

2019

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Community Services and Facilities)

# Working with Vulnerable People (Background Checking) Amendment Bill 2019

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(Minister for Community Services and Facilities)

# **Working with Vulnerable People (Background Checking) Amendment Bill 2019**

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## **A Bill for**

An Act to amend the *Working with Vulnerable People (Background Checking) Act 2011*, and for other purposes

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

- 1 **1 Name of Act**
- 2 This Act is the *Working with Vulnerable People (Background*  
3 *Checking) Amendment Act 2019*.
- 4 **2 Commencement**
- 5 This Act commences on 1 July 2020.
- 6 *Note* The naming and commencement provisions automatically commence on  
7 the notification day (see [Legislation Act](#), s 75 (1)).
- 8 **3 Legislation amended**
- 9 This Act amends the *Working with Vulnerable People (Background*  
10 *Checking) Act 2011*.
- 11 *Note* This Act also amends other legislation (see sch 1).
- 12 **4 What is a *regulated activity*?**  
13 **Section 8 (1), definition of *regulated activity*,**  
14 **paragraph (a)**
- 15 *substitute*
- 16 (a) means an activity or service—
- 17 (i) mentioned in schedule 1; or
- 18 (ii) that is an NDIS activity; or
- 19 (iii) prescribed by regulation; but

1	<b>5</b>	<b>New section 8A</b>
2		<i>insert</i>
3	<b>8A</b>	<b>What is an <i>NDIS activity</i>?</b>
4		In this Act:
5		<i>NDIS activity</i> means a support or a service provided to people with a
6		disability by a registered NDIS provider under the <a href="#">NDIS Act</a> .
7	<b>6</b>	<b>What is <i>contact</i> with a vulnerable person?</b>
8		<b>Section 10, definition of <i>contact</i>, paragraph (b)</b>
9		<i>substitute</i>
10		(b) is more than incidental to engaging in the activity; and
11		<b>Example—incidental</b>
12		a person works in the same building as a vulnerable person, but does not have
13		any physical contact or face-to-face communication with the vulnerable
14		person
15	<b>7</b>	<b>Section 10, definition of <i>contact</i>, new paragraph (d)</b>
16		<i>before the examples, insert</i>
17		(d) for an NDIS activity—is more than incidental contact under the
18		<a href="#">National Disability Insurance Scheme (Practice Standards—</a>
19		<a href="#">Worker Screening) Rules 2018</a> (Cwlth), rule 6.
20	<b>8</b>	<b>Section 11</b>
21		<i>substitute</i>
22	<b>11</b>	<b>Who is an <i>employer</i>?</b>
23		In this Act:
24		<i>employer</i> , in relation to a regulated activity—
25		(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).

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

### **Section 12 (1)**

*substitute*

(1) A person is required to be registered if either of the following apply:

(a) to engage in a regulated activity;

(b) for an NDIS activity—if the person is one of the key personnel of the registered NDIS provider for the activity.

## **10 Section 12 (2) (b)**

*omit*

(other than an overnight camp for children)



**11 New section 12 (2A)**

*insert*

(2A) 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.

**12 Section 12 (4), new definition of *key personnel***

*insert*

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

**13 When unregistered person may be engaged in regulated activity—supervised employment  
New section 15 (1) (b) (ia)**

*before subparagraph (i), insert*

(ia) imposed an interim bar on the person under section 15A;  
or

**14 New section 15 (2) (e)**

*before the note, insert*

(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.

**15 New section 15A**

*insert*

**15A Interim bar for unregistered person engaging in NDIS activity**

- (1) Despite section 15, the commissioner may refuse to allow an unregistered person to engage in an NDIS activity (an *interim bar*) if the commissioner reasonably believes the person poses an unacceptable risk of harm to a vulnerable person.

*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.

- 1 **16 New section 16A**
- 2 *in part 4, insert*
- 3 **16A Meaning of *application*—pt 4**
- 4 In this part:
- 5 *application*, for registration, includes an application for renewal of
- 6 registration.
- 7 **17 Section 17**
- 8 *substitute*
- 9 **17 Application for registration**
- 10 (1) A person may apply to the commissioner for registration under this
- 11 Act.
- 12 *Note* A fee may be determined under s 68 for this provision.
- 13 (2) A registered person may apply to the commissioner, not later than the
- 14 day the person's registration expires, to renew the person's
- 15 registration.
- 16 (3) If a person applies to renew their registration, the person's registration
- 17 remains in force until the application is decided.
- 18 (4) This section is subject to section 22.
- 19 *Note* Under s 22, a person who is given a negative notice or whose registration
- 20 is cancelled must not reapply for registration for 5 years unless relevant
- 21 information about the person has changed.

