

2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Disability, Housing and Community Services)

Working with Vulnerable People (Background Checking) Bill 2010

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2010

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Disability, Housing and Community Services)

Working with Vulnerable People (Background Checking) Bill 2010

A Bill for

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

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2009-767

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Working with Vulnerable People (Background*
4 *Checking) Act 2010*.

5 **2 Commencement**

6 (1) This Act commences on a day fixed by the Minister by written
7 notice.

8 *Note 1* The naming and commencement provisions automatically commence on
9 the notification day (see Legislation Act, s 75 (1)).

10 *Note 2* A single day or time may be fixed, or different days or times may be
11 fixed, for the commencement of different provisions (see Legislation
12 Act, s 77 (1)).

13 (2) If this Act has not commenced within 12 months beginning on its
14 notification day, it automatically commences on the first day after
15 that period.

16 (3) The Legislation Act, s 79 (Automatic commencement of postponed
17 law) does not apply to this Act.

1 **3 Dictionary**

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

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

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

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

13 **4 Notes**

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

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

17 **5 Offences against Act—application of Criminal Code etc**

18 Other legislation applies in relation to offences against this Act.

19 *Note 1* *Criminal Code*

20 The Criminal Code, ch 2 applies to all offences against this Act (see
21 Code, pt 2.1).

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

26 *Note 2* *Penalty units*

27 The Legislation Act, s 133 deals with the meaning of offence penalties
28 that are expressed in penalty units.

1 **Part 2** **Important concepts**

2 **6** **Who is a *vulnerable person*?**

3 In this Act:

4 ***vulnerable person*** means—

5 (a) a child; or

6 (b) an adult who is—

7 (i) disadvantaged; and

8 (ii) accessing a regulated activity in relation to the
9 disadvantage.

10 **Examples—disadvantaged**

11 1 an adult with a physical or mental disability

12 2 an adult who suffers social or financial hardship

13 3 an adult who cannot communicate, or who has difficulty
14 communicating, in English

15 *Note* An example is part of the regulation, is not exhaustive and may
16 extend, but does not limit, the meaning of the provision in which
17 it appears (see Legislation Act, s 126 and s 132).

18 **7** **What is a *regulated activity*?**

19 (1) In this Act:

20 ***regulated activity***—

21 (a) means—

22 (i) an activity or service mentioned in schedule 1; or

23 (ii) an activity or service prescribed by regulation; but

24 (b) does not include an activity or service declared by the Minister
25 under subsection (2).

1 (2) The Minister may declare that a stated activity or service is not a
2 regulated activity.

3 (3) A declaration is a disallowable instrument.

4 *Note* A disallowable instrument must be notified, and presented to the
5 Legislative Assembly, under the Legislation Act.

6 **8 When is a person *engaged* in a regulated activity?**

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

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

10 *Note* **Contact**, between a person and a vulnerable person as part of
11 engaging in a regulated activity—see s 9.

12 (b) is engaged in the activity in any capacity and whether—

13 (i) for reward or otherwise; or

14 (ii) under an arrangement with someone else or otherwise.

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

16 1 employee

17 2 contractor or subcontractor

18 3 consultant

19 4 self-employed person

20 5 apprentice

21 6 volunteer

22 7 agent

23 8 supervisor

24 9 person on a work experience placement for an educational or
25 vocational course

26 10 person carrying out work for a sentence, including a community
27 service order

1 11 member of a management committee of an unincorporated body or
2 association

3 12 minister of religion for a religious organisation

4 *Note* An example is part of the Act, is not exhaustive and may extend,
5 but does not limit, the meaning of the provision in which it
6 appears (see Legislation Act, s 126 and s 132).

7 **9 What is *contact* with a vulnerable person?**

8 In this Act:

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

11 (a) would reasonably be expected as a normal part of engaging in
12 the activity; and

13 (b) is not incidental to engaging in the activity; and

14 (c) is 1 or more of the following:

15 (i) physical contact, including engaging in the activity at the
16 same place as the vulnerable person;

17 **Examples—same place**

18 1 an office

19 2 anywhere on a school campus

20 *Note* An example is part of the Act, is not exhaustive and may
21 extend, but does not limit, the meaning of the provision in
22 which it appears (see Legislation Act, s 126 and s 132).

23 (ii) oral communication, whether face-to-face or by
24 telephone;

25 (iii) written communication, including—

26 (A) electronic communication; or

27 (B) dealing with a record relating to the vulnerable
28 person;

1 (iv) making a decision that affects the vulnerable person.

2 **Examples—contact**

3 1 A water main bursts at a school during school hours. A plumber is called to
4 the school to fix the problem. Despite working near children, the plumber's
5 contact with the children is not contact for this Act for either of the following
6 reasons:

7 (a) it would not reasonably be expected as a normal part of plumbing;

8 (b) it is incidental to the plumber's activity.

9 2 A school janitor routinely carries out minor repairs at a school during school
10 hours. The janitor's contact with the children is contact for this Act as the
11 contact—

12 (a) would reasonably be expected as a normal part of the janitor's
13 activities; and

14 (b) is not incidental to the janitor's activities; and

15 (c) is physical contact, as the janitor is carrying out the activities in the
16 same place as children.

17 **10 Who is an employer?**

18 In this Act:

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

21 **Examples—employer**

22 1 principal contractor is an employer of a subcontractor

23 2 charitable organisation is an employer of a volunteer

24 3 religious organisation is an employer of a minister of religion

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

27 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
28 does not limit, the meaning of the provision in which it appears (see
29 Legislation Act, s 126 and s 132).

1 **Part 3 Requirement for registration**

2 **11 When is a person required to be registered?**

- 3 (1) A person is required to be registered to engage in a regulated
4 activity.
- 5 (2) However, a person is not required to be registered to engage in a
6 regulated activity if the person is—
- 7 (a) under 16 years old; or
- 8 (b) engaged in the activity (other than an overnight camp for
9 children) for not more than—
- 10 (i) 3 days in any 4-week period; and
- 11 (ii) 7 days in any 12-month period; or
- 12 (c) registered under a corresponding law and—
- 13 (i) the activity is substantially similar to a regulated activity
14 the person is allowed to engage in under the
15 corresponding law; and
- 16 (ii) the person is engaged in the activity for not more than
17 28 days in any 12-month period; or
- 18 *Note Corresponding law*—see the dictionary.
- 19 (d) a close relative of each vulnerable person taking part in the
20 activity with whom the person has contact; or
- 21 (e) engaged in the activity as a volunteer and—
- 22 (i) is a close relative of a vulnerable person taking part, or
23 who normally takes part, in the activity; and

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

4 **Examples**

- 5 1 playgroup
6 2 a club sporting event for children at which a parent of each child is
7 expected to be present
8 3 a pottery class for children in which a parent of each child also takes
9 part

10 *Note* An example is part of the Act, is not exhaustive and may extend,
11 but does not limit, the meaning of the provision in which it
12 appears (see Legislation Act, s 126 and s 132).

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

15 **Examples**

- 16 1 players in a sporting team
17 2 work colleagues

- 18 (g) engaged in the activity as a high school student doing practical
19 training for an educational or vocational course; or

- 20 (h) engaged in the activity as—

- 21 (i) a police officer; or
22 (ii) a registered health professional under the *Health*
23 *Professionals Act 2004* or a health practitioner; or
24 (iii) a lawyer; or
25 (iv) a staff member of, or volunteer for, an approved provider
26 under the *Aged Care Act 1997* (Cwlth); or
27 (v) a financial services licensee under the Corporations Act;
28 or

1 (i) engaged in the activity for a Commonwealth or Territory
2 government agency and the only contact the person has with a
3 vulnerable person is—

4 (i) working with a record of the vulnerable person; or

5 (ii) providing a service to the vulnerable person at a public
6 counter or shopfront; or

7 **Example**

8 an administrative worker employed by Centrelink or Medicare

9 (j) engaged in the activity for a declared state of emergency; or

10 *Note* A state of emergency may be declared under the *Emergencies*
11 *Act 2004*, s 156.

12 (k) engaged in the activity for a Territory or national event and the
13 commissioner declares that the person is not required to be
14 registered for the activity; or

15 **Examples—Territory or national event**

16 1 Paralympics

17 2 World Youth Day

18 *Note* **Commissioner** means the commissioner for fair trading (see the
19 dictionary).

20 (l) a person prescribed by regulation.

