person's registration if—
- (a) the person's registration is subject to a condition; and
  - (b) the person contravenes a requirement of the condition; and

- (c) the commissioner believes on reasonable grounds that suspension or cancellation is necessary for this Act.

*Note* A person commits an offence if the person contravenes a requirement of a condition—see s 48.

- (2) If the commissioner decides to conduct an additional risk assessment for a person, the commissioner may suspend the person’s registration while the assessment is conducted.

*Note* The commissioner must conduct an additional risk assessment for a person under s 54 if the commissioner believes on reasonable grounds that there is new relevant information about the person.

- (3) The commissioner must cancel a person’s registration if the commissioner—

- (a) has conducted an additional risk assessment for the person; and  
(b) is satisfied that the person poses an unacceptable risk of harm to a vulnerable person.

## **58 Notice of proposed suspension or cancellation of registration**

- (1) If the commissioner intends to suspend or cancel a person’s registration under section 57, the commissioner must give the person written notice of the intention.

*Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (2) A notice of intention to suspend or cancel a person’s registration must—

- (a) set out the ground for suspension or cancellation; and  
(b) state that the person may, within 10 working days after the day the commissioner gives the person the notice, give reasons why the person considers that the registration should not be suspended or cancelled.



## **59 Suspension or cancellation of registration**

- (1) The commissioner must suspend or cancel a person's registration if the commissioner—
- (a) has given written notice to the person of an intention to suspend or cancel the registration; and
  - (b) has considered any reasons given by the person in accordance with the notice; and
  - (c) is satisfied that the ground for suspension or cancellation under section 57 exists.

*Note* The commissioner's decision to suspend or cancel a person's registration is reviewable (see s 61).

- (2) The commissioner must—
- (a) tell the person in writing—
    - (i) that the person's registration is suspended or cancelled; and
    - (ii) the ground for suspension or cancellation; and
    - (iii) about the information mentioned in subsections (6) to (8); and

*Note* The commissioner must also give the person a reviewable decision notice in relation to the decision to suspend or cancel the person's registration (see s 62).

- (b) tell the person's employer (if any) in writing that the person's registration has been suspended or cancelled.
- (3) For subsection (2) (b), the commissioner must not, without the person's consent, tell the person's employer the ground for suspension or cancellation.

- (4) The suspension or cancellation takes effect—
- (a) on the day after the day the commissioner tells the person in writing that the person’s registration is suspended or cancelled; or
  - (b) if a later date is stated in the notice of suspension or cancellation—on the later date.
- (5) To remove any doubt, a person whose registration is suspended does not have a registration allowing the person to engage in a regulated activity.

*Note* A person engaging in a regulated activity for which the person is required to be registered commits an offence under s 13 if the person’s registration is suspended or cancelled and the person continues to engage in the activity.

- (6) A person whose registration is suspended may apply to the commissioner to end the suspension not earlier than 6 months after the day the commissioner tells the person that the person’s registration is suspended.
- (7) The commissioner must, on application—
- (a) end the person’s suspension; or
  - (b) refuse to end the person’s suspension.

*Note* A decision under s (7) (b) is a reviewable decision (see s 61).

- (8) The commissioner must not refuse to end a person’s suspension unless the commissioner believes the suspension is necessary for the Act.

## Division 6.5 Surrendering registration

### 60 Surrendering registration

- (1) A registered person may surrender the person's registration by giving written notice of the surrender (a *surrender notice*) to the commissioner.
- (2) The surrender of the registration takes effect—
  - (a) on the day the surrender notice is given to the commissioner; or
  - (b) if a later date is stated in the surrender notice—on the later date.
- (3) The commissioner must tell the person's employer (if any) in writing that the person's registration has been surrendered.

## Division 6.6 COVID-19 emergency response

### 60A Definitions—div 6.6

In this division:

**COVID-19 emergency** means—

- (a) a state of emergency declared under the *Emergencies Act 2004*, section 156 because of the coronavirus disease 2019 (COVID-19); or
- (b) an emergency declared under the *Public Health Act 1997*, section 119 (including any extension or further extension) because of the coronavirus disease 2019 (COVID-19).

**COVID-19 emergency period** means a period during which a COVID-19 emergency is in force.

**60B Extending registration—COVID-19 emergency period**

- (1) This section applies if a person's registration will, or is likely to, expire during—
  - (a) a COVID-19 emergency period; or
  - (b) the 6 months following a COVID-19 emergency period.
- (2) The registration is extended until 6 months after the day the COVID-19 emergency period ends.

**60C Renewing expired registration—COVID-19 emergency period**

- (1) The commissioner may, during a COVID-19 emergency period, renew a person's expired registration if—
  - (a) the registration expired during the 12 months before the COVID-19 emergency period; and
  - (b) the commissioner considers the renewal is appropriate because of the public health emergency caused by the COVID-19 emergency.
- (2) The renewal ends 6 months after the day the COVID-19 emergency period ends.
- (3) If the commissioner renews a person's registration, the commissioner must tell the person, in writing—
  - (a) that the person has been registered; and
  - (b) the person's unique identifying number; and
  - (c) the day the registration ends; and
  - (d) anything else prescribed by regulation.

**60D Expiry—div 6.6**

This division expires at the end of a 6-month period during which no COVID-19 emergency has been in force.

## Part 7 Notification and review of decisions

### 61 Meaning of *reviewable decision*—pt 7

In this part:

*reviewable decision* means a decision mentioned in schedule 2, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 62 Reviewable decision notices

If the commissioner makes a reviewable decision, the commissioner must give a reviewable decision notice only to each entity mentioned in schedule 2, column 4 in relation to the decision.

*Note* The requirements for a reviewable decision notice are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

### 63 Applications for review

An entity mentioned in schedule 2, column 4 in relation to a reviewable decision may apply to the ACAT for review of the decision.

*Note* If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

## Part 7A Information sharing

### 63A Commissioner may give information to particular entities

- (1) The commissioner may give protected information to any of the following if satisfied on reasonable grounds that the information is relevant to preventing harm or risk of harm to a vulnerable person or class of vulnerable people:
  - (a) the director-general responsible for the *Education Act 2004*;
  - (b) the director-general responsible for the *Education and Care Services National Law (ACT)*;
  - (c) the director-general responsible for the *Health Act 1993*;
  - (d) the director-general responsible for the *Children and Young People Act 2008*, other than chapter 20 of that Act;
  - (e) the ombudsman;
  - (f) the chief executive officer of the ACT Teacher Quality Institute;
  - (g) the chief police officer or a chief police officer (however described) of another jurisdiction;
  - (h) the senior practitioner;
  - (i) the registrar-general;
  - (j) the road transport authority;
  - (k) the work health and safety commissioner;
  - (l) the NDIS quality and safeguards commissioner;
  - (m) an entity administering a corresponding law;
  - (n) any other entity prescribed by regulation.

- (2) In this section:

***NDIS quality and safeguards commissioner*** means the commissioner of the NDIS quality and safeguards commission established under the [NDIS Act](#), section 181C.

***protected information*** means information about a person that is given to, or obtained by, the commissioner or any other person who has exercised a function under this Act, because of the exercise of a function under this Act by the commissioner or other person.

**Examples**

- 1 information obtained by the commissioner in conducting a risk assessment
- 2 information given to the commissioner in conducting a risk assessment

***senior practitioner***—see the [Senior Practitioner Act 2018](#), dictionary.

**63B Particular entities may give information to commissioner**

- (1) An entity may give the commissioner any information (including personal health information, personal information or protected information) if satisfied on reasonable grounds that the information is relevant to preventing harm, or a risk of harm, to a vulnerable person or class of vulnerable people.
- (2) This section does not limit the information that the entity may give to the commissioner under any other territory law.
- (3) In this section:

***entity*** means—

- (a) a director-general; or
- (b) a member of the human rights commission; or
- (c) the chief executive officer of the ACT Teacher Quality Institute; or



- (d) the registrar-general; or
- (e) the road transport authority; or
- (f) the work health and safety commissioner.

**member**, of the human rights commission, means a member of the commission under the [Human Rights Commission Act 2005](#), section 12.

**personal health information**—see the [Health Records \(Privacy and Access\) Act 1997](#), dictionary.

**personal information**—see the [Information Privacy Act 2014](#), dictionary.

**protected information**—see the [Children and Young People Act 2008](#), dictionary.

### **63C Commissioner may give information to employers**

- (1) The commissioner may give an employer the following information about a person the employer is associated with:
  - (a) the person's name;
  - (b) the status or outcome of the person's application for registration;
  - (c) if the person is registered—
    - (i) the unique identifying number for the person; and
    - (ii) the date the person's registration ends; and
    - (iii) whether the person's registration is subject to conditions under section 42 or section 54A;
  - (d) anything else prescribed by regulation.

- (2) For subsection (1) (c) (iii), the commissioner—
- (a) need not tell the employer what the person’s condition is; and
  - (b) must not, without the person’s consent, tell the employer the reason for the condition.
- (3) In this section, an employer is *associated* with a person if—
- (a) the person is registered or has applied for registration; and
  - (b) the employer engages, or intends to engage, the person in a regulated activity for which the person is required to be registered.