**18      Application for registration—contents**  
**Section 18 (1) (d)**

*after*  
a particular employer  
*insert*  
, or in an NDIS activity

**19      New section 18 (1) (d) (iv)**

*insert*  
(iv) if the named employer is a registered NDIS provider—the  
provider's registration number; and

**20      Section 18 (2) (a) (iii), note**

*substitute*

*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 (2) (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 (4)).

**21 New section 18 (2) (ba)***insert*

- (ba) 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

**22 Section 18 (3), note***omit*

approved for s 17

**23 New section 18A***insert***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

- 1                   (ii) give information about the applicant to the NDIS quality  
2                   and safeguards commission or a law enforcement agency,  
3                   if the commissioner is satisfied on reasonable grounds that  
4                   the information is relevant to preventing harm or a risk of  
5                   harm to a vulnerable person; and
- 6                   (iii) if the commissioner decides to register the applicant—  
7                   request information or advice from any entity the  
8                   commissioner considers may be able to give information  
9                   or advice that is relevant to whether a registered person  
10                  continues to pose no risk or an acceptable risk of harm to  
11                  a vulnerable person; and
- 12               (b) a written statement by the applicant about whether the  
13               applicant—
- 14                   (i) has previously been given a negative notice (however  
15                   described) under this Act or a corresponding law; and
- 16                   (ii) has had a relevant civil penalty imposed upon them; and
- 17                   (iii) has either of the following made against them:
- 18                       (A) a family violence order under the *Family Violence*  
19                       *Act 2016* or a law of another jurisdiction that  
20                       substantially corresponds to that Act;
- 21                       (B) a protection order under the *Personal Violence*  
22                       *Act 2016* or a law of another jurisdiction that  
23                       substantially corresponds to that Act; and
- 24                   (iv) has parental responsibility for a child or young person for  
25                   whom any care and protection order under the *Children*  
26                   *and Young People Act 2008*, or a law of another  
27                   jurisdiction that substantially corresponds to that Act, is or  
28                   has been in place; and

- 1 (c) anything else prescribed by regulation.
- 2 *Note* It is an offence to make a false or misleading statement, give false or
- 3 misleading information or produce a false or misleading document
- 4 (see [Criminal Code](#), pt 3.4).
- 5 (2) In this section:
- 6 ***law enforcement agency*** means each of the following:
- 7 (a) the Australian Federal Police;
- 8 (b) the police service or force of a State, another territory or a
- 9 foreign country;
- 10 (c) the Australian Criminal Intelligence Commission;
- 11 (d) an entity prescribed by regulation.
- 12 ***relevant civil penalty*** means a civil penalty prescribed by regulation.
- 13 **24 Application for registration—additional information**
- 14 **New section 19 (3)**
- 15 *before the note, insert*
- 16 (3) If the commissioner refuses to consider the application further, the
- 17 commissioner must tell the following of the refusal:
- 18 (a) the applicant;
- 19 (b) the named employer (if any).
- 20 **25 Application for registration—withdrawal**
- 21 **Section 20 (1), note**
- 22 *omit*

**26 New section 20 (1A)**

*insert*

- (1A) However, an applicant must not withdraw an application if the commissioner has imposed an interim bar on the person under section 15A.

**27 New section 21A**

*insert*

**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 an allegation or investigation mentioned in section 18 (2) (ba).



**28      Restriction on reapplying for registration**  
**Section 22 (2) (a)**

*omit*

3 years

*substitute*

5 years

**29      New section 22 (2A)**

*insert*

(2A) However, a person is not eligible to reapply for registration to engage in an NDIS activity if the person's negative notice was given or registration cancelled because of a class A disqualifying offence.

**30      Section 24**

*substitute*

**24      Meaning of *criminal history***

In this Act:

***criminal history***, about a person—

- (a) means any conviction of, or finding of guilt against, the person for a disqualifying or relevant offence; and
- (b) for a disqualifying offence—
  - (i) includes any charge for the offence; but
  - (ii) does not include a charge for the offence that is subsequently withdrawn or discharged, or for which the person is subsequently acquitted.