21 (3) A declaration is a notifiable instrument.

22 *Note* A notifiable instrument must be notified under the Legislation Act.

23 (4) In this section:

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

25 (a) means the vulnerable person's—

26 (i) domestic partner; or

27 *Note* **Domestic partner**—see the Legislation Act, s 169.

- 1 (ii) father, mother, grandfather, grandmother, stepfather,
2 stepmother, father-in-law or mother-in-law; or
- 3 (iii) son, daughter, grandson, granddaughter, stepson,
4 stepdaughter, son-in-law or daughter-in-law; or
- 5 (iv) brother, sister, half-brother, half-sister, stepbrother,
6 stepsister, brother-in-law or sister-in-law; or
- 7 (v) uncle, aunt, uncle-in-law or aunt-in-law; or
- 8 (vi) nephew, niece or cousin; but
- 9 (b) does not include a kinship carer under the *Children and Young*
10 *People Act 2008*.

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

14 *day* includes part of a day.

15 **12 Offences—person engage in regulated activity for which**
16 **person not registered**

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

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

24 *Note 1* A person with conditional registration may not be allowed to engage in
25 all regulated activities (see s 37).

26 *Note 2* A person whose registration is suspended does not have a registration
27 allowing the person to engage in a regulated activity (see s 53 (5)).

Part 3 Requirement for registration

Section 12

1 *Note 3* The employer for the regulated activity also commits an offence
2 (see s 13).

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

4 (3) A person commits an offence if the person—

5 (a) engages in a regulated activity; and

6 (b) is required to be registered to engage in the activity; and

7 (c) does not have a registration allowing the person to engage in
8 the activity; and

9 (d) knows, or is reckless about whether, the person—

10 (i) is engaging in a regulated activity; and

11 (ii) is required to be registered to engage in the activity.

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

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

15 (5) This section does not apply to a person if—

16 (a) the person is not registered; but

17 (b) the person engages in a regulated activity under section 14.

18 *Note 1* An unregistered person who has applied for registration may engage in
19 a regulated activity for which the person is required to be registered in
20 certain circumstances (see s 14).

21 *Note 2* The defendant has an evidential burden in relation to the matters
22 mentioned in s (4) (see Criminal Code, s 58).

- 1 **13 Offences—employer engage person in regulated activity**
2 **for which person not registered**
- 3 (1) An employer commits an offence if—
- 4 (a) the employer engages a person in a regulated activity; and
- 5 (b) the person is required to be registered to engage in the activity;
- 6 and
- 7 (c) the person does not have a registration allowing the person to
- 8 engage in the activity.
- 9 *Note 1* A person with conditional registration may not be allowed to
- 10 engage in all regulated activities (see s 37).
- 11 *Note 2* A person whose registration is suspended does not have a
- 12 registration allowing the person to engage in a regulated activity
- 13 (see s 53 (5)).
- 14 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 15 both.
- 16 (2) An offence against subsection (1) is a strict liability offence.
- 17 (3) An employer commits an offence if—
- 18 (a) the employer engages a person in a regulated activity; and
- 19 (b) the person is required to be registered to engage in the activity;
- 20 and
- 21 (c) the person does not have a registration allowing the person to
- 22 engage in the activity; and
- 23 (d) the employer knows, or is reckless about whether—
- 24 (i) the employer is engaging the person in a regulated
- 25 activity; and
- 26 (ii) the person is required to be registered to engage in the
- 27 activity.

- 1 (4) Strict liability applies to subsection (3) (c).
2 Maximum penalty: 200 penalty units, imprisonment for 2 years or
3 both.
- 4 (5) This section does not apply to an employer if an unregistered person
5 engages in a regulated activity for the employer under section 14.
- 6 *Note 1* An unregistered person who has applied for registration may engage in
7 a regulated activity for which the person is required to be registered in
8 certain circumstances (see s 14).
- 9 *Note 2* The defendant has an evidential burden in relation to the matters
10 mentioned in s (2) (see Criminal Code, s 58).

11 **14 When unregistered person may be engaged in regulated**
12 **activity**

- 13 (1) This section applies to an unregistered person if—
14 (a) the person has applied for registration under section 15; and
15 (b) the commissioner has not—
16 (i) registered the person under section 36; or
17 (ii) given the person a negative notice under section 35; and
18 (c) the person has not withdrawn the application.
- 19 (2) The person may engage in a regulated activity for which the person
20 is required to be registered if, and only if—
21 (a) the person is eligible; and
22 (b) the person included a named employer for the activity on the
23 person's application for registration; and
24 *Note* **Named employer**—see s 16 (1) (d) (i)
- 25 (c) the named employer has agreed to engage the person in the
26 activity; and

- 1 (d) a registered person is present at all times while the unregistered
2 person is engaged in the activity.
- 3 *Note* An unregistered person who is engaging in a regulated activity under
4 this section commits an offence under s 12 if the person continues to
5 engage in the activity after—
- 6 (a) the person's application for registration is withdrawn (see s 18);
7 or
8 (b) the person is given a negative notice (see s 35).
- 9 (3) To remove any doubt, nothing in this section prevents an employer
10 refusing to engage an unregistered person in a regulated activity.
- 11 (4) In this section:
- 12 *eligible*—a person is *eligible* if—
- 13 (a) the person has not previously been given a negative notice
14 under this Act or a corresponding law; and
- 15 (b) the person has not had a previous registration suspended or
16 cancelled; and
- 17 (c) the person's most recent registration (if any) was not
18 conditional.

1 **Part 4 Applying for registration**

2 **15 Application for registration**

3 (1) A person may apply to the commissioner for registration under this
4 Act.

5 *Note 1* **Commissioner** means the commissioner for fair trading (see the
6 dictionary).

7 *Note 2* If a form is approved under s 62 for this provision, the form must be
8 used.

9 *Note 3* A fee may be determined under s 61 for this provision.

10 (2) This section is subject to section 20.

11 *Note* Under s 20, a person who is given a negative notice or whose
12 registration is cancelled must not reapply for registration for 3 years,
13 unless relevant information about the person has changed.

14 **16 Application for registration—contents**

15 (1) An application for registration must include—

16 (a) the applicant's name and any previous name; and

17 (b) the applicant's current home address, and any previous home
18 address in the 5 years before applying; and

19 (c) evidence of the applicant's identity; and

20 **Example**

21 100 points of identification

22 *Note* An example is part of the Act, is not exhaustive and may extend,
23 but does not limit, the meaning of the provision in which it
24 appears (see Legislation Act, s 126 and s 132).

- 1 (d) if the applicant engages, or intends to engage, in a regulated
2 activity for a particular employer—
- 3 (i) the employer (the *named employer*) for the activity; and
4 (ii) the named employer's address and contact details; and
5 (iii) the capacity in which the applicant engages, or intends to
6 engage, in the activity for the named employer; and
7 (e) anything else prescribed by regulation.
- 8 (2) The application must be accompanied by—
- 9 (a) a consent by the applicant for the commissioner to—
- 10 (i) check the applicant's criminal history, non-conviction
11 information and any other information about the applicant
12 that may be relevant in deciding the application; and
- 13 *Note 1 Criminal history*, about a person—see s 22.
14 *Note 2 Non-conviction information*, about a person—see s 23.
- 15 (ii) seek information or advice from any entity in relation to
16 the applicant's—
- 17 (A) application under section 31; or
18 (B) registration under section 47; and
- 19 (iii) contact the named employer (if any) in relation to the
20 status of the applicant's application or registration; and
- 21 *Note* For example, the commissioner must tell a person's
22 employer if the person withdraws an application
23 (see s 18 (2) (a)), if the commissioner registers the person
24 (see s 36 (2) (c)), if the commissioner refuses to register
25 the person (see s 35 (2) (b)), if there is a change in an
26 applicant's registration status as a result of an additional
27 risk assessment (see s 48), or if a person's registration is
28 suspended or cancelled (see s 53 (2) (b)).

- 1 (b) a statutory declaration by the applicant stating—
2 (i) whether the applicant has been convicted or found guilty
3 of a relevant offence outside Australia; and
4 (ii) if the applicant has been convicted or found guilty of a
5 relevant offence outside Australia—details of the offence;
6 and
7 (c) anything else prescribed by regulation.

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

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

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

18 *Note* The commissioner may tell the applicant about the matters in s (3) in
19 any way the commissioner considers appropriate, including on a form
20 approved for s 15 or in guidelines made for this Act.