## Part 8 Miscellaneous

### 64 Protection from liability

- (1) An official is not civilly liable for anything done or omitted to be done honestly and without recklessness—
  - (a) in the exercise of a function under this Act; or
  - (b) in the reasonable belief that the act or omission was in the exercise of a function under this Act.
- (2) Any civil liability that would, apart from subsection (1), attach to an official attaches instead to the Territory.
- (3) In this section:

*official* means—

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

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

### 65 Offences—use or divulge protected information

- (1) A person to whom this section applies commits an offence if—
  - (a) the person uses information; and
  - (b) the information is protected information about someone else; and

- (c) the person is reckless about whether the information is protected information about someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person to whom this section applies commits an offence if—
  - (a) the person does something that divulges information; and
  - (b) the information is protected information about someone else; and
  - (c) the person is reckless about whether—
    - (i) the information is protected information about someone else; and
    - (ii) doing the thing would result in the information being divulged to someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) Subsections (1) and (2) do not apply if the information is used or divulged—
  - (a) under this Act or another territory law; or
  - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law; or
  - (c) in a court proceeding.
- (4) Subsections (1) and (2) do not apply to the using or divulging of protected information about a person with the person's consent.

*Note* The defendant has an evidential burden in relation to the matters mentioned in ss (3) and (4) (see [Criminal Code](#), s 58).

(5) A person to whom this section applies need not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another law applying in the territory.

(6) In this section:

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

***divulge*** includes—

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

***person to whom this section applies*** means—

- (a) a person who is or has been—
  - (i) the commissioner; or
  - (ii) an independent advisor; or
- (b) anyone else who has exercised a function under this Act.

***produce*** includes allow access to.

***protected information*** means information about a person that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

**Examples—protected information**

- 1 information obtained by the commissioner in conducting a risk assessment for a person
- 2 information disclosed by the commissioner in seeking information or advice from an entity about a registered person

***use information*** includes make a record of the information.

**66 Evidentiary certificates**

- (1) The commissioner may give a signed certificate—
  - (a) stating that on a stated date or during a stated period a named person was or was not registered; and
  - (b) if the person was registered—including details of the person’s registration.
- (2) A certificate under this section is evidence of the matters stated in it.
- (3) Unless the contrary is proved, a document that purports to be a certificate under this section is taken to be a certificate.

**67 Disqualification orders**

- (1) If a court finds a person guilty of an offence against this Act, the court may make an order disqualifying the person from applying for registration for a stated period or until a stated thing happens.
- (2) In this section:  
*offence against this Act* includes an offence against the [Criminal Code](#) in relation to anything done, or not done, under or in relation to this Act.

**68 Determination of fees**

- (1) The Minister may determine fees for this Act.  
*Note* The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3)
- (2) A determination is a disallowable instrument.  
*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**71 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may make provision for—
- (a) the obligations of employers before engaging people in regulated activities; and
  - (b) the obligations of employers in relation to people they engage in regulated activities.
- (3) A regulation may create offences and fix maximum penalties of not more than 20 penalty units for the offences.

## Part 9 Transitional—Working with Vulnerable People (Background Checking) Amendment Act 2020

### 72 Meaning of *commencement day*—pt 9

In this part:

*commencement day* means the day the *Working with Vulnerable People (Background Checking) Amendment Act 2020*, section 3 commences.

### 73 Foster carers

- (1) This section applies if, immediately before the commencement day, a person—
  - (a) is registered under this Act; and
  - (b) is engaged in a foster care activity in relation to a child; and
  - (c) has an adult conviction or finding of guilt for a class A disqualifying offence.
- (2) On the commencement day—
  - (a) the person's class A disqualifying offence is taken to be a class B disqualifying offence, in relation to the person's registration to engage in the foster care activity in relation to the child; and
  - (b) the person's registration is automatically subject to the condition that the person must not engage in—
    - (i) a regulated activity involving children, other than the foster care activity in relation to the child; or
    - (ii) an NDIS activity.



(3) Despite paragraph (2) (a), the commissioner need not carry out a risk assessment of the person in relation to the disqualifying offence until the person applies for renewal of the registration.

(4) In this section:

*foster care activity* means a regulated activity under the *Children and Young People Act 2008*, part 15.4 (Out-of-home carers) as a foster carer.

*Note* An activity conducted, or a service provided, by a foster carer under the *Children and Young People Act 2008* is a regulated activity (see sch 1, s 1.1).

## 74 Expiry—pt 9

This part expires 5 years after the commencement day.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see *Legislation Act*, s 88).

## Schedule 1            Regulated activities

(see s 8)

### Part 1.1             Activities or services for children

#### 1.1            Child protection services

- (1) An activity or service is a regulated activity if the activity is conducted, or the service is provided, under the *Children and Young People Act 2008* for a child or young person.
- (2) Without limiting subsection (1), a regulated activity includes an activity conducted or a service provided under the *Children and Young People Act 2008*—
  - (a) by—
    - (i) a member of the Children and Youth Services Council; or
    - (ii) a family group conference facilitator; or
    - (iii) a kinship carer; or
    - (iv) a foster carer; or
    - (v) a residential care service; or
    - (vi) a researcher for a research project; or
    - (vii) an authorised assessor; or
    - (viii) another person administering, or exercising a function under, the Act; or

(b) under a therapeutic protection order.

*Note* See the *Children and Young People Act 2008*, particularly:

- pt 2.2 (Children and Youth Services Council);
- pt 3.2 (Family group conferences—facilitators);
- s 438 (Care and protection assessment—authorisation of assessors);
- s 516 (Kinship carer—specific parental authority);
- s 518 (Foster carer—specific parental authority);
- s 520 (Residential care service—general parental authority);
- pt 16.2 (Therapeutic protection orders);
- ch 22 (Research involving children and young people).

## **1.2 Justice facilities for children**

(1) An activity or service is a regulated activity if—

- (a) any of the usual functions of the activity or service are carried out in relation to a child at a justice facility; or
- (b) the activity is conducted, or the service is provided, in relation to a child because of a sentence, detention, probation, parole or other order, that could be made or imposed by a court.

(2) In this section:

*justice facility* means—

- (a) a detention place; or
- (b) a place outside a detention place if a detainee is, or has been, directed to work or take part in an activity at the place; or
- (c) any other place a child may be held in custody.

### 1.3 Childcare service

- (1) An activity or service is a regulated activity if the activity is conducted, or the service is provided, by—
- (a) a childcare service; or
  - (b) another commercial service that provides child care.

**Examples—par (b)**

- 1 babysitting service
  - 2 nanny service
  - 3 a service conducted by a hotel or resort to provide childcare to children who are short term guests
- (2) In this section:
- childcare service***—see the *Children and Young People Act 2008*, section 732.

*Note* ***Childcare service*** means—

- (a) a childcare centre; or
- (b) a family day care scheme.

### 1.4 Child education services

- (1) An activity or service is a regulated activity if the activity is conducted, or the service is provided, as part of a child education service.
- (2) In this section:
- child education service***—
- (a) means a service for which the main purpose is to provide education and care for children; and

(b) includes—

- (i) a school or other educational institution, whether or not operated by or on behalf of the Territory; and
- (ii) a school-crossing service.

*school* means a preschool, primary school, high school or secondary college.

## **1.5 Child accommodation services**

- (1) An activity or service is a regulated activity if the activity is conducted, or the service is provided, as part of a child accommodation service.
- (2) In this section:

*child accommodation service*—

- (a) means a service for which the main purpose is to provide residential accommodation for children; and
- (b) includes an overnight camp for children, irrespective of the kind of accommodation or of how many children are involved.

**Examples—child accommodation service**

- 1 school group accommodation
- 2 a home stay, including as part of a student exchange
- 3 a school boarding facility

## **1.6 Counselling and support services for children**

An activity or service is a regulated activity if the activity is conducted, or the service is provided, as part of—

- (a) a counselling service for children; or
- (b) a support service for children.

## **1.7 Commercial services for children**

An activity or service is a regulated activity if—

- (a) the activity is conducted, or the service is provided specifically for children by a commercial entity; and
- (b) the activity or service is one of the following:
  - (i) an entertainment or party service;
  - (ii) a gym or play facility;
  - (iii) a photography service;
  - (iv) a talent or beauty competition.

## **Part 1.2                      Activities or services for vulnerable people**

### **1.8                      Mental health**

An activity or service is a regulated activity if any of the usual functions of the activity or service include providing treatment, care, rehabilitation or protection to people who are mentally impaired, mentally dysfunctional or mentally ill.

#### **Examples**

- 1 an activity or service that provides personal care, assessment or referral of support needs, education, training and skill development, information services, recreation, counselling, community access, accommodation support, rehabilitation, or employment services, specifically for people who are mentally impaired, mentally dysfunctional or mentally ill
- 2 an activity or service provided in association with the use of premises for the care, treatment or accommodation of people who are mentally impaired, mentally dysfunctional or mentally ill

### **1.9                      Migrants, refugees and asylum seekers**

An activity or service is a regulated activity if the activity is conducted, or the service is provided, to support—

- (a) migrants, or
- (b) refugees or asylum seekers; or
- (c) people who cannot communicate, or who have difficulty communicating, in English.

#### **Examples**

an activity or service that provides assistance settling in the ACT, including mentoring, employment services, transport or accommodation support, specifically for migrants, refugees, asylum seekers or people from non-English speaking backgrounds

### 1.10 Homeless people

An activity or service is a regulated activity if the activity is conducted, or the service is provided, to support people who are homeless.