**31 New section 26A**

*in division 5.1, insert*

**26A Meaning of *disqualifying offence* etc—pt 5**

In this part:

*class A disqualifying offence* means—

- (a) an offence against a provision of a law mentioned in schedule 3, part 3.2, column 2, if the condition mentioned in column 4 is met; or
- (b) an offence prescribed by regulation.

*class B disqualifying offence* means—

- (a) an offence against a provision of a law mentioned in schedule 3, part 3.3, column 2, if the condition mentioned in column 4 is met; or
- (b) an offence prescribed by regulation.

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

**32 Section 29**

*substitute*

**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 disqualifying offence included in the criminal history of a person applying for registration to engage in an NDIS activity:
  - (a) whether the offence is a class A or class B disqualifying offence;

- 1 (b) for a class B disqualifying offence or a charge for a class A
- 2 disqualifying offence—whether exceptional circumstances
- 3 apply that justify the person being registered.
- 4 (2) The risk assessment guidelines must provide for the following to be
- 5 taken into account in relation to any relevant offence included in the
- 6 person’s criminal history:
- 7 (a) the nature, gravity and circumstances of the offence;
- 8 (b) the relevance of the offence;
- 9 (c) how long ago the offence was committed;
- 10 (d) the age of the person and the victim at the time of the offence;
- 11 (e) whether the person’s circumstances have changed since the
- 12 offence was committed;
- 13 (f) the person’s attitude to the offence;
- 14 (g) if the person has undergone a program of treatment or
- 15 intervention for the offence—any assessment of the person
- 16 following the program;
- 17 (h) if the offence was committed outside Australia—whether the
- 18 offence is an offence in Australia;
- 19 (i) whether the person has committed any other relevant offence;
- 20 (j) any submission made by the person to the commissioner in
- 21 relation to the matters mentioned in paragraphs (a) to (i).

**33 Risk assessment guidelines—non-conviction information**  
**Section 30**

*omit*

any relevant offence, or any alleged relevant offence

*substitute*

any relevant offence or disqualifying offence, or any alleged relevant offence or alleged disqualifying offence

**34 Commissioner may request information from an entity to**  
**conduct risk assessments**  
**Section 33 (1)**

*after*

The commissioner may

*insert*

, in writing,

**35 New section 33 (3A) to (3C)**

*insert*

(3A) 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.

(3B) Subsection (3A) does not apply if the entity has a reasonable excuse for failing to comply with the request.

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

- 1 **36 Independent advisors—advice**  
2 **Section 35 (2)**
- 3 *substitute*
- 4 (2) The commissioner may ask 1 or more independent advisors for the  
5 advice.
- 6 **37 Proposed negative notices**  
7 **New section 37 (3A)**
- 8 *insert*
- 9 (3A) Despite subsection (3) (a), the commissioner must not tell the person  
10 the reasons for the negative risk assessment if the information must  
11 not be given to the person under this Act or any other law in force in  
12 the ACT.
- 13 **38 Reconsideration of negative risk assessments**  
14 **Section 38 (1), note**
- 15 *omit*
- 16 **39 Negative notices**  
17 **New section 40 (4)**
- 18 *insert*
- 19 (4) If an unregistered person is engaging in an NDIS activity under  
20 section 15 and the person receives a negative notice, the person must  
21 tell the following about the negative notice:
- 22 (a) the person's named employer (if any);
- 23 (b) each vulnerable person with whom the person has contact as part  
24 of engaging in the activity.

1	<b>40</b>	<b>Registration</b>
2		<b>Section 41 (2) (b) and (c)</b>
3		<i>substitute</i>
4		(b) tell the person, in writing—
5		(i) of the positive risk assessment and that the person has been
6		registered; and
7		(ii) the person's unique identifying number; and
8		(iii) the day the registration ends; and
9		(iv) anything else prescribed by regulation.
10	<b>41</b>	<b>Section 41 (3)</b>
11		<i>omit</i>
12		3 years
13		<i>substitute</i>
14		5 years
15	<b>42</b>	<b>Reconsideration of proposed conditional registration</b>
16		<b>Section 44 (1), note</b>
17		<i>omit</i>
18	<b>43</b>	<b>New section 44 (1A)</b>
19		<i>insert</i>
20	(1A)	In making a request under subsection (1) (b), the person must give the
21		commissioner any new or corrected information the person considers
22		relevant.