21 **17 Application for registration—additional information**

- 22 (1) The commissioner may, in writing, require an applicant to give the
23 commissioner additional information in writing or documents that
24 the commissioner reasonably needs to decide the application.

- 1 (2) If the applicant does not comply with a requirement under
2 subsection (1), the commissioner may refuse to consider the
3 application further.

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

7 **18 Application for registration—withdrawal**

- 8 (1) An applicant may withdraw an application at any time by written
9 notice to the commissioner.

10 *Note* If a form is approved under s 62 for this provision, the form must be
11 used.

- 12 (2) If an application is withdrawn the commissioner—

13 (a) must tell the named employer (if any) that the application has
14 been withdrawn; and

15 (b) need take no further action on the application.

16 *Note* If an unregistered person engaging in a regulated activity under s 14
17 withdraws the person's application for registration, the person commits
18 an offence under s 12 if the person continues to engage in the activity.

19 **19 Offences—applicant fail to disclose charge, conviction or**
20 **finding of guilt for relevant offence**

- 21 (1) A person commits an offence if—

22 (a) the person has applied for registration; and

23 (b) the commissioner has not—

24 (i) told the person that the person has been registered; or

25 (ii) given the person a negative notice; and

26 (c) the person is charged with a relevant offence; and

- 1 (d) the person does not tell the commissioner about the charge in
2 writing within 14 days after the day the person is charged.
- 3 Maximum penalty: 50 penalty units, imprisonment for 6 months or
4 both.
- 5 (2) A person commits an offence if—
- 6 (a) the person has applied for registration; and
- 7 (b) the commissioner has not—
- 8 (i) told the person that the person has been registered; or
- 9 (ii) given the person a negative notice; and
- 10 (c) the person is convicted or found guilty of a relevant offence;
11 and
- 12 (d) the person does not tell the commissioner about the conviction
13 or finding of guilt in writing within 14 days after the day the
14 person is convicted or found guilty.
- 15 Maximum penalty: 50 penalty units, imprisonment for 6 months or
16 both.
- 17 (3) An offence against this section is a strict liability offence.

18 **20 Restriction on reapplying for registration**

- 19 (1) This section applies to a person if—
- 20 (a) the person is given a negative notice; or
- 21 *Note Negative notice—see s 35 (2).*
- 22 (b) the person's registration is cancelled.
- 23 (2) The person may apply for registration under section 15 only if—
- 24 (a) it is at least 3 years after the day—
- 25 (i) the person was given the negative notice; or

1 (ii) the cancellation took effect; or

2 *Note* For when a cancellation takes effect, see s 53 (4).

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

5 (i) the person was given the negative notice; or

6 (ii) the cancellation took effect

7 **Examples—change in relevant information**

8 1 a person has been acquitted of a previously pending charge for a
9 relevant offence

10 2 a person's conviction for a relevant offence has been quashed

11 *Note* An example is part of the Act, is not exhaustive and may extend,
12 but does not limit, the meaning of the provision in which it
13 appears (see Legislation Act, s 126 and s 132).

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

1 **Part 5 Risk assessments**

2 **Division 5.1 Important concepts**

3 **21 Meaning of *risk assessment***

4 (1) In this Act:

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

8 **Examples—harm**

- 9 1 sexual
10 2 physical
11 3 emotional
12 4 financial

13 *Note* An example is part of the Act, is not exhaustive and may extend, but
14 does not limit, the meaning of the provision in which it appears (see
15 Legislation Act, s 126 and s 132).

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

18 **22 Meaning of *criminal history***

19 In this Act:

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

22 *Note* A conviction does not include a spent conviction (see *Spent Convictions*
23 *Act 2000*, s 16 (c) (i)).

1 **23** **Meaning of *non-conviction information***

2 In this Act:

3 ***non-conviction information***, about a person, means any of the
4 following information about a relevant offence (or an alleged
5 relevant offence):

- 6 (a) the person has been charged with the offence but—
- 7 (i) a proceeding for the alleged offence is not finalised; or
- 8 (ii) the charge has lapsed, been withdrawn or discharged, or
9 struck out;
- 10 (b) the person has been acquitted of the alleged offence;
- 11 (c) the person has had a conviction for the alleged offence quashed
12 or set aside;
- 13 (d) the person has been served with an infringement notice for the
14 alleged offence;
- 15 (e) the person has a spent conviction for the offence.

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

19 **24** **Meaning of *relevant offence***

20 In this Act:

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

- 23 (a) a sexual offence;
- 24 (b) an offence against the person;
- 25 (c) an offence involving violence;
- 26 (d) an offence involving dishonesty or fraud;

- 1 (e) an offence relating to property;
- 2 (f) an offence involving possession of, or trafficking in, a drug of
3 dependence or controlled drug;
- 4 (g) an offence against an animal;
- 5 (h) a driving offence.
- 6 *Note* A reference to an offence includes a reference to a related ancillary
7 offence, eg attempt (see Legislation Act, s 189).

8 Division 5.2 Risk assessment guidelines

9 25 Risk assessment guidelines

- 10 (1) The commissioner must make guidelines (*risk assessment*
11 *guidelines*) about how risk assessments are to be conducted under
12 this Act.
- 13 (2) A guideline may apply, adopt or incorporate an instrument, as in
14 force from time to time.
- 15 *Note* The text of an applied, adopted or incorporated instrument, whether
16 applied as in force from time to time or as at a particular time, is taken
17 to be a notifiable instrument if the operation of the Legislation Act, s 47
18 (5) or (6) is not disappplied (see s 47 (7)).
- 19 (3) A risk assessment guideline is a notifiable instrument.
- 20 *Note* A notifiable instrument must be notified under the Legislation Act.

21 26 Risk assessment guidelines—content

- 22 (1) The risk assessment guidelines must provide for—
- 23 (a) matters the commissioner must or may take into account in
24 conducting a risk assessment; and
- 25 (b) how those matters must or may be taken into account.

1 (2) Without limiting subsection (1), the risk assessment guidelines must
2 provide for the following to be taken into account in conducting a
3 risk assessment for a person in relation to a regulated activity:

4 (a) the person's criminal history;

5 *Note* The risk assessment guidelines must provide for certain matters to
6 be taken into account in relation to relevant offences included in
7 the person's criminal history—see s 27.

8 (b) non-conviction information about the person;

9 *Note* The risk assessment guidelines must provide for certain matters to
10 be taken into account in relation to relevant offences, or alleged
11 relevant offences, included in the non-conviction information
12 about the person—see s 28.

13 (c) whether the person was previously given a negative notice
14 under this Act or a corresponding law;

15 (d) whether the person was previously registered under this Act or
16 a corresponding law (including whether the registration was
17 suspended or cancelled);

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

22 **Examples—par (e)**

23 1 an order made against the person made under the *Domestic Violence*
24 *and Protection Orders Act 2008*

25 2 a care and protection order under the *Children and Young People*
26 *Act 2008* for a child for whom the person has or had parental
27 responsibility under that Act

28 3 a professional disciplinary proceeding against the person

29 *Note 1* The risk assessment guidelines must provide for certain matters to
30 be taken into account in relation to other information—see s 29.

- 1 *Note 2* An example is part of the Act, is not exhaustive and may extend,
2 but does not limit, the meaning of the provision in which it
3 appears (see Legislation Act, s 126 and s 132).
- 4 (3) The risk assessment guidelines must provide that—
- 5 (a) the applicant may make submissions to the commissioner in
6 relation to any matter the commissioner must or may take into
7 account in conducting a risk assessment; and
- 8 (b) the commissioner must not take into account any information
9 about an applicant unless satisfied on reasonable grounds that
10 the information is accurate.

11 **27** **Risk assessment guidelines—criminal history**

12 The risk assessment guidelines must provide for the following to be
13 taken into account in relation to any relevant offence included in the
14 person's criminal history:

- 15 (a) the nature, gravity and circumstances of the offence;
- 16 (b) the relevance of the offence;
- 17 (c) how long ago the offence was committed;
- 18 (d) the age of the person and the victim at the time of the offence;
- 19 (e) whether the person's circumstances have changed since the
20 offence was committed;
- 21 (f) the person's attitude to the offence;
- 22 (g) if the person has undergone a program of treatment or
23 intervention for the offence—any assessment of the person
24 following the program;
- 25 (h) if the offence was committed outside Australia—whether the
26 offence is an offence in Australia;
- 27 (i) whether the person has committed any other relevant offence;

- 1 (j) any submission made by the person to the commissioner in
2 relation to the matters mentioned in paragraphs (a) to (i).