#### Examples

- 1 an activity or service that provides food, transport, coordination or referral of support needs for people who are homeless
- 2 a drop in centre
- 3 a soup kitchen

### 1.11 Housing and accommodation

A service or activity is a regulated activity if any of the usual functions of the service or activity include providing public or community housing or accommodation to people suffering social or financial hardship.

#### Examples

- 1 public housing
- 2 social housing
- 3 community housing
- 4 housing assistance
- 5 social housing
- 6 crisis accommodation
- 7 refuges

### 1.12 Justice facilities

- (1) An activity or service is a regulated activity if—
  - (a) any of the usual functions of the activity or service are carried out in relation to an adult at a justice facility; or
  - (b) the activity is conducted, or the service is provided, in relation to an adult because of a sentence, detention, probation, parole or other order, that could be made or imposed by a court.



(2) In this section:

*justice facility* means—

- (a) a correctional centre; or
- (b) a remand centre; or
- (c) a detention place; or
- (d) a place outside a detention place if a detainee is, or has been, directed to work or take part in an activity at the place; or
- (e) any other place a person may be held in custody.

### **1.13 Prevention of crime**

An activity or service is a regulated activity if the activity is conducted, or the service is provided, in relation to a person to reduce the likelihood of the person committing a criminal offence.

#### **Examples**

- 1 a program to keep police informed of the whereabouts and other personal details about a person who has committed a crime to reduce the likelihood that the person will reoffend
- 2 a mentoring program

### **1.14 Victims of crime**

An activity or service is a regulated activity if the activity is conducted, or the service is provided, to assist or support victims of crime.

#### **Example**

an activity or service that provides counselling and support, therapeutic intervention, financial assistance, information or advice for victims of crime

*Note* Victims of crime are eligible for assistance under the victims services scheme (see *Victims of Crime Act 1994*, pt 4).

### 1.15 Services for addictions

(1) An activity or service is a regulated activity if any of the usual functions of the activity or service include providing treatment, care, rehabilitation or protection to people who are—

(a) addicted to, or misuse, a substance (whether alcohol, a medicine, a prohibited substance or another substance); or

(b) addicted to an activity.

#### Examples

- 1 an activity or service that provides health care, counselling, accommodation or financial support for people who are addicted to a substance or an activity
- 2 a needle and syringe exchange program
- 3 a methadone treatment and withdrawal program
- 4 a gambling addiction telephone help-line

(2) In this section:

*prohibited substance*—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, section 13.

### 1.16 Community services

An activity or service is a regulated activity if the activity is conducted, or the service is provided, to—

(a) people and families suffering social or financial hardship; or

(b) people who need support to live independently.

#### Examples

- 1 an activity or service that provides crisis intervention, emergency relief, parenting support, assessment or referral of support needs, education, training and skill development, information services, counselling, community access, or employment services, for people and families suffering social or financial hardship

- 2 an activity or service that provides home help, home maintenance or modification, allied health care, personal care, food services, assessment or referral of support needs, information services, coordination, case management, recreation, counselling, community access, rehabilitation, or employment services, to people who need support to live independently
- 3 an activity or service provided in association with the use of premises for the care, treatment or accommodation of people who need support to live independently

### **1.17 Disability services**

- (1) An activity or service is a regulated activity if the activity is conducted, or the service is provided, specifically for people with a disability.

#### **Examples**

- 1 an activity or service that provides home help, home maintenance or modification, personal care, food services, assessment or referral of support needs, information services, coordination, case management, recreation, counselling, community access, rehabilitation, or employment services, to people with a disability
- 2 an activity or service provided in association with the use of premises for the care, treatment or accommodation of people with a disability

- (2) In this section:

**disability**—see the *Human Rights Commission Act 2005*, section 8 (2).

*Note* For the *Human Rights Commission Act 2005*, s 8 (2), **disability** means a disability that—

- (a) is attributable to an intellectual, psychiatric, sensory or physical impairment, or a combination of those impairments; and
- (b) is permanent or likely to be permanent; and
- (c) results in—
  - (i) the person having a substantially reduced capacity for communication, learning or mobility; and
  - (ii) the need for continuing support services for the person; and
- (d) may, but need not, be of a chronic episodic nature.

**1.18 Respite care services**

An activity or service is a regulated activity if any of the usual functions of the activity or service include providing respite care.

**1.19 Emergency services personnel**

An activity or service is a regulated activity if the activity is conducted, or the service is provided, by—

- (a) an emergency service; or
- (b) a person acting on behalf of an emergency service.

## **Part 1.3**                      **Other activities or services for vulnerable people**

### **1.20**            **Transport**

- (1) An activity or service is a regulated activity if any of the usual functions of the activity or service include providing public or private transport that is—
- (a) specifically for, or mainly used by, children; or
  - (b) specifically for people accessing a regulated activity mentioned in part 1.2.

**Example—par (a)**

a school bus service

**Examples—par (b)**

- 1 a minibus transporting detainees to or from a remand centre
- 2 a taxi for mobility impaired people

- (2) To remove any doubt, an activity or service is a regulated activity if a person must have 1 or both of the following to conduct the activity or provide the service:
- (a) a public vehicle licence;
  - (b) a driving instructor certificate of accreditation.
- (3) An activity or service is a regulated activity if—
- (a) the activity or service relates to a light rail service; and
  - (b) the person conducting the activity or providing the service is—
    - (i) a light rail driver; or
    - (ii) a light rail driving assessor; or
    - (iii) a light rail driving instructor; or

- (iv) appointed under the *Road Transport (General) Act 1999*—
  - (A) section 19 (Authorised people); or
  - (B) section 53A (Authorised people for infringement notice offences).

(4) In this section:

**accreditation**—see *Road Transport (Driver Licensing) Regulation 2000*, section 103A.

**light rail driver**—see *Road Transport (Public Passenger Services) Regulation 2002*, section 70AA.

**light rail driving assessor**—see *Road Transport (Public Passenger Services) Regulation 2002*, section 70AA.

**light rail driving instructor**—see *Road Transport (Public Passenger Services) Regulation 2002*, section 70AA.

**light rail service**—see *Road Transport (Public Passenger Services) Act 2001*, section 27A.

**public vehicle licence**—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

## 1.21 Coaching and tuition

An activity or service is a regulated activity if—

- (a) any of the usual functions of the activity or service include coaching or tuition specifically for—
  - (i) children; or
  - (ii) people accessing a regulated activity mentioned in part 1.2; and
- (b) the coaching or tuition is provided by a commercial entity.

## **1.22 Vocational and educational training**

An activity or service is a regulated activity if any of the usual functions of the activity or service include providing vocational education and training specifically for—

- (a) children; or
- (b) people accessing a regulated activity mentioned in part 1.2.

### **Examples**

- 1 a pathways to employment program
- 2 an adult English language, literacy and numeracy skills program
- 3 an industry training service

## **1.23 Religious organisations**

An activity or service is a regulated activity if—

- (a) the activity is conducted, or the service is provided, by—
  - (i) a religious organisation; or
  - (ii) a person acting on behalf of a religious organisation; and
- (b) the activity or service is—
  - (i) specifically for, or mainly used by children; or
  - (ii) specifically for people accessing a regulated activity mentioned in part 1.2.

### **Example—par (a)**

Sunday school

### **Example—par (b)**

counselling provided by a minister of religion

## **1.24 Clubs, associations and movements**

An activity or service is a regulated activity if—

- (a) the activity is conducted, or the service is provided, by a club, association or movement (including of a cultural, recreational or sporting nature); and
- (b) the club association or movement has significant membership or involvement by—
  - (i) children; or
  - (ii) people accessing a regulated activity mentioned in part 1.2.

### **Examples**

- 1 a children's football team
- 2 an art class for people who require assistance to live independently



## Schedule 2      Reviewable decisions

(see pt 7)

<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>
1	15A (1)	impose interim bar on unregistered person	person
2	15A (5) (b)	refuse to remove person's interim bar	person
3	39 (1)	extend period for stated period	person
4	39 (1)	refuse to extend period	person
5	40 (1) (b)	refuse to register person—unacceptable risk	person
6	40 (1) (c)	refuse to register person—no request for reconsideration	person
7	44 (2) (b)	register person subject to condition	person
8	45 (1)	extend period for stated period	person
9	45 (1)	refuse to extend period	person
10	46 (1)	register person subject to condition	person
11	47 (5) (b)	refuse to amend person's conditional registration	person
12	54A (4)	make person's registration subject to interim condition	person
13	59 (1)	suspend or cancel person's registration	person
14	59 (7) (b)	refuse to end person's suspension	person

## Schedule 3 Disqualifying offences

(see s 11B)

### Part 3.1 Definitions

#### 3.1 Definitions—sch 3

In this schedule:

*Animal Welfare Act* means the *Animal Welfare Act 1992*.

*Crimes Act* means the *Crimes Act 1900*.

*Criminal Code* means the *Criminal Code 2002*.

*Drugs of Dependence Act* means the *Drugs of Dependence Act 1989*.

*Road Transport (Safety and Traffic Management) Act* means the *Road Transport (Safety and Traffic Management) Act 1999*.

*Sex Work Act* means the *Sex Work Act 1992*.