**44 Section 44 (3)***omit***45 Conditional registration—amendment  
Section 47 (1)***substitute*

- (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

- (1A) The risk assessment guidelines may provide for what constitutes a change in relevant information about the person.

**46 New section 47A***insert***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.

**47        Registration cards**  
**Division 6.2**

*omit*

**48        Commissioner may request information from entities**  
**about registered people**  
**Section 53 (1)**

*after*

The commissioner may

*insert*

, in writing,

**49        New section 53 (3A) to (3C)**

*insert*

(3A) 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.

(3B) Subsection (3A) does not apply if the entity has a reasonable excuse for failing to comply with the request.

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



## 50 Additional risk assessments Section 54 (1), new examples

*insert*

- 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

## 51 Section 54 (2), note

*substitute*

*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)).

## 52 New sections 54A and 54B

*insert*

### 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)).

- 1           (2) The commissioner must give a person written notice of an intention  
2           to make the person's registration subject to an interim condition.
- 3           *Note*       For how documents may be given, see the [Legislation Act](#), pt 19.5.
- 4           (3) A notice of intention to make a person's registration subject to an  
5           interim condition must—
- 6           (a) set out the reason for the interim condition; and
- 7           (b) state that the person may, within 10 working days after the day  
8           the commissioner gives the person the notice, give reasons why  
9           the person considers that the registration should not be made  
10          subject to the interim condition.
- 11          (4) The commissioner must make a person's registration subject to an  
12          interim condition if the commissioner—
- 13          (a) has given written notice to the person of an intention to make  
14          the person's registration subject to an interim condition; and
- 15          (b) has considered the reasons (if any) given by the person in  
16          accordance with the notice; and
- 17          (c) is satisfied that the reason for the interim condition exists.
- 18          *Note*       The commissioner's decision to make a person's registration subject to  
19          an interim condition is reviewable (see s 61).
- 20          (5) The commissioner must—
- 21          (a) tell the person, in writing—
- 22               (i) that the person's registration is subject to an interim  
23               condition; and
- 24               (ii) what the interim condition is; and
- 25               (iii) the reason for the interim condition; and

- 1 (b) tell the person's employer (if any), in writing—
  - 2 (i) that the person's registration is subject to an interim
  - 3 condition; and
  - 4 (ii) what the interim condition is.
- 5 (6) For subsection (5) (b), the commissioner must not tell the person's
- 6 employer the reason for the interim condition.
- 7 (7) The interim condition takes effect—
  - 8 (a) on the day after the day the commissioner tells the person, in
  - 9 writing, that the person's registration is subject to an interim
  - 10 condition; or
  - 11 (b) if a later date is stated in the notice—on the later date.

12 **54B Offence—registered person contravene interim condition**  
13 **of registration**

- 14 (1) A person commits an offence if—
  - 15 (a) the person's registration is subject to an interim condition; and
  - 16 (b) the person contravenes the condition.
- 17 Maximum penalty: 50 penalty units.
- 18 (2) An offence against this section is a strict liability offence.

19 **53 New section 55A**

20 *insert*

21 **55A Offence—applicant fail to disclose change in relevant**  
22 **information**

- 23 (1) A person commits an offence if—
  - 24 (a) the person is registered; and

- 1 (b) there has been a change in relevant information about the person  
2 since the person was registered; and
- 3 (c) the person does not tell the commissioner about the change in  
4 relevant information, in writing, within 10 working days after  
5 the day the information changes.

6 Maximum penalty: 50 penalty units.

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

8 (3) In this section:

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

10 (a) an allegation or investigation mentioned in section 18 (2) (ba);  
11 or

12 (b) for a person engaged in an NDIS activity—a matter mentioned  
13 in section 18A (1) (b).

14 **54 Offence—fail to notify change of name or address**  
15 **Section 56 (1) (b)**

16 *omit*

17 or address

18 **55 Section 56 (1), note**

19 *omit*

20 **56 Suspension or cancellation of registration**  
21 **New section 59 (2) (a) (iii)**

22 *before the note, insert*

23 (iii) about the information mentioned in subsections (6) to (8);  
24 and

**57 New section 59 (6) to (8)***insert*

(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.