3 **28 Risk assessment guidelines—non-conviction information**

4 The risk assessment guidelines must provide for the following to be
5 taken into account in relation to any relevant offence, or any alleged
6 relevant offence, included in the non-conviction information about
7 the person:

- 8 (a) the nature, gravity and circumstances of the offence or alleged
9 offence;
- 10 (b) the relevance of the offence or alleged offence;
- 11 (c) how long ago the offence or alleged offence was committed;
- 12 (d) the age of the person and the victim at the time of the offence
13 or alleged offence;
- 14 (e) the truthfulness, completeness and reliability of any
15 information or evidence provided by the person who made the
16 allegation or provided the initial information;
- 17 (f) the nature, extent and outcome of any investigation into the
18 offence or alleged offence;
- 19 (g) any formal statement made by the person to a police officer,
20 including any answer given in a recorded interview, in relation
21 to the offence or alleged offence;
- 22 (h) any evidence given by the person in a court proceeding for the
23 offence or alleged offence;
- 24 (i) whether this was the person's first offence or alleged offence;
- 25 (j) any submission made by the person to the commissioner in
26 relation to the matters mentioned in paragraphs (a) to (i).

1 **29 Risk assessment guidelines—other information**

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

7 (a) how the information was obtained;

8 **Examples**

- 9 1 tip off from a member of the public
10 2 a media report

11 *Note* An example is part of the Act, is not exhaustive and may extend,
12 but does not limit, the meaning of the provision in which it
13 appears (see Legislation Act, s 126 and s 132).

14 (b) the relevance of the information;

15 (c) the truthfulness, completeness and reliability of the
16 information;

17 (d) any submission made by the person to the commissioner in
18 relation to the matters mentioned in paragraphs (a) to (c).

19 **Division 5.3 Conducting risk assessments**

20 **30 Risk assessments**

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

23 *Note* The commissioner need not conduct a risk assessment if the application
24 has been withdrawn (see s 18 (2) (b)).

25 (2) The risk assessment must be conducted in accordance with the risk
26 assessment guidelines.

1 **31** **Commissioner may seek information from entities to**
2 **conduct risk assessments**

3 The commissioner may seek information or advice from any entity
4 the commissioner considers may be able to give information or
5 advice that will assist the commissioner in conducting a risk
6 assessment for a person.

7 **Examples—entity**

- 8 1 the chief police officer
9 2 a government department
10 3 an employer for a regulated activity

11 *Note* An example is part of the Act, is not exhaustive and may extend, but
12 does not limit, the meaning of the provision in which it appears (see
13 Legislation Act, s 126 and s 132).

14 **Division 5.4 Negative risk assessments**

15 **32 Proposed negative notices**

- 16 (1) This section applies if—
17 (a) the commissioner conducts a risk assessment for a person; and
18 (b) the commissioner is satisfied that the person poses an
19 unacceptable risk of harm to a vulnerable person (a *negative*
20 *risk assessment*).
21 (2) The commissioner must tell the person in writing (a *proposed*
22 *negative notice*) that the commissioner intends to refuse to register
23 the person.
24 (3) A proposed negative notice must state—
25 (a) the reasons for the negative risk assessment; and
26 (b) that, if the person believes the negative risk assessment has
27 been made because of incomplete or incorrect information, the
28 person may, take the steps mentioned in section 33 (2); and

1 (c) that, if the person does not take the steps mentioned in
2 section 33 (2), the commissioner must give the person a
3 negative notice.

4 (4) The commissioner must not tell a named employer—

5 (a) that a proposed negative notice has been given to a person; or

6 (b) the reasons for giving the person the notice.

7 **33 Reconsideration of negative risk assessments**

8 (1) This section applies if—

9 (a) the commissioner gives a person a proposed negative notice;
10 and

11 (b) the person believes the negative risk assessment has been made
12 because of incomplete or incorrect information.

13 (2) The person may—

14 (a) within 14 days after the day the commissioner gives the person
15 the proposed negative notice, tell the commissioner in writing
16 that the person intends to ask the commissioner to reconsider
17 the application based on new or corrected information; and

18 (b) within 1 month after the day the commissioner gives the person
19 the notice —

20 (i) give the commissioner any new or corrected information
21 the person believes is relevant; and

22 (ii) ask the commissioner to reconsider the application based
23 on the information.

1 (3) If the person asks the commissioner to reconsider the application,
2 the commissioner must, as soon as practicable, conduct a risk
3 assessment (a *revised risk assessment*) considering the new or
4 corrected information.

5 *Note* A revised risk assessment may result in registration (see s 36), which
6 may be conditional (see s 37), or a negative notice (see s 35).

7 **34 Extensions of period for reconsideration of negative risk**
8 **assessment**

9 (1) On written application by a person, the commissioner may extend
10 the period mentioned in section 33 (2) (a) or (b).

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

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

16 **Examples—when period may be extended**

17 1 a person did not receive a proposed negative notice because the person was
18 unexpectedly hospitalised

19 2 a person needs more than 1 month to obtain relevant information because the
20 information is from a foreign country

21 *Note* An example is part of the Act, is not exhaustive and may extend, but
22 does not limit, the meaning of the provision in which it appears (see
23 Legislation Act, s 126 and s 132).

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

26 (a) if the commissioner extends the period—state the extended
27 period; or

- 1 (b) if the commissioner refuses to extend the period—the reasons
2 for the decision.

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

- 5 (a) extend the period for a stated period; or
6 (b) refuse to extend the period (see s 55).

7 **35 Negative notices**

- 8 (1) The commissioner must refuse to register a person—

9 (a) if—

10 (i) the commissioner conducts a revised risk assessment for a
11 person; and

12 (ii) the commissioner is satisfied that the person poses an
13 unacceptable risk of harm to a vulnerable person; or

14 (b) if the commissioner gives the person a proposed negative
15 notice and—

16 (i) the person does not tell the commissioner that the person
17 intends to ask the commissioner to reconsider the
18 application under section 33 (2) (a); or

19 (ii) the person—

20 (A) tells the commissioner that the person intends to ask
21 the commissioner to reconsider the application under
22 section 33 (2) (a); but

23 (B) does not give the commissioner any new or
24 corrected information or ask the commissioner to
25 reconsider the application under section 33 (2) (b).

- 1 (2) If the commissioner refuses to register a person, the commissioner
2 must—
- 3 (a) tell the person in writing (a *negative notice*) that the
4 commissioner refuses to register the person and the reasons for
5 the refusal; and
- 6 *Note* The commissioner must also give the person a reviewable
7 decision notice in relation to the decision (see s 55).
- 8 (b) tell the named employer (if any) in writing that a negative
9 notice has been given to the person.
- 10 (3) For subsection (2) (b), the commissioner must not tell a named
11 employer the reasons for giving the person the negative notice.
- 12 *Note* If an unregistered person engaging in a regulated activity under s 14 is
13 given a negative notice, the person commits an offence under s 12 if the
14 person continues to engage in the activity.

1 **Part 6 Registration**

2 **Division 6.1 Registration**

3 **36 Registration**

- 4 (1) This section applies if the commissioner—
- 5 (a) conducts a risk assessment or a revised risk assessment for a
- 6 person; and
- 7 (b) is satisfied that the person poses no risk or an acceptable risk of
- 8 harm to a vulnerable person (a *positive risk assessment*).
- 9 (2) The commissioner must—
- 10 (a) register the person; and
- 11 (b) tell the person in writing of the positive risk assessment and
- 12 that the person has been registered; and
- 13 (c) tell the named employer (if any) in writing that the person has
- 14 been registered.
- 15 (3) Registration must be for not longer than 3 years.

16 **37 Conditional registration**

- 17 (1) A registration may be subject to conditions.

18 **Examples—conditions**

- 19 1 a registered person must not drive a motor vehicle if a vulnerable person is a
- 20 passenger
- 21 2 a registered person must not have unsupervised contact with a vulnerable
- 22 person
- 23 3 a registered person must not supervise another registered person

1 4 a registered person may be engaged by any employer but only in a stated
2 regulated activity

3 *Note* An example is part of the Act, is not exhaustive and may extend, but
4 does not limit, the meaning of the provision in which it appears (see
5 Legislation Act, s 126 and s 132).