*young adult relationship*—an offence is within a *young adult relationship* if—

- (a) the offence is committed against a child aged 14 or 15 years; and
- (b) the offender is less than 5 years older than the child; and
- (c) the commission of the offence does not involve violence or coercion.

## Part 3.2 Class A disqualifying offences

*Note* An offence mentioned in this part is a class B disqualifying offence for a person engaged, or seeking registration to engage, in a kinship care activity (see s 11B).

column 1 item	column 2 offence	column 3 short description	column 4 condition
<b>Homicide and related offences</b>			
1	<a href="#">Crimes Act</a> , s 12	murder	
2	<a href="#">Criminal Code</a> , s 44	attempt	to commit murder
3	<a href="#">Crimes Act</a> , s 29 (2)	culpable driving of motor vehicle—cause death	intent to cause death
4	<a href="#">Crimes Act</a> , s 48A (1) (g), for offence against s 29 (2)	aggravated offence against pregnant woman—culpable driving of motor vehicle	intent to cause death
<b>Acts intended to cause injury</b>			
5	<a href="#">Crimes Act</a> , s 19	intentionally inflict grievous bodily harm	offence against vulnerable person
6	<a href="#">Crimes Act</a> , s 20	recklessly inflict grievous bodily harm	offence against vulnerable person
7	<a href="#">Crimes Act</a> , s 21	wounding	offence against vulnerable person
8	<a href="#">Crimes Act</a> , s 22	assault with intent to commit other offence	offence against vulnerable person
9	<a href="#">Crimes Act</a> , s 23	inflict actual bodily harm	offence against vulnerable person
10	<a href="#">Crimes Act</a> , s 24	assault occasioning actual bodily harm	offence against vulnerable person
11	<a href="#">Crimes Act</a> , s 25	cause grievous bodily harm	offence against vulnerable person

**Schedule 3**  
**Part 3.2**

Disqualifying offences  
Class A disqualifying offences

Section 3.1

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<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
12	<a href="#">Crimes Act, s 27 (3) (a)</a>	acts endangering life— chokes, suffocates or strangles	offence against vulnerable person
13	<a href="#">Crimes Act, s 27 (3) (b)</a>	acts endangering life— administer stupefying or overpowering drug	offence against vulnerable person
14	<a href="#">Crimes Act, s 27 (3) (c)</a>	acts endangering life— use offensive weapon	offence against vulnerable person
15	<a href="#">Crimes Act, s 27 (3) (e)</a>	acts endangering life— cause explosion etc	offence against vulnerable person
16	<a href="#">Crimes Act, s 27 (3) (f)</a>	acts endangering life— set trap	offence against vulnerable person
17	<a href="#">Crimes Act, s 27 (3) (g)</a>	acts endangering life— interfere with conveyance, transport facility or public utility service	offence against vulnerable person
18	<a href="#">Crimes Act, s 36</a>	torture	offence against vulnerable person
19	<a href="#">Crimes Act, s 43</a>	childbirth—grievous bodily harm with intent	offence against vulnerable person
20	<a href="#">Crimes Act, s 48A (1) (b)</a>	aggravated offence against pregnant woman—intentionally inflict grievous bodily harm	offence against vulnerable person
21	<a href="#">Crimes Act, s 48A (1) (c)</a>	aggravated offence against pregnant woman—recklessly inflict grievous bodily harm	offence against vulnerable person
22	<a href="#">Crimes Act, s 48A (1) (d)</a>	aggravated offence against pregnant woman—wounding	offence against vulnerable person

<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
23	<a href="#">Crimes Act, s 48A (1) (e)</a>	aggravated offence against pregnant woman—inflict actual bodily harm	offence against vulnerable person
24	<a href="#">Crimes Act, s 74</a>	prohibition of female genital mutilation	offence against vulnerable person
25	<a href="#">Crimes Act, s 75</a>	remove child from ACT for genital mutilation	
<b>Sexual assault and related offences</b>			
26	<a href="#">Crimes Act, s 51</a>	sexual assault in first degree	offence against vulnerable person
27	<a href="#">Crimes Act, s 52</a>	sexual assault in second degree	offence against vulnerable person
28	<a href="#">Crimes Act, s 53</a>	sexual assault in third degree	offence against vulnerable person
29	<a href="#">Crimes Act, s 54</a>	sexual intercourse without consent	offence against vulnerable person
30	<a href="#">Crimes Act, s 55 (1)</a>	sexual intercourse with young person (under 10 years old)	
31	<a href="#">Crimes Act, s 55 (2)</a>	sexual intercourse with young person (under 16 years old)	offence other than within young adult relationship
32	<a href="#">Crimes Act, s 55A</a>	sexual intercourse with young person under special care	
33	<a href="#">Crimes Act, s 56</a>	maintain sexual relationship with young person or person under special care	
34	<a href="#">Crimes Act, s 57</a>	act of indecency in first degree	offence against vulnerable person

**Schedule 3** Disqualifying offences  
**Part 3.2** Class A disqualifying offences

Section 3.1

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<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
35	<a href="#">Crimes Act</a> , s 58	act of indecency in second degree	offence against vulnerable person
36	<a href="#">Crimes Act</a> , s 59	act of indecency in third degree	offence against vulnerable person
37	<a href="#">Crimes Act</a> , s 60	act of indecency without consent	offence against vulnerable person
38	<a href="#">Crimes Act</a> , s 61 (1)	act of indecency without consent (child under 10 years old)	
39	<a href="#">Crimes Act</a> , s 61 (2)	act of indecency without consent (child under 16 years)	offence other than within young adult relationship
40	<a href="#">Crimes Act</a> , s 61A	act of indecency with young person under special care	
41	<a href="#">Crimes Act</a> , s 62 (1)	incest (under 10 years)	
42	<a href="#">Crimes Act</a> , s 62 (2)	incest (under 16 years)	offence against child under 13 years
43	<a href="#">Crimes Act</a> , s 64 (1)	use etc child under 12 years for production of child exploitation material	
44	<a href="#">Crimes Act</a> , s 64 (3)	use etc child 12 years or older for production of child exploitation material	
45	<a href="#">Crimes Act</a> , s 64A	trade in child exploitation material	
46	<a href="#">Crimes Act</a> , s 65	possess child exploitation material	

<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
47	<a href="#">Crimes Act</a> , s 66 (1) (a)	grooming—encourage young person to commit etc act of sexual nature	
48	<a href="#">Crimes Act</a> , s 66 (1) (b)	grooming—engage in conduct with intention of encouraging young person to commit etc act of sexual nature	
49	<a href="#">Crimes Act</a> , s 66 (1) (c)	grooming—engage in conduct with person who has relationship with young person with intention of encouraging young person to commit etc act of sexual nature	
50	<a href="#">Crimes Act</a> , s 79 (1)	sexual servitude— cause person to enter or remain in	offence against vulnerable person
51	<a href="#">Crimes Act</a> , s 79 (2)	sexual servitude— conduct business involving	offence against vulnerable person
52	<a href="#">Crimes Act</a> , s 80	deceptive recruiting for sexual services	offence against vulnerable person
53	<a href="#">Sex Work Act</a> , s 20	cause child to provide commercial sexual services etc	
<b>Abduction, harassment and related offences</b>			
54	<a href="#">Crimes Act</a> , s 37	abduction of young person	offence against child other than family member
55	<a href="#">Crimes Act</a> , s 38	kidnapping	offence against child other than family member

**Schedule 3** Disqualifying offences  
**Part 3.3** Class B disqualifying offences

Section 3.1

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column 1 item	column 2 offence	column 3 short description	column 4 condition
56	<a href="#">Crimes Act</a> , s 40	unlawfully take child etc	offence against child other than family member
57	<a href="#">Crimes Act</a> , s 63	abduction	offence against vulnerable person
<b>Public order offences</b>			
58	<a href="#">Crimes Act</a> , s 63A	bestiality	

## Part 3.3 Class B disqualifying offences

column 1 item	column 2 offence	column 3 short description	column 4 condition
<b>Homicide and related offences</b>			
1	<a href="#">Crimes Act</a> , s 15	manslaughter	
2	<a href="#">Road Transport (Safety and Traffic Management) Act</a> , s 6 (1)	drive motor vehicle negligently	causes death
3	<a href="#">Crimes Act</a> , s 17 (1)	suicide—aids or abets	
4	<a href="#">Crimes Act</a> , s 17 (2)	suicide—incites or counsels	
5	<a href="#">Crimes Act</a> , s 29 (2)	culpable driving of motor vehicle—cause death	without intent to cause death
6	<a href="#">Crimes Act</a> , s 42	child destruction	
7	<a href="#">Crimes Act</a> , s 48A (1) (a)	aggravated offence against pregnant woman—manslaughter	