**58 Surrendering registration  
Section 60 (1), note***omit***59 Section 60 (2)***omit***60 Commissioner may give information to particular entities  
Section 63A (1)***substitute*

(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*;

- 1 (b) the director-general responsible for the *Education and Care*  
2 *Services National Law (ACT)*;
- 3 (c) the director-general responsible for the *Health Act 1993*;
- 4 (d) the director-general responsible for the *Children and Young*  
5 *People Act 2008*, other than chapter 20 of that Act;
- 6 (e) the ombudsman;
- 7 (f) the chief executive officer of the ACT Teacher Quality Institute;
- 8 (g) the chief police officer or a chief police officer (however  
9 described) of another jurisdiction;
- 10 (h) the senior practitioner;
- 11 (i) the registrar-general;
- 12 (j) the regulator under the *Work Health and Safety Act 2011*;
- 13 (k) the road transport authority;
- 14 (l) the work safety commissioner;
- 15 (m) the NDIS quality and safeguards commissioner;
- 16 (n) an entity administering a corresponding law;
- 17 (o) any other entity prescribed by regulation.

18 **61 Section 63A (2), new definitions**

19 *insert*

20 ***NDIS quality and safeguards commissioner*** means the  
21 commissioner of the NDIS quality and safeguards commission  
22 established under the *NDIS Act*, section 181C.

23 ***senior practitioner***—see the *Senior Practitioner Act 2018*,  
24 dictionary.

**62 Particular entities may give information to commissioner  
Section 63B (1)**

*omit*

a child or class of child

*substitute*

a vulnerable person or class of vulnerable people

**63 Section 63B (3), definition of *entity*, new  
paragraphs (d) to (g)**

*insert*

(d) the registrar-general; or

(e) the regulator under the [Work Health and Safety Act 2011](#); or

(f) the road transport authority; or

(g) the work safety commissioner.

**64 New section 63C**

*in part 8, insert*

**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

- 1 (iii) whether the person's registration is subject to conditions  
2 under section 42 or section 54A;
- 3 (d) anything else prescribed by regulation.
- 4 (2) For subsection (1) (c) (iii), the commissioner need not tell the  
5 employer what the person's condition is.
- 6 (3) In this section, an employer is *associated* with a person if—  
7 (a) the person is registered or has applied for registration; and  
8 (b) the employer engages, or intends to engage, the person in a  
9 regulated activity for which the person is required to be  
10 registered.

11 **65 Approved forms**  
12 **Section 69**

13 *omit*

14 **66 Reviewable decisions**  
15 **Schedule 2, new items 1A and 1B**

16 *before item 1, insert*

1A	15A (1)	refuse to allow unregistered person to engage in NDIS activity	person
1B	15A (5) (b)	refuse to remove person's interim bar	person

17 **67 Schedule 2, item 9**

18 *substitute*

9	54A (4)	make person's registration subject to interim condition	person
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19 **68 Schedule 2, new item 11**

20 *insert*

11	59 (7) (b)	refuse to end person's suspension	person
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**69 New schedule 3***insert***Schedule 3 Disqualifying offences**

(see s 26A)

**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](#).*Sex Work Act* means the [Sex Work Act 1992](#).**Part 3.2 Class A 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 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 (g), for offence against s 29 (2)	aggravated offences—offences against pregnant women	intent to cause death