6 (2) Without limiting subsection (1), the commissioner may register a
7 person (a *position-based registration*) subject to the conditions that
8 the person may engage only in stated regulated activities for a stated
9 employer.

10 **Example—position-based registration**

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

13 (3) A regulation may prescribe information that a person or an
14 employer must give the commissioner before the commissioner may
15 give the person a position-based registration.

16 **38 Proposed conditional registration**

17 (1) If the commissioner intends to register a person conditionally, the
18 commissioner must tell the person in writing (a *proposed*
19 *conditional registration notice*).

20 (2) A proposed conditional registration notice must state—

21 (a) what the condition is and the reasons for proposing to register
22 the person conditionally; and

23 (b) that, if the person believes the commissioner is proposing to
24 register the person conditionally because of incomplete or
25 incorrect information, the person may take the steps mentioned
26 in section 39 (2); and

27 (c) that if the person does not take the steps mentioned in
28 section 39 (2), the commissioner must register the person
29 conditionally.

- 1 (3) The commissioner must not tell a named employer—
2 (a) that a proposed conditional registration notice has been given
3 to a person; or
4 (b) the reasons for giving the person the proposed conditional
5 registration notice.

6 **39 Reconsideration of proposed conditional registration**

- 7 (1) This section applies if—
8 (a) the commissioner gives a person a proposed conditional
9 registration notice; and
10 (b) the person believes the commissioner is proposing to register
11 the person conditionally because of incomplete or incorrect
12 information.
13 (2) The person may—
14 (a) within 14 days after the day the commissioner gives the person
15 the proposed conditional registration notice, tell the
16 commissioner in writing that the person intends to ask the
17 commissioner to reconsider the application based on new or
18 corrected information; and
19 (b) within 1 month after the day the commissioner gives the person
20 the notice—
21 (i) give the commissioner any new or corrected information
22 the person believes is relevant; and
23 (ii) ask the commissioner to reconsider the application based
24 on the information.
25 (3) If the person asks the commissioner to reconsider the application,
26 the commissioner must, as soon as practicable—
27 (a) consider the new or corrected information; and

- 1 (b) either—
- 2 (i) the commissioner is satisfied that the condition is
- 3 unnecessary—register the person unconditionally; or
- 4 (ii) the commissioner is satisfied that the condition is
- 5 necessary—register the person subject to the condition.

6 *Note* The commissioner’s decision to register a person subject to

7 a condition is reviewable (see s 54).

8 **40 Extensions of period for reconsideration of proposed**

9 **conditional registration**

- 10 (1) On written application by a person, the commissioner may extend
- 11 the period mentioned in section 39 (2) (a) or (b).

12 *Note* The commissioner may extend the period even if it has ended (see

13 Legislation Act, s 151C).

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

17 **Examples—when period may be extended**

- 18 1 a person did not receive a proposed conditional registration notice because
- 19 the person was unexpectedly hospitalised
- 20 2 a person needs more than 1 month to obtain relevant information because the
- 21 information is from a foreign country

22 *Note* An example is part of the Act, is not exhaustive and may extend, but

23 does not limit, the meaning of the provision in which it appears (see

24 Legislation Act, s 126 and s 132).

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

- 27 (a) if the commissioner extends the period—state the extended
- 28 period; or

1 (b) if the commissioner refuses to extend the period—the reasons
2 for the decision.

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

5 (a) extend the period for a stated period; or

6 (b) refuse to extend the period (see s 55).

7 **41 Notice of conditional registration**

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

11 (a) the person does not tell the commissioner that the person
12 intends to ask the commissioner to reconsider the application
13 under section 39 (2) (a); or

14 (b) the person—

15 (i) tells the commissioner that the person intends to ask the
16 commissioner to reconsider the application under
17 section 39 (2) (a); but

18 (ii) does not give the commissioner any new or corrected
19 information or ask the commissioner to reconsider the
20 application under section 39 (2) (b).

21 *Note* The commissioner must also register a person subject to a condition if
22 the commissioner has reconsidered the application based on new or
23 corrected information and is satisfied that the condition is necessary
24 (see s 39 (3) (b) (ii)).

25 (2) If a registration is subject to a condition, the commissioner must—

26 (a) tell the person in writing what the condition is and the reasons
27 for the condition; and

28 *Note* The commissioner must also give the person a reviewable
29 decision notice in relation to the decision to register the person
30 subject to a condition (see s 55).

- 1 (b) tell the named employer (if any) in writing—
2 (i) that the person’s registration is subject to a condition; and
3 (ii) what the condition is.

4 **42 Offences—registered person contravene condition of**
5 **registration**

- 6 (1) A person commits an offence if—
7 (a) the person’s registration is subject to a condition; and
8 (b) the person contravenes a requirement of the condition.
9 Maximum penalty: 50 penalty units, imprisonment for 6 months or
10 both.

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

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

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

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

20 *Note* The commissioner may suspend or cancel a person’s registration if the
21 person’s registration is subject to a condition and the person
22 contravenes a requirement of the condition (see s 51 (1)).

1 **Division 6.2 Registration cards**

2 **43 Registration cards**

- 3 (1) If the commissioner registers a person, the commissioner must give
4 the person a working with vulnerable people registration card
5 (a *registration card*).
- 6 (2) A registration card must contain—
- 7 (a) a unique identifying number (a *registration number*); and
8 (b) the date the registration ends; and
9 (c) anything else prescribed by regulation.

10 **44 Offence—fail to produce registration card**

- 11 (1) A registered person commits an offence if the person—
- 12 (a) engages in a regulated activity; and
13 (b) is required to be registered to engage in the activity; and
14 (c) is asked to produce the person's registration card by—
15 (i) a police officer; or
16 (ii) a person authorised by the commissioner; and
17 (d) does not produce the person's registration card.

18 Maximum penalty: 10 penalty units.

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

20 **45 Lost, stolen or damaged registration cards**

- 21 (1) This section applies if a registration card given to a person is lost,
22 stolen or damaged.

1 (2) The person may apply to the commissioner for a replacement card.

2 *Note 1* If a form is approved under s 62 for this provision, the form must be
3 used.

4 *Note 2* A fee may be determined under s 61 for this provision.

5 (3) The application must be accompanied by a statutory declaration
6 made by the applicant setting out the circumstances in which the
7 card was lost, stolen or damaged.

8 (4) If a person applies for a replacement card, the commissioner must—

9 (a) replace the card; or

10 (b) refuse to replace the card.

11 *Note* The commissioner must give the person a reviewable decision
12 notice in relation to the decision to refuse to replace the card
13 (see s 55).

14 (5) The commissioner must replace the card if satisfied that—

15 (a) the person held a registration card; and

16 (b) the card is lost, stolen or damaged.

17 **46 Offence—fail to return registration card**

18 (1) A person commits an offence if—

19 (a) the person's registration is suspended or cancelled under
20 section 53; and

21 (b) the person does not return the person's registration card to the
22 commissioner as soon as practicable, but within 14 days, after
23 the day the suspension or cancellation takes effect.

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

26 *Note* For when a suspension or cancellation takes effect, see s 53 (4).

1 (2) Subsection (1) does not apply to a person if the person's card has
2 been—

3 (a) lost or stolen; or

4 (b) destroyed by someone else.

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

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

8 **Division 6.3 Monitoring registered people**

9 **47 Commissioner may seek information from entities about** 10 **registered people**

11 (1) The commissioner may seek information or advice from any entity
12 the commissioner considers may be able to give information or
13 advice that is relevant to whether a registered person continues to
14 pose no risk or an acceptable risk of harm to a vulnerable person.

15 **Example**

16 an updated criminal history report from the chief police officer

17 *Note* An example is part of the Act, is not exhaustive and may extend, but
18 does not limit, the meaning of the provision in which it appears (see
19 Legislation Act, s 126 and s 132).

20 (2) An entity may give information or advice in response to a request
21 under this section and, in doing so, does not contravene any duty of
22 confidentiality the entity has under any law or agreement, despite
23 anything to the contrary in the law or agreement.

1 **48 Additional risk assessments**

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

5 **Examples—new relevant information**

6 1 a registered person is suspected of having committed a relevant offence

7 2 a registered person has been charged with a relevant offence

8 3 a registered person has been convicted or found guilty of a relevant offence

9 *Note* An example is part of the Act, is not exhaustive and may extend, but
10 does not limit, the meaning of the provision in which it appears (see
11 Legislation Act, s 126 and s 132).