<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
8	<a href="#">Crimes Act</a> , s 48A (1) (g), for offence against s 29 (2)	aggravated offence against pregnant woman—culpable driving of motor vehicle	without intent to cause death
<b>Acts intended to cause injury</b>			
9	<a href="#">Crimes Act</a> , s 19	intentionally inflict grievous bodily harm	offence other than against vulnerable person
10	<a href="#">Crimes Act</a> , s 20	recklessly inflict grievous bodily harm	offence other than against vulnerable person
11	<a href="#">Crimes Act</a> , s 21	wounding	offence other than against vulnerable person
12	<a href="#">Crimes Act</a> , s 22	assault with intent to commit other offence	offence other than against vulnerable person
13	<a href="#">Crimes Act</a> , s 23	inflict actual bodily harm	offence other than against vulnerable person
14	<a href="#">Crimes Act</a> , s 24	assault occasioning actual bodily harm	offence other than against vulnerable person
15	<a href="#">Crimes Act</a> , s 25	cause grievous bodily harm	offence other than against vulnerable person
16	<a href="#">Crimes Act</a> , s 27 (3) (a)	acts endangering life— chokes, suffocates or strangles	offence other than against vulnerable person
17	<a href="#">Crimes Act</a> , s 27 (3) (b)	acts endangering life— administer stupefying or overpowering drug	offence other than against vulnerable person
18	<a href="#">Crimes Act</a> , s 27 (3) (c)	acts endangering life— use offensive weapon	offence other than against vulnerable person
19	<a href="#">Crimes Act</a> , s 27 (3) (e)	acts endangering life— cause explosion etc	offence other than against vulnerable person
20	<a href="#">Crimes Act</a> , s 27 (3) (f)	acts endangering life— set trap	offence other than against vulnerable person

**Schedule 3**  
**Part 3.3**

Disqualifying offences  
Class B disqualifying offences

Section 3.1

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<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
21	<a href="#">Crimes Act, s 27 (3) (g)</a>	acts endangering life— interfere with conveyance, transport facility or public utility service	offence other than against vulnerable person
22	<a href="#">Crimes Act, s 36</a>	torture	offence other than against vulnerable person
23	<a href="#">Crimes Act, s 48A (1) (b)</a>	aggravated offence against pregnant woman—intentionally inflict grievous bodily harm	offence other than against vulnerable person
24	<a href="#">Crimes Act, s 48A (1) (c)</a>	aggravated offence against pregnant woman—recklessly inflict grievous bodily harm	offence other than against vulnerable person
25	<a href="#">Crimes Act, s 48A (1) (d)</a>	aggravated offence against pregnant woman—wounding	offence other than against vulnerable person
26	<a href="#">Crimes Act, s 48A (1) (e)</a>	aggravated offence against pregnant woman—inflict actual bodily harm	offence other than against vulnerable person
27	<a href="#">Crimes Act, s 48A (1) (f)</a>	aggravated offence against pregnant woman—assault occasioning actual bodily harm	offence other than against vulnerable person
28	<a href="#">Crimes Act, s 74</a>	prohibition of female genital mutilation	offence other than against vulnerable person
<b>Sexual assault and related offences</b>			
29	<a href="#">Crimes Act, s 51</a>	sexual assault in first degree	offence other than against vulnerable person

<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
30	<a href="#">Crimes Act, s 52</a>	sexual assault in second degree	offence other than against vulnerable person
31	<a href="#">Crimes Act, s 53</a>	sexual assault in third degree	offence other than against vulnerable person
32	<a href="#">Crimes Act, s 54</a>	sexual intercourse without consent	offence other than against vulnerable person
33	<a href="#">Crimes Act, s 55 (2)</a>	sexual intercourse with young person (under 16 years old)	offence within young adult relationship
34	<a href="#">Crimes Act, s 57</a>	act of indecency in first degree	offence other than against vulnerable person
35	<a href="#">Crimes Act, s 58</a>	act of indecency in second degree	offence other than against vulnerable person
36	<a href="#">Crimes Act, s 59</a>	act of indecency in third degree	offence other than against vulnerable person
37	<a href="#">Crimes Act, s 60</a>	act of indecency without consent	offence other than against vulnerable person
38	<a href="#">Crimes Act, s 61 (2)</a>	act of indecency without consent (child under 16 years)	offence within young adult relationship
39	<a href="#">Crimes Act, s 61B (1)</a>	observe with device or capture visual data—other person	offence against vulnerable person
40	<a href="#">Crimes Act, s 61B (5)</a>	observe with device or capture visual data—other person’s genital/anal region or breasts	offence against vulnerable person
41	<a href="#">Crimes Act, s 62 (2)</a>	incest (under 16 years)	offence against child 13 years or older
42	<a href="#">Crimes Act, s 62 (3)</a>	incest (16 years or older)	offence other than against vulnerable person

**Schedule 3**  
**Part 3.3**

Disqualifying offences  
Class B disqualifying offences

Section 3.1

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<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
43	<a href="#">Crimes Act</a> , s 72C	non-consensual distribution of intimate images	offence against vulnerable person
44	<a href="#">Crimes Act</a> , s 72D	distribute intimate image of young person	
45	<a href="#">Crimes Act</a> , s 79 (1)	sexual servitude—cause person to enter or remain in	offence other than against vulnerable person
46	<a href="#">Crimes Act</a> , s 79 (2)	sexual servitude—conduct business involving	offence other than against vulnerable person
47	<a href="#">Crimes Act</a> , s 80	deceptive recruiting for sexual services	offence other than against vulnerable person
<b>Dangerous or negligent acts endangering others</b>			
48	<a href="#">Crimes Act</a> , s 39	neglect etc of children	
49	<a href="#">Crimes Act</a> , s 41	expose or abandon child	
<b>Abduction, harassment and related offences</b>			
50	<a href="#">Crimes Act</a> , s 38	kidnapping	offence against child family member or person other than a vulnerable person
51	<a href="#">Crimes Act</a> , s 63	abduction	offence against child family member or person other than a vulnerable person
<b>Fraud, deception and related offences</b>			
52	<a href="#">Criminal Code</a> , s 326	obtain property by deception	offence against vulnerable person
53	<a href="#">Criminal Code</a> , s 332	obtain financial advantage by deception	offence against vulnerable person
54	<a href="#">Criminal Code</a> , s 333	general dishonesty	

<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
55	<a href="#">Criminal Code</a> , s 334	conspiracy to defraud	offence against vulnerable person
56	<a href="#">Criminal Code</a> , s 336	pass valueless cheques	offence against vulnerable person
57	<a href="#">Criminal Code</a> , s 336A	make false statements on oath or in statutory declarations	
58	<a href="#">Criminal Code</a> , s 337	make false or misleading statements	
59	<a href="#">Criminal Code</a> , s 338	give false or misleading information	offence against vulnerable person
60	<a href="#">Criminal Code</a> , s 339	produce false or misleading documents	offence against vulnerable person
61	<a href="#">Criminal Code</a> , s 346	forgery	offence against vulnerable person
62	<a href="#">Criminal Code</a> , s 347	use false document	offence against vulnerable person
63	<a href="#">Criminal Code</a> , s 348	possess false document	offence against vulnerable person
64	<a href="#">Criminal Code</a> , s 351	false statement by officer of body	
<b>Illicit drug offences</b>			
65	<a href="#">Criminal Code</a> , s 603 (1)	traffic controlled drug—large commercial quantity	
66	<a href="#">Criminal Code</a> , s 603 (3)	traffic controlled drug—commercial quantity	
67	<a href="#">Criminal Code</a> , s 603 (5)	traffic controlled drug—trafficable quantity of cannabis	

**Schedule 3**  
**Part 3.3**

Disqualifying offences  
Class B disqualifying offences

Section 3.1

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<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
68	<a href="#">Criminal Code</a> , s 603 (7)	traffic controlled drug—controlled drug other than cannabis	
69	<a href="#">Criminal Code</a> , s 603 (8)	traffic controlled drug—cannabis	
70	<a href="#">Criminal Code</a> , s 607 (1)	manufacture controlled drug to sell—large commercial quantity	
71	<a href="#">Criminal Code</a> , s 607 (3)	manufacture controlled drug to sell— commercial quantity	
72	<a href="#">Criminal Code</a> , s 607 (5)	manufacture controlled drug to sell	
73	<a href="#">Criminal Code</a> , s 609	manufacture controlled drug	
74	<a href="#">Criminal Code</a> , s 610 (1)	sell controlled precursor—large commercial quantity	
75	<a href="#">Criminal Code</a> , s 610 (3)	sell controlled precursor— commercial quantity	
76	<a href="#">Criminal Code</a> , s 610 (5)	sell controlled precursor for manufacture	
77	<a href="#">Criminal Code</a> , s 611 (1)	manufacture controlled precursor—large commercial quantity	
78	<a href="#">Criminal Code</a> , s 611 (3)	manufacture controlled precursor to sell—large commercial quantity	
79	<a href="#">Criminal Code</a> , s 611 (5)	manufacture controlled precursor— commercial quantity	

<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
80	<a href="#">Criminal Code,</a> s 611 (7)	manufacture controlled precursor to sell— commercial quantity	
81	<a href="#">Criminal Code,</a> s 611 (9)	manufacture controlled precursor	
82	<a href="#">Criminal Code,</a> s 611 (10)	manufacture controlled precursor to sell	
83	<a href="#">Criminal Code,</a> s 612 (1)	possess controlled precursor—large commercial quantity	
84	<a href="#">Criminal Code,</a> s 612 (3)	possess controlled precursor— commercial quantity	
85	<a href="#">Criminal Code,</a> s 612 (5)	possess controlled precursor	
86	<a href="#">Criminal Code,</a> s 613 (1)	supply substance, equipment or document for drug manufacture	
87	<a href="#">Criminal Code,</a> s 613 (2)	possess substance, equipment or document to supply for drug manufacture	
88	<a href="#">Criminal Code,</a> s 614	possess substance, equipment or document for drug manufacture	
89	<a href="#">Criminal Code,</a> s 616 (1)	cultivate controlled plant to sell—large commercial quantity	
90	<a href="#">Criminal Code,</a> s 616 (3)	cultivate controlled plant to sell— commercial quantity	