column 1 item	column 2 offence	column 3 short description	column 4 condition
<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 25	cause grievous bodily harm	offence against vulnerable person
10	<a href="#">Crimes Act</a> , s 27 (3) (a)	acts endangering life—chokes, suffocates or strangles	offence against vulnerable person
11	<a href="#">Crimes Act</a> , s 36	torture	offence against vulnerable person
12	<a href="#">Crimes Act</a> , s 43	childbirth—grievous bodily harm with intent	offence against vulnerable person
13	<a href="#">Crimes Act</a> , s 48A (1) (b) to (e)	aggravated offences against pregnant women	offence against vulnerable person
14	<a href="#">Crimes Act</a> , s 74	prohibition of female genital mutilation	offence against vulnerable person
15	<a href="#">Crimes Act</a> , s 75	remove child from ACT for genital mutilation	
<b>Sexual assault and related offences</b>			
16	<a href="#">Crimes Act</a> , s 51	sexual assault in first degree	offence against vulnerable person
17	<a href="#">Crimes Act</a> , s 52	sexual assault in second degree	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
18	<a href="#">Crimes Act</a> , s 53	sexual assault in third degree	offence against vulnerable person
19	<a href="#">Crimes Act</a> , s 54	sexual intercourse without consent	offence against vulnerable person
20	<a href="#">Crimes Act</a> , s 55 (1)	sexual intercourse with young person (under 10 years old)	
21	<a href="#">Crimes Act</a> , s 55 (2)	sexual intercourse with young person (under 16 years old)	offence against child under 13 years old
22	<a href="#">Crimes Act</a> , s 55A	sexual intercourse with young person under special care	
23	<a href="#">Crimes Act</a> , s 56	maintain sexual relationship with young person or person under special care	
24	<a href="#">Crimes Act</a> , s 57	act of indecency in first degree	offence against vulnerable person
25	<a href="#">Crimes Act</a> , s 58	act of indecency in second degree	offence against vulnerable person
26	<a href="#">Crimes Act</a> , s 59	act of indecency in third degree	offence against vulnerable person
27	<a href="#">Crimes Act</a> , s 60	act of indecency without consent	offence against vulnerable person
28	<a href="#">Crimes Act</a> , s 61 (1)	act of indecency without consent (child under 10 years old)	
29	<a href="#">Crimes Act</a> , s 61 (2)	act of indecency without consent (child under 16 years )	offence against child under 13 years

column 1 item	column 2 offence	column 3 short description	column 4 condition
30	<a href="#">Crimes Act</a> , s 61A	act of indecency with young person under special care	
31	<a href="#">Crimes Act</a> , s 62 (1)	incest (under 10 years)	
32	<a href="#">Crimes Act</a> , s 62 (2)	incest (under 16 years)	offence against child under 13 years
33	<a href="#">Crimes Act</a> , s 64 (1)	use etc child under 12 years for production of child exploitation material	
34	<a href="#">Crimes Act</a> , s 64 (3)	use etc child 12 years or older for production of child exploitation material	
35	<a href="#">Crimes Act</a> , s 64A	trade in child exploitation material	
36	<a href="#">Crimes Act</a> , s 65	possess child exploitation material	
37	<a href="#">Crimes Act</a> , s 66 (1) (a)	grooming—encourage young person to commit etc act of sexual nature	
38	<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	