12 (2) The commissioner must—

13 (a) conduct a risk assessment (an *additional risk assessment*) for
14 the person taking into account the new relevant information;
15 and

16 (b) tell the person in writing that the additional risk assessment is
17 being conducted.

18 *Note* If the commissioner decides to conduct an additional risk assessment for
19 a person, the commissioner may suspend the person's registration while
20 the assessment is conducted (see s 51 (2)).

21 (3) If the commissioner conducts an additional risk assessment for the
22 person and is satisfied that that the person poses no risk or an
23 acceptable risk of harm to a vulnerable person, the commissioner
24 may—

25 (a) leave the person's registration unchanged; or

1 (b) make the person’s registration conditional.

2 *Note 1* Section 38 sets out the commissioner’s obligations if the commissioner
3 intends to register a person conditionally.

4 *Note 2* The commissioner must cancel a person’s registration if the
5 commissioner has conducted an additional risk assessment for the
6 person and is satisfied that that the person poses an unacceptable risk of
7 harm to a vulnerable person (see s 51 (3)).

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

10 **49 Offences—registered person fail to disclose charge,
11 conviction or finding of guilt for relevant offence**

12 (1) A person commits an offence if the person—

13 (a) is registered; and

14 (b) is charged with a relevant offence; and

15 (c) does not tell the commissioner about the charge in writing
16 within 14 days after the day the person is charged.

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

19 (2) A person commits an offence if the person—

20 (a) is registered; and

21 (b) is convicted or found guilty of a relevant offence; and

22 (c) does not tell the commissioner about the conviction or finding
23 of guilt in writing within 14 days after the day the person is
24 convicted or found guilty.

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

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

1 **50 Offence—fail to notify change of name or address**

- 2 (1) A person commits an offence if—
- 3 (a) the person is registered; and
- 4 (b) the person’s name or address changes; and
- 5 (c) the person does not tell the commissioner in writing of the
- 6 change within 14 days after the day the change happens.

7 Maximum penalty: 10 penalty units.

8 *Note* If a form is approved under s 62 for this provision, the form must be

9 used.

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

11 **Division 6.4 Suspending or cancelling registration**

12 **51 Grounds for suspension or cancellation of registration**

- 13 (1) The commissioner may suspend or cancel a person’s registration
- 14 if—
- 15 (a) the person’s registration is subject to a condition; and
- 16 (b) the person contravenes a requirement of the condition; and
- 17 (c) the commissioner believes on reasonable grounds that
- 18 suspension or cancellation is necessary for this Act.

19 *Note* A person commits an offence if the person contravenes a requirement of

20 a condition—see s 42.

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

24 *Note* The commissioner may conduct an additional risk assessment for a

25 person under s 48 if the commissioner believes on reasonable grounds

26 that there is new relevant information about the person.

- 1 (3) The commissioner must cancel a person's registration if the
2 commissioner—
3 (a) has conducted an additional risk assessment for the person; and
4 (b) is satisfied that the person poses an unacceptable risk of harm
5 to a vulnerable person.

6 **52 Notice of proposed suspension or cancellation of**
7 **registration**

- 8 (1) The commissioner must give written notice of an intention to
9 suspend or cancel a person's registration to the person.
10 (2) A notice of intention to suspend or cancel a person's registration
11 must—
12 (a) set out the ground for suspension or cancellation; and
13 (b) state that the person may, within 14 days after the day the
14 commissioner gives the person the notice, give reasons why the
15 person considers that the registration should not be suspended
16 or cancelled.

17 **53 Suspension or cancellation of registration**

- 18 (1) The commissioner must suspend or cancel a person's registration if
19 the commissioner—
20 (a) has given written notice to the person of an intention to
21 suspend or cancel the registration; and
22 (b) has considered any reasons given by the person in accordance
23 with the notice; and
24 (c) is satisfied that the ground for suspension or cancellation under
25 section 51 exists.

26 *Note* The commissioner's decision to suspend or cancel a person's
27 registration is reviewable (see s 54).

- 1 (2) The commissioner must—
- 2 (a) tell the person in writing—
- 3 (i) that the person’s registration is suspended or cancelled;
- 4 and
- 5 (ii) the ground for suspension or cancellation; and
- 6 *Note* The commissioner must also give the person a reviewable
- 7 decision notice in relation to the decision to suspend or cancel the
- 8 person’s registration (see s 55).
- 9 (b) tell the person’s employer (if any) in writing that the person’s
- 10 registration has been suspended or cancelled.
- 11 (3) For subsection (2) (b), the commissioner must not tell the person’s
- 12 employer the ground for suspension or cancellation.
- 13 (4) The suspension or cancellation takes effect—
- 14 (a) on the day after the day the commissioner tells the person in
- 15 writing that the person’s registration is suspended or cancelled;
- 16 or
- 17 (b) if a later date is stated in the notice of suspension or
- 18 cancellation—the later date.
- 19 (5) To remove any doubt, a person whose registration is suspended does
- 20 not have a registration allowing the person to engage in a regulated
- 21 activity.
- 22 *Note* A person engaging in a regulated activity for which the person is
- 23 required to be registered commits an offence under s 12 if the person’s
- 24 registration is suspended or cancelled and the person continues to
- 25 engage in the activity.

1 **Part 7** **Notification and review of**
2 **decisions**

3 **54** **Meaning of *reviewable decision*—pt 7**

4 In this part:

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

8 **55** **Reviewable decision notices**

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

12 *Note* The requirements for a reviewable decision notice are prescribed under
13 the *ACT Civil and Administrative Tribunal Act 2008*.

14 **56** **Applications for review**

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

18 *Note* If a form is approved under the *ACT Civil and Administrative Tribunal*
19 *Act 2008* for the application, the form must be used.

1 **Part 8** **Miscellaneous**

2 **57** **Protection from liability**

3 (1) An official is not civilly liable for anything done or omitted to be
4 done honestly and without recklessness—

5 (a) in the exercise of a function under this Act; or

6 (b) in the reasonable belief that the act or omission was in the
7 exercise of a function under this Act.

8 (2) Any civil liability that would, apart from subsection (1), attach to an
9 official attaches instead to the Territory.

10 (3) In this section:

11 *official* means—

12 (a) the commissioner; or

13 (b) a person authorised under this Act by the commissioner to do
14 or not to do a thing.

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

18 **58** **Offences—use or divulge protected information**

19 (1) A person to whom this section applies commits an offence if—

20 (a) the person uses information; and

21 (b) the information is protected information about someone else;
22 and

- 1 (c) the person is reckless about whether the information is
2 protected information about someone else.
- 3 Maximum penalty: 50 penalty units, imprisonment for 6 months or
4 both.
- 5 (2) A person to whom this section applies commits an offence if—
- 6 (a) the person does something that divulges information; and
- 7 (b) the information is protected information about someone else;
8 and
- 9 (c) the person is reckless about whether—
- 10 (i) the information is protected information about someone
11 else; and
- 12 (ii) doing the thing would result in the information being
13 divulged to someone else.
- 14 Maximum penalty: 50 penalty units, imprisonment for 6 months or
15 both.
- 16 (3) Subsections (1) and (2) do not apply if the information is used or
17 divulged—
- 18 (a) under this Act or another territory law; or
- 19 (b) in relation to the exercise of a function, as a person to whom
20 this section applies, under this Act or another territory law; or
- 21 (c) in a court proceeding.
- 22 (4) Subsections (1) and (2) do not apply to the using or divulging of
23 protected information about a person with the person's consent.
- 24 *Note* The defendant has an evidential burden in relation to the matters
25 mentioned in ss (3) and (4) (see Criminal Code, s 58).

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

5 (6) In this section:

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

8 *divulge* includes—

9 (a) communicate; or

10 (b) publish

11 *person to whom this section applies* means—

12 (a) a person who is or has been the commissioner; or

13 (b) anyone else who has exercised a function under this Act.

14 *produce* includes allow access to.

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

19 **Examples—protected information**

20 1 information obtained by the commissioner in conducting a risk assessment
21 for a person

22 2 information disclosed by the commissioner in seeking information or advice
23 from an entity about a registered person

24 *Note* An example is part of the Act, is not exhaustive and may extend, but
25 does not limit, the meaning of the provision in which it appears (see
26 Legislation Act, s 126 and s 132).