**Schedule 3**  
**Part 3.3**

Disqualifying offences  
Class B disqualifying offences

Section 3.1

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<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
91	<a href="#">Criminal Code,</a> s 616 (5)	cultivate controlled plant to sell— trafficable quantity	
92	<a href="#">Criminal Code,</a> s 616 (7)	cultivate other controlled plant to sell	
93	<a href="#">Criminal Code,</a> s 616 (8)	cultivate cannabis plant to sell	
94	<a href="#">Criminal Code,</a> s 618 (1)	cultivate controlled plant other than cannabis plant	
95	<a href="#">Criminal Code,</a> s 619 (1)	sell controlled plant— large commercial quantity	
96	<a href="#">Criminal Code,</a> s 619 (3)	sell controlled plant— commercial quantity	
97	<a href="#">Criminal Code,</a> s 619 (5)	sell controlled plant— trafficable quantity of cannabis plant	
98	<a href="#">Criminal Code,</a> s 619 (7)	sell controlled plant— controlled plant other than cannabis plant	
99	<a href="#">Criminal Code,</a> s 619 (8)	sell controlled plant— cannabis plant	
100	<a href="#">Criminal Code,</a> s 620 (1)	supply controlled plant, product, equipment or document—cultivation	
101	<a href="#">Criminal Code,</a> s 620 (2)	possess controlled plant, product, equipment or document—intent to supply to another	



<b>column 1 item</b>	<b>column 2 offence</b>	<b>column 3 short description</b>	<b>column 4 condition</b>
102	<a href="#">Criminal Code</a> , s 621	possess controlled plant, product, equipment or document—cultivation	
103	<a href="#">Criminal Code</a> , s 622 (1)	supply controlled drug to child for selling— commercial quantity	
104	<a href="#">Criminal Code</a> , s 622 (3)	supply controlled drug to child for selling	
105	<a href="#">Criminal Code</a> , s 624 (1)	procure child to traffic in controlled drug— commercial quantity	
106	<a href="#">Criminal Code</a> , s 624 (4)	procure child to traffic in controlled drug	
107	<a href="#">Criminal Code</a> , s 625	supply controlled drug to child	
108	<a href="#">Drugs of Dependence Act</a> , s 164 (2)	sell or supply drug of dependence	
109	<a href="#">Drugs of Dependence Act</a> , s 164 (3)	sell or supply prohibited substance	
<b>Public order offences</b>			
110	<a href="#">Animal Welfare Act</a> , s 7A	aggravated cruelty	

## Dictionary

(see s 4)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- ACT
- adult
- Australia
- change
- chief police officer
- child
- commissioner for fair trading
- contravene
- Corporations Act
- correctional centre
- Criminal Code
- detention place
- director-general (see s 163)
- disallowable instrument (see s 9)
- document
- domestic partner (see s 169 (1))
- emergency service
- entity
- foreign country
- found guilty
- function
- health practitioner
- home address
- lawyer
- Legislation Act
- notifiable instrument (see s 10)

- penalty unit (see s 133)
- person (see s 160)
- police officer
- registrar-general
- reviewable decision notice
- road transport authority
- territory law
- the Territory
- work health and safety commissioner
- working day
- writing.

***ACT Teacher Quality Institute*** means the institute established under the *ACT Teacher Quality Institute Act 2010*, section 10.

***additional risk assessment***—see section 54 (2) (a).

***adult conviction or finding of guilt***, for a person for an offence, means a conviction or finding of guilt for an offence committed when the person was an adult.

***Animal Welfare Act***, for schedule 3 (Disqualifying offences)—see schedule 3, section 3.1.

***application***, for registration, for part 4 (Applying for registration)—see section 16A.

***class A disqualifying offence***—see section 11B.

***class B disqualifying offence***—see section 11B.

***commissioner*** means the commissioner for fair trading.

***conditional registration*** means a registration that is subject to conditions.

***contact***, between a person and a vulnerable person—see section 10.

**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 regulation as a corresponding law for this Act.

**Crimes Act**, for schedule 3 (Disqualifying offences)—see schedule 3, section 3.1.

**Criminal Code**, for schedule 3 (Disqualifying offences)—see schedule 3, section 3.1.

**criminal history**, about a person—see section 24.

**disqualifying offence**—see section 11B.

**Drugs of Dependence Act**, for schedule 3 (Disqualifying offences)—see schedule 3, section 3.1.

**employer**, in relation to a regulated activity—see section 11.

**engaged**, in a regulated activity—see section 9.

**independent advisor** means an independent advisor appointed under section 34.

**interim condition**—see section 54A.

**jurisdiction** means a State, the Commonwealth or an internal Territory, including the ACT.

**kinship care activity** means a regulated activity under the *Children and Young People Act 2008*, part 15.4 (Out-of-home carers) as a kinship carer.

*Note* An activity conducted, or a service provided, by a kinship carer under the *Children and Young People Act 2008* is a regulated activity (see sch 1, s 1.1).

**kinship carer**—see the *Children and Young People Act 2008*, section 516.

***named employer***, for a regulated activity—see section 18 (1) (d) (i).

***NDIS Act*** means the [National Disability Insurance Scheme Act 2013](#) (Cwlth).

***NDIS activity***—see section 8A.

***NDIS quality and safeguards commission*** means the NDIS quality and safeguards commission established under the [NDIS Act](#), section 181A.

***negative notice***—see section 40 (2) (a).

***negative risk assessment***—see section 37 (1) (b).

***non-conviction information***, about a person—see section 25.

***proposed conditional registration notice***—see section 43 (1).

***proposed negative notice***—see section 37 (2).

***registered NDIS provider***—see the [NDIS Act](#), section 9 (Definitions).

***registration*** means a registration under this Act.

***regulated activity***—see section 8.

***relevant offence***—see section 11A.

***reviewable decision***, for part 7 (Notification and review of decisions)—see section 61.

***revised risk assessment***—see section 38 (2).

***risk assessment***, for a person—see section 23.

***risk assessment guidelines***—see section 27.

***Road Transport (Safety and Traffic Management) Act***, for schedule 3 (Disqualifying offences)—see schedule 3, section 3.1.

***role-based registration***—see section 42B.

***Sex Work Act***, for schedule 3 (Disqualifying offences)—  
see schedule 3, section 3.1.

***spent***, for a conviction—see the *Spent Convictions Act 2000*,  
section 7.

***vulnerable person***—see section 7.

***young adult relationship***, for schedule 3 (Disqualifying offences)—  
see schedule 3, section 3.1.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Working with Vulnerable People (Background Checking) Act 2011 A2011-44**

notified LR 8 November 2011  
s 1, s 2 commenced 8 November 2011 (LA s 75 (1))  
remainder commenced 8 November 2012 (s 2 (2))

as amended by

#### **Statute Law Amendment Act 2012 A2012-21 sch 1 pt 1.3**

notified LR 22 May 2012  
s 1, s 2 commenced 22 May 2012 (LA s 75 (1))  
sch 1 pt 1.3 commenced 8 November 2012 (s 2 (2) and see [A2011-44](#)  
s 2 (2))

#### **Statute Law Amendment Act 2013 A2013-19 sch 3 pt 3.55**

notified LR 24 May 2013  
s 1, s 2 commenced 24 May 2013 (LA s 75 (1))  
sch 3 pt 3.55 commenced 14 June 2013 (s 2)

#### **Statute Law Amendment Act 2014 (No 2) A2014-44 sch 3 pt 3.13**

notified LR 5 November 2014  
s 1, s 2 commenced 5 November 2014 (LA s 75 (1))  
sch 3 pt 3.13 commenced 19 November 2014 (s 2)

#### **Children and Young People Amendment Act 2015 (No 2) A2015-22 sch 1 pt 1.1**

notified LR 16 June 2015  
s 1, s 2 commenced 16 June 2015 (LA s 75 (1))  
sch 1 pt 1.1 commenced 1 July 2015 (s 2)

#### **Veterinary Surgeons Act 2015 A2015-29 sch 2 pt 2.13**

notified LR 20 August 2015  
s 1, s 2 commenced 20 August 2015 (LA s 75 (1))  
sch 2 pt 2.13 commenced 1 December 2015 (s 2 (1) and [CN2015-22](#))



**Spent Convictions (Historical Homosexual Convictions Extinguishment) Amendment Act 2015 A2015-45 sch 1 pt 1.9**

notified LR 6 November 2015

s 1, s 2 commenced 6 November 2015 (LA s 75 (1))

sch 1 pt 1.9 commenced 7 November 2015 (s 2)

**Children and Young People Amendment Act 2015 (No 3) A2015-46 sch 1**

notified LR 6 November 2015

s 1, s 2 commenced 6 November 2015 (LA s 75 (1))

sch 1 commenced 1 January 2016 (s 2)

**Reportable Conduct and Information Sharing Legislation Amendment Act 2016 A2016-39 pt 4**

notified LR 17 August 2016

s 1, s 2 commenced 17 August 2016 (LA s 75 (1))

s 15 commenced 1 July 2017 (s 2 (2) and [CN2017-2](#))

pt 4 remainder commenced 18 August 2016 (s 2 (1))

**Family Violence Act 2016 A2016-42 sch 3 pt 3.22 (as am by A2017-10 s 7)**

notified LR 18 August 2016

s 1, s 2 commenced 18 August 2016 (LA s 75 (1))

sch 3 pt 3.22 commenced 1 May 2017 (s 2 (2) as am by [A2017-10 s 7](#))

**Family and Personal Violence Legislation Amendment Act 2017 A2017-10 s 7**

notified LR 6 April 2017

s 1, s 2 commenced 6 April 2017 (LA s 75 (1))

s 7 commenced 30 April 2017 (s 2 (1))

*Note* This Act only amends the Family Violence Act 2016 [A2016-42](#).