column 1 item	column 2 offence	column 3 short description	column 4 condition
39	<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	
40	<a href="#">Crimes Act</a> , s 72D	distribute intimate image of young person	
41	<a href="#">Crimes Act</a> , s 79 (1)	sexual servitude— cause person to enter or remain in	offence against vulnerable person
42	<a href="#">Crimes Act</a> , s 79 (2)	sexual servitude— conduct business involving	offence against vulnerable person
43	<a href="#">Crimes Act</a> , s 80	deceptive recruiting for sexual services	offence against vulnerable person
44	<a href="#">Sex Work Act</a> , s 20	cause child to provide commercial sexual services etc	
<b>Abduction, harassment and related offences</b>			
45	<a href="#">Crimes Act</a> , s 37	abduction of young person	offence against child other than family member
46	<a href="#">Crimes Act</a> , s 38	kidnapping	offence against child other than family member
47	<a href="#">Crimes Act</a> , s 40	unlawfully take child etc	offence against child other than family member
48	<a href="#">Crimes Act</a> , s 63	abduction	offence against vulnerable person
<b>Public order offences</b>			
49	<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="#">Crimes Act</a> , s 17	suicide—aiding etc	
3	<a href="#">Crimes Act</a> , s 42	child destruction	
4	<a href="#">Crimes Act</a> , s 48A (1) (a)	culpable driving of motor vehicle—cause death	without intent to cause death
5	<a href="#">Crimes Act</a> , s 48A (1) (g)	aggravated offences—offences against pregnant women	without intent to cause death
<b>Acts intended to cause injury</b>			
6	<a href="#">Crimes Act</a> , s 19	intentionally inflict grievous bodily harm	offence other than against vulnerable person
7	<a href="#">Crimes Act</a> , s 20	recklessly inflict grievous bodily harm	offence other than against vulnerable person
8	<a href="#">Crimes Act</a> , s 21	wounding	offence other than against vulnerable person
9	<a href="#">Crimes Act</a> , s 22	assault with intent to commit other offence	offence other than against vulnerable person
10	<a href="#">Crimes Act</a> , s 25	cause grievous bodily harm	offence other than against vulnerable person
11	<a href="#">Crimes Act</a> , s 27 (3) (a)	acts endangering life etc—chokes, suffocates or strangles	offence other than against vulnerable person
12	<a href="#">Crimes Act</a> , s 36	torture	offence other than against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
13	<a href="#">Crimes Act</a> , s 48A (1) (b) to (f)	aggravated offences— offences against pregnant women	offence other than against vulnerable person
<b>Sexual assault and related offences</b>			
14	<a href="#">Crimes Act</a> , s 51	sexual assault in first degree	offence other than against vulnerable person
15	<a href="#">Crimes Act</a> , s 52	sexual assault in second degree	offence other than against vulnerable person
16	<a href="#">Crimes Act</a> , s 53	sexual assault in third degree	offence other than against vulnerable person
17	<a href="#">Crimes Act</a> , s 54	sexual intercourse without consent	offence other than against vulnerable person
18	<a href="#">Crimes Act</a> , s 57	act of indecency in first degree	offence other than against vulnerable person
19	<a href="#">Crimes Act</a> , s 58	act of indecency in second degree	offence other than against vulnerable person
20	<a href="#">Crimes Act</a> , s 59	act of indecency in third degree	offence other than against vulnerable person
21	<a href="#">Crimes Act</a> , s 60	act of indecency without consent	offence other than against vulnerable person
22	<a href="#">Crimes Act</a> , s 61B	intimate observations or capturing visual data etc	offence other than against vulnerable person
23	<a href="#">Crimes Act</a> , s 62 (2)	incest (under 16 years)	offence against child 13 years or older
24	<a href="#">Crimes Act</a> , s 62 (3)	incest (16 years or older)	offence other than against vulnerable person
25	<a href="#">Crimes Act</a> , s 72C	non-consensual distribution of intimate images	offence against vulnerable person

column 1 item	column 2 offence	column 3 short description	column 4 condition
26	<a href="#">Crimes Act</a> , s 79 (1)	sexual servitude— cause person to enter or remain in	offence other than against vulnerable person
27	<a href="#">Crimes Act</a> , s 79 (2)	sexual servitude— conduct business involving	offence other than against vulnerable person
28	<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>			
29	<a href="#">Crimes Act</a> , s 39	neglect etc of children	
30	<a href="#">Crimes Act</a> , s 41	expose or abandon child	
<b>Abduction, harassment and related offences</b>			
31	<a href="#">Crimes Act</a> , s 38	kidnapping	offence against child family member or person other than a vulnerable person
32	<a href="#">Crimes Act</a> , s 63	abduction	offence against child family member or person other than a vulnerable person
<b>Robbery, extortion and related offences</b>			
33	<a href="#">Criminal Code</a> , s 310	aggravated robbery	
<b>Fraud, deception and related offences</b>			
34	<a href="#">Criminal Code</a> , s 326	obtain property by deception	offence against vulnerable person
35	<a href="#">Criminal Code</a> , s 332	obtain financial advantage by deception	offence against vulnerable person
36	<a href="#">Criminal Code</a> , s 333	general dishonesty	
37	<a href="#">Criminal Code</a> , s 334	conspiracy to defraud	offence against vulnerable person



column 1 item	column 2 offence	column 3 short description	column 4 condition
38	<a href="#">Criminal Code</a> , s 336	pass valueless cheques	offence against vulnerable person
39	<a href="#">Criminal Code</a> , s 336A	make false statements on oath or in statutory declarations	
40	<a href="#">Criminal Code</a> , s 337	make false or misleading statements	
41	<a href="#">Criminal Code</a> , s 338	give false or misleading information	offence against vulnerable person
42	<a href="#">Criminal Code</a> , s 339	produce false or misleading documents	offence against vulnerable person
43	<a href="#">Criminal Code</a> , s 346	forgery	offence against vulnerable person
44	<a href="#">Criminal Code</a> , s 347	use false document	offence against vulnerable person
45	<a href="#">Criminal Code</a> , s 348	possess false document	offence against vulnerable person
46	<a href="#">Criminal Code</a> , s 351	false statement by officer of body	
<b>Illicit drug offences</b>			
47	<a href="#">Criminal Code</a> , s 603 (1)	traffic controlled drug—large commercial quantity	
48	<a href="#">Criminal Code</a> , s 603 (3)	traffic controlled drug—commercial quantity	
49	<a href="#">Criminal Code</a> , s 603 (5)	traffic controlled drug—trafficable quantity of cannabis	