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

1 **59 Evidentiary certificates**

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

10 **60 Disqualification orders**

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

18 **61 Determination of fees**

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

1 **62** **Approved forms**

- 2 (1) The commissioner may approve forms for this Act.
- 3 (2) If the commissioner approves a form for a particular purpose, the
- 4 approved form must be used for the purpose.

5 *Note* For other provisions about forms, see the Legislation Act, s 255.

- 6 (3) An approved form is a notifiable instrument.

7 *Note* A notifiable instrument must be notified under the Legislation Act.

8 **63** **Review of Act**

- 9 (1) The Minister must, as soon as practicable after the end of this Act's
- 10 5th year of operation—

11 (a) review the operation of the Act; and

12 (b) present a report of the review to the Legislative Assembly.

13 *Note* A reference to an Act includes a reference to the statutory instruments

14 made or in force under the Act, including any regulation (see

15 Legislation Act, s 104).

- 16 (2) This section expires 6 years after the day it commences.

17 **64** **Regulation-making power**

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

19 *Note* A regulation must be notified, and presented to the Legislative

20 Assembly, under the Legislation Act.

- 21 (2) Without limiting subsection (1), a regulation may make provision
- 22 for—

23 (a) the obligations of employers before engaging people in

24 regulated activities; and

25 (b) the obligations of employers in relation to people they engage

26 in regulated activities.

1 (3) A regulation may create offences and fix maximum penalties of not
2 more than 20 penalty units for the offences.

3 **65 Fair Trading (Consumer Affairs) Act 1973, dictionary,**
4 **definition of *fair trading legislation*, new paragraph (f)**

5 *insert*

6 (f) the *Working with Vulnerable People (Background Checking)*
7 *Act 2010*.

1 **Schedule 1** **Regulated activities**

2 (see s 7)

3 **Part 1.1** **Activities or services for children**

4 **1.1** **Child protection services**

5 (1) An activity or service is a regulated activity if the activity is
6 conducted, or the service is provided, under the *Children and Young*
7 *People Act 2008* for a child or young person.

8 (2) Without limiting subsection (1), a regulated activity includes an
9 activity conducted or a service provided under the *Children and*
10 *Young People Act 2008*—

11 (a) by—

12 (i) a member of the Children and Youth Services Council; or

13 (ii) a family group conference facilitator; or

14 (iii) a kinship carer; or

15 (iv) a foster carer; or

16 (v) a residential care service; or

17 (vi) a researcher for a research project; or

18 (vii) an authorised assessor; or

19 (viii) another person administering, or exercising a function
20 under, the Act; or

21 (b) under a therapeutic protection order.

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

- 23 • pt 2.2 (Children and Youth Services Council);
24 • pt 3.2 (Family group conferences—facilitators);

- 1 • s 438 (Care and protection assessment—authorisation of
- 2 assessors);
- 3 • s 509 (Who is a *kinship carer*?);
- 4 • s 510 (Who is a *foster carer*?);
- 5 • s 511 (What is a *residential care service*?);
- 6 • pt 16.2 (Therapeutic protection orders);
- 7 • ch 22 (Research involving children and young people).

8 1.2 Childcare service

9 (1) An activity or service is a regulated activity if the activity is
10 conducted, or the service is provided, by—

- 11 (a) a childcare service; or
- 12 (b) another commercial service that provides child care.

13 Examples—par (b)

- 14 1 babysitting service
- 15 2 nanny service
- 16 3 a service conducted by a hotel or resort to provide childcare to children
- 17 who are short term guests

18 *Note* An example is part of the Act, is not exhaustive and may extend,
19 but does not limit, the meaning of the provision in which it
20 appears (see Legislation Act, s 126 and s 132).

21 (2) In this section:

22 *childcare service*—see the *Children and Young People Act 2008*,
23 section 732.

24 *Note* *Childcare service* means—

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

27 1.3 Child education services

28 (1) An activity or service is a regulated activity if the activity is
29 conducted, or the service is provided, as part of a child education
30 service.

- 1 (2) In this section:
2 ***child education service***—
3 (a) means a service for which the main purpose is to provide
4 education and care for children; and
5 (b) includes—
6 (i) a school or other educational institution, whether or not
7 operated by or on behalf of the Territory; and
8 (ii) a school-crossing service.
9 ***school*** means a preschool, primary school, high school or secondary
10 college.

11 **1.4 Child accommodation services**

- 12 (1) An activity or service is a regulated activity if the activity is
13 conducted, or the service is provided, as part of a child
14 accommodation service.
15 (2) In this section:
16 ***child accommodation service***—
17 (a) means a service for which the main purpose is to provide
18 residential accommodation for children; and
19 (b) includes an overnight camp for children, irrespective of the
20 kind of accommodation or of how many children are involved.

21 **Examples—child accommodation service**

- 22 1 school group accommodation
23 2 a home stay, including as part of a student exchange
24 3 a school boarding facility

25 *Note* An example is part of the Act, is not exhaustive and may extend, but
26 does not limit, the meaning of the provision in which it appears (see
27 Legislation Act, s 126 and s 132).

1 **1.5 Counselling and support services for children**

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

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

6 **1.6 Commercial services for children**

7 An activity or service is a regulated activity if—

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

1 **Part 1.2** **Activities or services for**
2 **vulnerable people**

3 **1.7** **Mental health**

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

8 **Examples**

- 9 1 an activity or service that provides personal care, assessment or referral of
10 support needs, education, training and skill development, information
11 services, recreation, counselling, community access, accommodation
12 support, rehabilitation, or employment services, specifically for people who
13 are mentally impaired, mentally dysfunctional or mentally ill
- 14 2 an activity or service provided in association with the use of premises for the
15 care, treatment or accommodation of people who are mentally impaired,
16 mentally dysfunctional or mentally ill

17 *Note* An example is part of the Act, is not exhaustive and may extend, but
18 does not limit, the meaning of the provision in which it appears (see
19 Legislation Act, s 126 and s 132).

20 **1.8** **Migrants, refugees and asylum seekers**

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

- 23 (a) migrants, or
24 (b) refugees or asylum seekers; or

1 (c) people who cannot communicate, or who have difficulty
2 communicating, in English.

3 **Examples**

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

8 *Note* An example is part of the Act, is not exhaustive and may extend, but
9 does not limit, the meaning of the provision in which it appears (see
10 Legislation Act, s 126 and s 132).

11 **1.9 Homeless people**

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

15 **Examples**

16 1 an activity or service that provides food, transport, coordination or referral of
17 support needs for people who are homeless

18 2 a drop in centre

19 3 a soup kitchen

20 *Note* An example is part of the Act, is not exhaustive and may extend, but
21 does not limit, the meaning of the provision in which it appears (see
22 Legislation Act, s 126 and s 132).

23 **1.10 Housing and accommodation**

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

28 **Examples**

29 1 public housing

30 2 social housing

31 3 community housing

32 4 housing assistance

- 1 5 social housing
2 6 crisis accommodation
3 7 refuges

4 *Note* An example is part of the Act, is not exhaustive and may extend, but
5 does not limit, the meaning of the provision in which it appears (see
6 Legislation Act, s 126 and s 132).

7 **1.11 Justice facilities**

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

14 (2) In this section:

15 *justice facility* means—

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

1 **1.12 Prevention of crime**

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

5 **Examples**

6 1 a program to keep police informed of the whereabouts and other personal
7 details about a person who has committed a crime to reduce the likelihood
8 that the person will reoffend

9 2 a mentoring program

10 *Note* An example is part of the Act, is not exhaustive and may extend, but
11 does not limit, the meaning of the provision in which it appears (see
12 Legislation Act, s 126 and s 132).

13 **1.13 Victims of crime**

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

17 **Example**

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

20 *Note 1* Victims of crime are eligible for assistance under the victims services
21 scheme (see *Victims of Crime Act 1994*, pt 4).

22 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
23 does not limit, the meaning of the provision in which it appears (see
24 Legislation Act, s 126 and s 132).

25 **1.14 Services for addictions**

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

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

1 (b) addicted to an activity.

2 **Examples—addictive activity**

3 1 gambling

4 2 shopping

5 3 exercise

6 **Examples—regulated activity**

7 1 an activity or service that provides health care, counselling, accommodation
8 or financial support for people who are addicted to a substance or an activity

9 2 a detoxification support program, such as Alcoholics Anonymous

10 3 a needle and syringe exchange program

11 4 a methadone treatment and withdrawal program

12 5 a gambling addiction telephone help-line

13 *Note* An example is part of the Act, is not exhaustive and may extend, but
14 does not limit, the meaning of the provision in which it appears (see
15 Legislation Act, s 126 and s 132).