**Road Transport Reform (Light Rail) Legislation Amendment Act 2018 A2018-19 sch 1 pt 1.11**

notified LR 17 May 2018

s 1, s 2 commenced 17 May 2018 (LA s 75 (1))

sch 1 pt 1.11 commenced 24 May 2018 (s 2)

## Endnotes

3 Legislation history

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### **Working with Vulnerable People (Background Checking) Amendment Act 2019 A2019-13 (as am by A2020-14 amdt 1.142)**

notified LR 23 May 2019

s 1, s 2 commenced 23 May 2019 (LA s 75 (1))

remainder commenced 1 February 2021 (s 2 (1) (as am by [A2020-14](#) amdt 1.142) and [CN2021-1](#))

### **Work Health and Safety Amendment Act 2019 A2019-38 sch 1 pt 1.12**

notified LR 31 October 2019

s 1, s 2 commenced 31 October 2019 (LA s 75 (1))

sch 1 pt 1.12 commenced 1 February 2021 (s 2 (2) and see [A2019-13](#) s 2 (as am by [A2020-14](#) amdt 1.142) and [CN2021-1](#))

### **COVID-19 Emergency Response Act 2020 A2020-11 sch 1 pt 1.20**

notified LR 7 April 2020

s 1, s 2 commenced 7 April 2020 (LA s 75 (1))

sch 1 pt 1.20 commenced 8 April 2020 (s 2 (1))

### **COVID-19 Emergency Response Legislation Amendment Act 2020 A2020-14 sch 1 pt 1.32, amdt 1.142**

notified LR 13 May 2020

s 1, s 2 taken to have commenced 30 March 2020 (LA s 75 (2))

sch 1 pt 1.32, amdt 1.142 commenced 14 May 2020 (s 2 (1))

*Note* This Act also amends the Working with Vulnerable People (Background Checking) Amendment Act 2019 [A2019-13](#).

### **Working with Vulnerable People (Background Checking) Amendment Act 2020 A2020-29**

notified LR 23 May 2019

s 1, s 2 commenced 23 May 2019 (LA s 75 (1))

remainder commenced 1 February 2021 (s 2 (a) and see [A2019-13](#) s 2 (as am by [A2020-14](#) amdt 1.142) and [CN2021-1](#))

## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### When does Act apply to a regulated activity?

s 3 table sub [A2012-21](#) amdt 1.5  
exp 8 November 2018 (s 3 (2))

### Best interests of vulnerable people paramount consideration

s 6A ins [A2020-29](#) s 4

### What is a *regulated activity*?

s 8 am [A2019-13](#) s 4

### What is an *NDIS activity*?

s 8A ins [A2019-13](#) s 5

### When is a person *engaged* in a regulated activity?

s 9 am [A2020-29](#) s 5

### What is *contact* with a vulnerable person?

s 10 am [A2019-13](#) s 6, s 7; [A2020-29](#) s 6

### Who is an *employer*?

s 11 sub [A2019-13](#) s 8

### Meaning of *relevant offence*

s 11A ins [A2020-29](#) s 7

### Meaning of *disqualifying offence* etc

s 11B ins [A2020-29](#) s 7

### When is a person required to be registered?

s 12 am [A2015-29](#) amdt 2.92; [A2019-13](#) ss 9-12; [A2020-29](#) s 8,  
s 9; ss renum R16 LA

### Offences—person engage in regulated activity for which person not registered

s 13 am [A2020-29](#) s 10, s 11

### Offences—employer engage person in regulated activity for which person not registered

s 14 am [A2020-29](#) s 12, s 13

### When unregistered person may be engaged in regulated activity—supervised employment

s 15 am [A2019-13](#) s 13, s 14; pars renum R16 LA

## Endnotes

### 4 Amendment history

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#### **Interim bar—supervised employment**

s 15A hdg sub [A2020-29](#) s 14  
s 15A ins [A2019-13](#) s 15  
am [A2020-29](#) s 15

#### **When unregistered person may be engaged in regulated activity—kinship carer**

s 16 am [A2015-46](#) amdt 1.1; [A2020-29](#) s 16, s 17

#### **Meaning of *application*—pt 4**

s 16A ins [A2019-13](#) s 16

#### **Application for registration**

s 17 sub [A2019-13](#) s 17  
am [A2020-29](#) s 18, s 19; ss renum R16 LA

#### **Application for registration—contents**

s 18 am [A2019-13](#) ss 18-22; pars renum R16 LA

#### **Application for registration for NDIS activity—additional contents**

s 18A ins [A2019-13](#) s 23

#### **Application for registration—additional information**

s 19 am [A2019-13](#) s 24

#### **Application for registration—withdrawal**

s 20 am [A2019-13](#) s 25, s 26; ss renum R16 LA

#### **Offences—applicant fail to disclose charge, conviction or finding of guilt for relevant offence**

s 21 hdg sub [A2019-13](#) s 27; [A2020-29](#) s 20  
s 21 am [A2019-13](#) s 28; [A2020-29](#) s 21

#### **Offence—applicant fail to disclose change in relevant information**

s 21A ins [A2019-13](#) s 29

#### **Restriction on reapplying for registration**

s 22 am [A2019-13](#) s 30, s 31; [A2020-29](#) s 22; ss renum R16 LA

#### **Meaning of *criminal history***

s 24 am [A2015-45](#) amdt 1.9  
sub [A2019-13](#) s 32; [A2020-29](#) s 23

#### **Meaning of *non-conviction information***

s 25 am [A2019-13](#) s 33  
sub [A2020-29](#) s 23

#### **Meaning of *relevant offence***

s 26 om [A2020-29](#) s 23

**Meaning of *disqualifying offence* etc**

s 26A ins [A2019-13](#) s 34  
om [A2020-29](#) s 23

**Risk assessment guidelines**

s 27 am [A2013-19](#) amdt 3.517

**Risk assessment guidelines—content**

s 28 am [A2014-44](#) amdt 3.86; [A2016-42](#) amdt 3.107; [A2019-13](#)  
s 35, s 36; [A2020-29](#) s 24, s 25

**Risk assessment guidelines—criminal history**

s 29 sub [A2019-13](#) s 37; [A2020-29](#) s 26

**Risk assessment guidelines—non-conviction information**

s 30 am [A2019-13](#) s 38; [A2020-29](#) s 27, s 28

**Risk assessments**

s 32 am [A2020-29](#) s 29

**Commissioner may request information from an entity to conduct risk assessments**

s 33 sub [A2016-39](#) s 12  
am [A2019-13](#) s 39, s 40; ss renum R16 LA

**Independent advisors—appointment**

s 34 am [A2014-44](#) amdt 3.87, amdt 3.88; [A2020-29](#) s 30

**Independent advisors—advice**

s 35 am [A2019-13](#) s 41

**Proposed negative notices**

s 37 am [A2019-13](#) s 42; [A2020-29](#) s 31; ss renum R16 LA

**Reconsideration of negative risk assessments**

s 38 am [A2019-13](#) s 43

**Negative notices**

s 40 am [A2014-44](#) amdt 3.89; [A2019-13](#) s 44; [A2020-29](#) ss 32-36;  
pars, ss renum R16 LA

**Registration**

s 41 am [A2019-13](#) s 45, s 46; [A2020-29](#) s 37; ss renum R16 LA

**Conditional registration**

s 42 am [A2020-29](#) s 38

**Conditional registration—class A disqualifying offence**

s 42A ins [A2020-29](#) s 39

**Conditional registration—role-based registration**

s 42B ins [A2020-29](#) s 39

## Endnotes

4 Amendment history

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### **Conditional registration—disqualifying offences**

s 42C ins [A2020-29](#) s 39

### **Proposed conditional registration**

s 43 am [A2014-44](#) amdt 3.90; [A2020-29](#) s 40, s 41

### **Reconsideration of proposed conditional registration**

s 44 am [A2019-13](#) ss 47-49; ss renum R16 LA

### **Notice of conditional registration**

s 46 am [A2020-29](#) s 42; ss renum R16 LA

### **Conditional registration—amendment**

s 47 am [A2019-13](#) s 50; ss renum R16 LA

### **Restrictions on reapplying for amendment of conditional registration**

s 47A ins [A2019-13](#) s 51

### **Registration cards**

div 6.2 hdg om [A2019-13](#) s 52

### **Registration cards**

s 49 am [A2014-44](#) amdt 3.91

om [A2019-13](#) s 52

### **Offence—fail to produce registration card**

s 50 om [A2019-13](#) s 52

### **Lost, stolen or damaged registration cards**

s 51 am [A2013-19](#) amdt 3.518

om [A2019-13](#) s 52

### **Offence—fail to return registration card**

s 52 om [A2019-13](#) s 52

### **Commissioner may request information from entities about registered people**

s 53 sub [A2016-39](#) s 13

am [A2019-13](#) s 53, s 54; ss renum R16 LA

### **Additional risk assessments**

s 54 am [A2019-13](#) s 55, s 56

### **Interim conditional registration**

s 54A ins [A2019-13](#) s 57

am [A2020-29](#) s 43

### **Offence—registered person contravene interim condition of registration**

s 54B ins [A2019-13](#) s 57

**Offences—registered person fail to disclose charge, conviction or finding of guilt for relevant offence**

s 55 hdg sub [A2019-13](#) s 58; [A2020-29](#) s 44  
 s 55 am [A2019-13](#) s 59; [A2020-29](#) s 45