column 1 item	column 2 offence	column 3 short description	column 4 condition
50	<a href="#">Criminal Code</a> , s 603 (7)	traffic controlled drug—controlled drug other than cannabis	
51	<a href="#">Criminal Code</a> , s 603 (8)	traffic controlled drug—cannabis	
52	<a href="#">Criminal Code</a> , s 610	sell controlled precursor for manufacture of controlled drug	
53	<a href="#">Criminal Code</a> , s 619 (1)	sell controlled plant— large commercial quantity	
54	<a href="#">Criminal Code</a> , s 619 (3)	sell controlled plant— commercial quantity	
55	<a href="#">Criminal Code</a> , s 619 (5)	sell controlled plant— trafficable quantity of cannabis plant	
56	<a href="#">Criminal Code</a> , s 619 (7)	sell controlled plant— controlled plant other than cannabis plant	
57	<a href="#">Criminal Code</a> , s 619 (8)	sell controlled plant— cannabis plant	
58	<a href="#">Criminal Code</a> , s 622 (1)	supply controlled drug to child for selling— commercial quantity	
59	<a href="#">Criminal Code</a> , s 622 (3)	supply controlled drug to child for selling	
60	<a href="#">Criminal Code</a> , s 624 (1)	procure child to traffic in controlled drug— commercial quantity	
61	<a href="#">Criminal Code</a> , s 624 (4)	procure child to traffic in controlled drug	

column 1 item	column 2 offence	column 3 short description	column 4 condition
62	<a href="#">Criminal Code</a> , s 625	supply controlled drug to child	
<b>Public order offences</b>			
63	<a href="#">Animal Welfare Act</a> , s 7A	aggravated cruelty	

## 70 Dictionary, note 2

*insert*

- director-general (see s 163)
- foreign country
- registrar-general
- road transport authority
- work safety commissioner

## 71 Dictionary, new definitions

*insert*

***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***, for part 5 (Risk assessments)—see section 26A.

***class B disqualifying offence***, for part 5 (Risk assessments)—see section 26A.

***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.

- 1            *disqualifying offence*, for part 5 (Risk assessments)—see  
2            section 26A.
- 3            *interim bar*—see section 15A.
- 4            *interim condition*—see section 54A.
- 5            *NDIS Act* means the *National Disability Insurance Scheme Act 2013*  
6            (Cwlth).
- 7            *NDIS activity*—see section 8A.
- 8            *NDIS quality and safeguards commission* means the NDIS quality  
9            and safeguards commission established under the *NDIS Act*,  
10           section 181A.
- 11           *registered NDIS provider*—see the *NDIS Act*, section 9  
12           (Definitions).
- 13           *Sex Work Act*, for schedule 3 (Disqualifying offences)—  
14           see schedule 3, section 3.1.
- 15        **72        Dictionary, definition of *registration card***
- 16           *omit*

## **Schedule 1      Consequential amendments**

(see s 3)

### **Part 1.1      Magistrates Court (Working with Vulnerable People Infringement Notices) Regulation 2012**

#### **[1.1]      Schedule 1, new item 4A**

*insert*

4A	33 (3A)	50	500
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#### **[1.2]      Schedule 1, items 6 and 7**

*substitute*

6	53 (3A)	50	500
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#### **[1.3]      Schedule 1, item 10**

*omit*

### **Part 1.2      Road Transport (Driver Licensing) Regulation 2000**

#### **[1.4]      Section 138B (1) (b) (iii)**

*omit*

1 **Part 1.3** **Working with Vulnerable People**  
2 **(Background Checking)**  
3 **Regulation 2012**

4 **[1.5] Dictionary, note 3**

5 *omit*

- 6
  - registration card (see s 49 (1))
- 

**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 4 April 2019.

**2 Notification**

Notified under the [Legislation Act](#) on 2019.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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