16 (2) In this section:

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

19 **1.15 Community services**

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

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

23 (b) people who need support to live independently.

24 **Examples**

25 1 an activity or service that provides crisis intervention, emergency relief,
26 parenting support, assessment or referral of support needs, education,
27 training and skill development, information services, counselling,
28 community access, or employment services, for people and families suffering
29 social or financial hardship

- 1 2 an activity or service that provides home help, home maintenance or
2 modification, allied health care, personal care, food services, assessment or
3 referral of support needs, information services, coordination, case
4 management, recreation, counselling, community access, rehabilitation, or
5 employment services, to people who need support to live independently
6 3 an activity or service provided in association with the use of premises for the
7 care, treatment or accommodation of people who need support to live
8 independently
9 *Note* An example is part of the Act, is not exhaustive and may extend, but
10 does not limit, the meaning of the provision in which it appears (see
11 Legislation Act, s 126 and s 132).

12 **1.16 Disability services**

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

16 **Examples**

- 17 1 an activity or service that provides home help, home maintenance or
18 modification, personal care, food services, assessment or referral of support
19 needs, information services, coordination, case management, recreation,
20 counselling, community access, rehabilitation, or employment services, to
21 people with a disability
22 2 an activity or service provided in association with the use of premises for the
23 care, treatment or accommodation of people with a disability

- 24 *Note* An example is part of the Act, is not exhaustive and may extend, but
25 does not limit, the meaning of the provision in which it appears (see
26 Legislation Act, s 126 and s 132).

- 27 (2) In this section:

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

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

- 31 (a) is attributable to an intellectual, psychiatric, sensory or physical
32 impairment, or a combination of those impairments; and
33 (b) is permanent or likely to be permanent; and

- 1 (c) results in—
2 (i) the person having a substantially reduced capacity for
3 communication, learning or mobility; and
4 (ii) the need for continuing support services for the person; and
5 (d) may, but need not, be of a chronic episodic nature.

6 **1.17 Respite care services**

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

9 **1.18 Emergency services personnel**

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

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

1 **Part 1.3** **Other activities or services for**
2 **vulnerable people**

3 **1.19** **Transport**

4 An activity or service is a regulated activity if any of the usual
5 functions of the activity or service include providing public or
6 private transport that is—

- 7 (a) specifically for, or mainly used by, children; or
8 (b) specifically for people accessing a regulated activity mentioned
9 in part 1.2.

10 **Example—par (a)**

11 a school bus service

12 **Examples—par (b)**

- 13 1 a minibus transporting detainees to or from a remand centre
14 2 a taxi for mobility impaired people

15 *Note* An example is part of the Act, is not exhaustive and may extend, but
16 does not limit, the meaning of the provision in which it appears (see
17 Legislation Act, s 126 and s 132).

- 18 (2) To remove any doubt, an activity or service is a regulated activity if
19 a person must have 1 or both of the following to conduct the activity
20 or provide the service:

- 21 (a) a public vehicle licence;
22 (b) a driving instructor certificate of accreditation.

23 *Note 1* **Public vehicle licence**—see the *Road Transport (Driver Licensing)*
24 *Act 1999*, dictionary.

25 *Note 2* For certificates of accreditation for driving instructors, see the *Road*
26 *Transport (Driver Licensing) Regulation 2000*, pt 7 (Accreditation of
27 driving instructors).

1 **1.20 Coaching and tuition**

2 An activity or service is a regulated activity if—

3 (a) any of the usual functions of the activity or service include
4 coaching or tuition specifically for—

5 (i) children; or

6 (ii) people accessing a regulated activity mentioned in
7 part 1.2; and

8 (b) the coaching or tuition is provided by a commercial entity.

9 **1.21 Vocational and educational training**

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

13 (a) children; or

14 (b) people accessing a regulated activity mentioned in part 1.2.

15 **Examples**

16 1 a pathways to employment program

17 2 an adult English language, literacy and numeracy skills program

18 3 an industry training service

19 *Note* An example is part of the Act, is not exhaustive and may extend, but
20 does not limit, the meaning of the provision in which it appears (see
21 Legislation Act, s 126 and s 132).

22 **1.22 Religious organisations**

23 An activity or service is a regulated activity if—

24 (a) the activity is conducted, or the service is provided, by—

25 (i) a religious organisation; or

26 (ii) a person acting on behalf of a religious organisation; and

- 1 (b) the activity or service is—
2 (i) specifically for, or mainly used by children; or
3 (ii) specifically for people accessing a regulated activity
4 mentioned in part 1.2.

5 **Example—par (a)**

6 Sunday school

7 **Example—par (b)**

8 counselling provided by a minister of religion

9 *Note* An example is part of the Act, is not exhaustive and may extend, but
10 does not limit, the meaning of the provision in which it appears (see
11 Legislation Act, s 126 and s 132).

12 **1.23 Clubs, associations and movements**

13 An activity or service is a regulated activity if—

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

22 **Examples**

23 1 a children's football team

24 2 an art class for people who require assistance to live independently

25 *Note* An example is part of the Act, is not exhaustive and may extend, but
26 does not limit, the meaning of the provision in which it appears (see
27 Legislation Act, s 126 and s 132).

1 **Schedule 2 Reviewable decisions**
 2 (see pt 7)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	34 (1)	extend period for stated period	person
2	34 (1)	refuse to extend period	person
3	35 (1)	refuse to register person	person
4	39 (3) (b) (ii)	register person subject to condition	person
5	40 (1)	extend period for stated period	person
6	40 (1)	refuse to extend period	person
7	41 (1)	register person subject to condition	person
8	45 (4) (b)	refuse to replace person's registration card	person
9	53 (1)	suspend or cancel person's registration	person

1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • ACAT
- 7 • ACT
- 8 • adult
- 9 • Australia
- 10 • change
- 11 • chief police officer
- 12 • child
- 13 • commissioner for fair trading
- 14 • contravene
- 15 • Corporations Act
- 16 • correctional centre
- 17 • Criminal Code
- 18 • detention place
- 19 • disallowable instrument (see s 9)
- 20 • document
- 21 • domestic partner (see s 169 (1))
- 22 • emergency service
- 23 • entity
- 24 • found guilty
- 25 • function
- 26 • health practitioner
- 27 • home address
- 28 • lawyer
- 29 • Legislation Act
- 30 • notifiable instrument (see s 10)

- 1 • penalty unit (see s 133)
2 • person (see s 160)
3 • police officer
4 • reviewable decision notice
5 • territory law
6 • the Territory
7 • writing.

8 ***additional risk assessment***—see section 48 (2) (a).

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

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

12 ***contact***, between a person and a vulnerable person—see section 9.

13 ***corresponding law*** means—

14 (a) a law of another jurisdiction corresponding, or substantially
15 corresponding, to this Act; or

16 (b) a law of another jurisdiction prescribed by regulation as a
17 corresponding law for this Act.

18 ***criminal history***, about a person—see section 22.

19 ***employer***, in relation to a regulated activity—see section 10.

20 ***engaged***, in a regulated activity—see section 8.

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

23 ***named employer***, for a regulated activity—see section 16 (1) (d) (i).

24 ***negative notice***—see section 35 (2) (a).

25 ***negative risk assessment***—see section 32 (1) (b).

26 ***non-conviction information***, about a person—see section 23.

27 ***position-based registration***—see section 37 (2).

- 1 ***proposed conditional registration notice***—see section 38 (1).
2 ***proposed interim negative notice***—see section 32 (2).
3 ***proposed negative notice***—see section 32 (2).
4 ***registration*** means a registration under this Act.
5 ***registration card***—see section 43 (1).
6 ***registration number***—see section 43 (2) (a).
7 ***regulated activity***—see section 7.
8 ***relevant offence***—see section 24.
9 ***reviewable decision***, for part 4 (Notification and review of
10 decisions)—see section 54.
11 ***revised risk assessment***—see section 33 (3).
12 ***risk assessment***, for a person—see section 21.
13 ***risk assessment guidelines***—see section 25.
14 ***spent***, for a conviction—see the *Spent Convictions Act 2000*,
15 section 7.
16 ***vulnerable person***—see section 6.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2010.

2 Notification

Notified under the Legislation Act on 2010.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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