**Offence—applicant fail to disclose change in relevant information**

s 55A ins [A2019-13](#) s 60

**Offence—fail to notify change of name**

s 56 hdg sub [A2020-29](#) s 46  
 s 56 am [A2019-13](#) s 61, s 62

**Automatic cancellation—class A disqualifying offence**

s 56A ins [A2020-29](#) s 47

**Registration cards**

s 58 am [A2014-44](#) amdt 3.92; [A2020-29](#) s 48

**Suspension or cancellation of registration**

s 59 am [A2019-13](#) s 63, s 64; [A2020-29](#) s 49

**Surrendering registration**

s 60 am [A2013-19](#) amdt 3.519, amdt 3.520; [A2013-19](#) s 65, s 66;  
 ss renum R16 LA

**COVID-19 emergency response**

div 6.6 hdg ins [A2020-11](#) amdt 1.69  
exp at the end of a 6-month period during which no COVID-19  
 emergency has been in force (s 60D)

**Definitions—div 6.6**

s 60A ins [A2020-11](#) amdt 1.69  
 sub [A2020-14](#) amdt 1.138  
exp at the end of a 6-month period during which no COVID-19  
 emergency has been in force (s 60D)

**Extending registration—COVID-19 emergency period**

s 60B ins [A2020-11](#) amdt 1.69  
 am [A2020-14](#) amdt 1.139  
exp at the end of a 6-month period during which no COVID-19  
 emergency has been in force (s 60D)

**Renewing expired registration—COVID-19 emergency period**

s 60C ins [A2020-11](#) amdt 1.69  
 am [A2020-14](#) amdt 1.140  
exp at the end of a 6-month period during which no COVID-19  
 emergency has been in force (s 60D)

## Endnotes

### 4 Amendment history

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#### **Expiry—div 6.6**

s 60D ins [A2020-11](#) amdt 1.69  
am [A2020-14](#) amdt 1.141  
exp at the end of a 6-month period during which no COVID-19  
emergency has been in force (s 60D)

#### **Information sharing**

pt 7A hdg ins [A2016-39](#) s 14

#### **Commissioner may give information to particular entities**

s 63A ins [A2016-39](#) s 14  
am [A2016-39](#) s 15; pars renum R10 LA; [A2019-13](#) s 67, s 68;  
[A2019-38](#) amdt 1.30, amdt 1.31; pars renum R16 LA

#### **Particular entities may give information to commissioner**

s 63B ins [A2016-39](#) s 14  
am [A2019-13](#) s 69, s 70; [A2019-38](#) amdt 1.32, amdt 1.33; pars  
renum R16 LA

#### **Commissioner may give information to employers**

s 63C ins [A2019-13](#) s 71  
am [A2020-29](#) s 50  
reloc to pt 7A [A2020-29](#) s 51

#### **Approved forms**

s 69 om [A2019-13](#) s 72

#### **Review of Act**

s 70 exp 8 November 2020 (s 70 (2))

#### **Regulation-making power**

s 71 am [A2014-44](#) amdt 3.93

#### **Transitional—Working with Vulnerable People (Background Checking) Amendment Act 2020**

pt 9 hdg ins [A2020-29](#) s 52  
exp 1 February 2026 (s 74)

#### **Meaning of commencement day—pt 9**

s 72 om LA s 89 (3)  
ins [A2020-29](#) s 52  
exp 1 February 2026 (s 74)

#### **Foster carers**

s 73 ins [A2020-29](#) s 52  
exp 1 February 2026 (s 74)

#### **Expiry—pt 9**

s 74 ins [A2020-29](#) s 52  
exp 1 February 2026 (s 74)



**Regulated activities**

sch 1 am [A2015-22](#) amdt 1.1; [A2015-46](#) amdt 1.2; [A2018-19](#)  
amdt 1.21, amdt 1.22

**Reviewable decisions**

sch 2 am [A2019-13](#) ss 73-75; [A2020-29](#) s 53, s 54; items renum R16  
LA

**Disqualifying offences**

sch 3 ins [A2019-13](#) s 76  
sub [A2020-29](#) s 55

**Dictionary**

dict am [A2019-13](#) s 77; [A2019-38](#) amdt 1.34, amdt 1.35  
def **ACT Teacher Quality Institute** ins [A2016-39](#) s 16  
def **adult conviction or finding of guilt** ins [A2020-29](#) s 56  
def **Animal Welfare Act** ins [A2019-13](#) s 78  
def **application** ins [A2019-13](#) s 78  
def **class A disqualifying offence** ins [A2019-13](#) s 78  
sub [A2020-29](#) s 57  
def **class B disqualifying offence** ins [A2019-13](#) s 78  
sub [A2020-29](#) s 57  
def **Crimes Act** ins [A2019-13](#) s 78  
def **Criminal Code** ins [A2019-13](#) s 78  
def **disqualifying offence** ins [A2019-13](#) s 78  
sub [A2020-29](#) s 57  
def **Drugs of Dependence Act** ins [A2020-29](#) s 58  
def **interim bar** ins [A2019-13](#) s 78  
om [A2020-29](#) s 59  
def **interim condition** ins [A2019-13](#) s 78  
def **kinship care activity** ins [A2020-29](#) s 60  
def **kinship carer** ins [A2020-29](#) s 60  
def **NDIS Act** ins [A2019-13](#) s 78  
def **NDIS activity** ins [A2019-13](#) s 78  
def **NDIS quality and safeguards commission** ins [A2019-13](#)  
s 78  
def **registered NDIS provider** ins [A2019-13](#) s 78  
def **registration card** om [A2019-13](#) s 79  
def **registration number** om [A2014-44](#) amdt 3.94  
def **relevant offence** sub [A2020-29](#) s 61  
def **Road Transport (Safety and Traffic Management) Act**  
ins [A2020-29](#) s 62  
def **role-based registration** sub [A2020-29](#) s 63  
def **Sex Work Act** ins [A2019-13](#) s 78  
def **young adult relationship** ins [A2020-29](#) s 64

## Endnotes

### 5 Earlier republications

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#### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 8 Nov 2012	8 Nov 2012– 13 June 2012	<a href="#">A2012-21</a>	new Act and amendments by <a href="#">A2012-21</a>
R2 14 June 2013	14 June 2013– 18 Nov 2014	<a href="#">A2013-19</a>	amendments by <a href="#">A2013-19</a>
R3 19 Nov 2014	19 Nov 2014– 30 June 2015	<a href="#">A2014-44</a>	amendments by <a href="#">A2014-44</a>
R4 1 July 2015	1 July 2015– 6 Nov 2015	<a href="#">A2015-22</a>	amendments by <a href="#">A2015-22</a>
R5 7 Nov 2015	7 Nov 2015– 30 Nov 2015	<a href="#">A2015-45</a>	amendments by <a href="#">A2015-45</a>
R6 1 Dec 2015	1 Dec 2015– 31 Dec 2015	<a href="#">A2015-45</a>	amendments by <a href="#">A2015-29</a>
R7 1 Jan 2016	1 Jan 2016– 17 Aug 2016	<a href="#">A2015-46</a>	amendments by <a href="#">A2015-46</a>
R8 18 Aug 2016	18 Aug 2016– 30 Apr 2017	<a href="#">A2016-39</a>	amendments by <a href="#">A2016-39</a>
R9 1 May 2017	1 May 2017– 30 June 2017	<a href="#">A2017-10</a>	amendments by <a href="#">A2016-42</a> as amended by <a href="#">A2017-10</a>
R10 1 July 2017	1 July 2017– 23 May 2018	<a href="#">A2017-10</a>	amendments by <a href="#">A2016-39</a>
R11 24 May 2018	24 May 2018– 8 Nov 2018	<a href="#">A2018-19</a>	amendments by <a href="#">A2018-19</a>

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R12 9 Nov 2018	9 Nov 2018– 7 Apr 2020	<a href="#">A2018-19</a>	expiry of provision (s 3)
R13 8 Apr 2020	8 Apr 2020– 13 May 2020	<a href="#">A2020-11</a>	amendments by <a href="#">A2020-11</a>
R14 14 May 2020	14 May 2020– 8 Nov 2020	<a href="#">A2020-14</a>	amendments by <a href="#">A2020-14</a>
R15 9 Nov 2020	9 Nov 2020– 31 Jan 2021	<a href="#">A2020-14</a>	expiry of provision (s 70)

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