

## TASMANIA

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# **REGISTRATION TO WORK WITH VULNERABLE PEOPLE AMENDMENT REGULATIONS 2020**

## **STATUTORY RULES 2020, No. 93**

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### **CONTENTS**

1. Short title
2. Commencement
3. Principal Regulations
4. Part 2, Division 1: Heading amended
5. Regulation 4 amended (Interpretation)
6. Regulation 4A substituted
  - 4A. Regulated activities
7. Regulation 4B rescinded
8. Regulation 4C amended (Exemption for persons engaged in child-related activity – commercial services)
9. Regulation 4D amended (Exemption for persons engaged in child-related activity – coaching and tuition services)
10. Regulation 4E amended (Exemption for persons engaged in child-related activity – religious services)
11. Regulation 4F amended (Exemption for persons engaged in child-related activity – clubs, associations, &c.)
12. Regulations 4FA, 4FB and 4FC inserted
  - 4FA. Exemption for persons engaged in child and vulnerable adult-related (NDIS endorsed) activity

- 4FB. Exemptions for persons engaged in child-related activity
  - 4FC. Exemptions for persons engaged in child-related activity or child and vulnerable adult-related (NDIS endorsed) activity
- 13. Regulation 4Q inserted
  - 4Q. Category of registration prescribed for section 35(1A) of Act
- 14. Regulation 8 rescinded
- 15. Schedule 2 substituted
  - Schedule 2 – Infringement Notice Offences

## **REGISTRATION TO WORK WITH VULNERABLE PEOPLE AMENDMENT REGULATIONS 2020**

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Registration to Work with Vulnerable People Act 2013*.

Dated 22 December 2020.

C. WARNER  
Governor

By Her Excellency's Command,

ELISE ARCHER  
Minister for Justice

### **1. Short title**

These regulations may be cited as the *Registration to Work with Vulnerable People Amendment Regulations 2020*.

### **2. Commencement**

These regulations take effect on the day on which the provisions of the *Registration to Work*

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 3

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*with Vulnerable People Amendment Act 2019  
commence.*

**3. Principal Regulations**

In these regulations, the *Registration to Work with Vulnerable People Regulations 2014\** are referred to as the Principal Regulations.

**4. Part 2, Division 1: Heading amended**

Division 1 of Part 2 of the Principal Regulations is amended by omitting “*Child-related activities*” from the heading to that Division and substituting “*Child-related and child and vulnerable adult-related (NDIS endorsed) activities*”.

**5. Regulation 4 amended (Interpretation)**

Regulation 4 of the Principal Regulations is amended as follows:

- (a) by renumbering the text of the regulation as subregulation (1);
- (b) by omitting the definition of *child-related regulated activity* from subregulation (1);

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\*S.R. 2014, No. 68

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 5

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- (c) by inserting the following definition after the definition of *child-related service* in subregulation (1):

*close relative* in relation to a vulnerable person, means the vulnerable person's –

- (a) husband or wife, or partner within the meaning of the *Relationships Act 2003*; or
- (b) father, mother, grandfather, grandmother, stepfather, stepmother, father-in-law or mother-in-law; or
- (c) son, daughter, grandson, granddaughter, stepson, stepdaughter, son-in-law or daughter-in-law; or
- (d) brother, sister, half-brother, half-sister, stepbrother, stepsister, brother-in-law or sister-in-law; or
- (e) uncle, aunt, uncle-in-law or aunt-in-law; or
- (f) nephew, niece or cousin –

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 5

---

but does not include a person referred to in paragraph (a), (b), (c), (d), (e) or (f) if that person has been given the care of the vulnerable person under section 69(1)(a) of the *Children, Young Persons and Their Families Act 1997*.

- (d) by inserting the following definitions after the definition of *commencement day* in subregulation (1):

*day* includes part of a day;

*emergency* has the same meaning as in the *Emergency Management Act 2006*;

*emergency management worker* has the same meaning as in the *Emergency Management Act 2006*;

- (e) by omitting “Regulations.” from the definition of *safety screening clearance* in subregulation (1) and substituting “Regulations;”;

- (f) by inserting the following definition after the definition of *safety screening clearance* in subregulation (1):

*school* means –

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 5

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- (a) a State school within the meaning of the *Education Act 2016*; or
  - (b) a registered school within the meaning of the *Education Act 2016*; or
  - (c) a centre, unit or institute of the State which provides educational instruction at any level up to, and including, the final year of secondary education, including TasTAFE within the meaning of the *Training and Workforce Development Act 2013*.
- (g) by inserting the following subregulation after subregulation (1):
- (2) Unless the contrary intention appears, an expression that is used in these regulations and the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* of the Commonwealth or the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018* of the Commonwealth has, in these

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 6

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regulations, the same meaning respectively as in those rules.

**6. Regulation 4A substituted**

Regulation 4A of the Principal Regulations is rescinded and the following regulation is substituted:

**4A. Regulated activities**

For the purposes of section 4A(2) of the Act, the following activities are prescribed as regulated activities:

- (a) in respect of the category of registration referred to as child-related activity, a child-related service;
- (b) in respect of the category of registration referred to as child and vulnerable adult-related (NDIS endorsed) activity, the activities, referred to as a class of supports, specified in the table at subsection 20(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* of the Commonwealth at –
  - (i) items 2, 4, 6, 7, 10, 14, 15, 16, 17, 18, 19, 21, 25,

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 7

---

26, 27, 28, 29, 33, 34, 35,  
36, 37; and

- (ii) item 8, in so far as the activity is in relation to specialised transport to school, an educational facility, employment or a community activity.

**7. Regulation 4B rescinded**

Regulation 4B of the Principal Regulations is rescinded.

**8. Regulation 4C amended (Exemption for persons engaged in child-related activity – commercial services)**

Regulation 4C of the Principal Regulations is amended as follows:

- (a) by omitting “section 15(3)(p)” and substituting “section 15(2)(d)”;
- (b) by omitting “regulated” first occurring;
- (c) by omitting from paragraph (a) “regulated”;
- (d) by omitting from paragraph (b) “regulated”;
- (e) by omitting from paragraph (c) “regulated”;

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 9

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(f) by omitting from paragraph (d) “regulated”;

(g) by omitting from paragraph (e) “regulated”.

**9. Regulation 4D amended (Exemption for persons engaged in child-related activity – coaching and tuition services)**

Regulation 4D of the Principal Regulations is amended as follows:

(a) by omitting “section 15(3)(p)” and substituting “section 15(2)(d)”;

(b) by omitting “regulated” first occurring;

(c) by omitting from paragraph (a) “regulated”;

(d) by omitting from paragraph (b) “regulated”.

**10. Regulation 4E amended (Exemption for persons engaged in child-related activity – religious services)**

Regulation 4E of the Principal Regulations is amended as follows:

(a) by omitting “section 15(3)(p)” and substituting “section 15(2)(d)”;

(b) by omitting “regulated” three times occurring.

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**11. Regulation 4F amended (Exemption for persons engaged in child-related activity – clubs, associations, &c.)**

Regulation 4F of the Principal Regulations is amended as follows:

- (a) by omitting “section 15(3)(p)” and substituting “section 15(2)(d)”;
- (b) by omitting “regulated” first occurring;
- (c) by omitting from paragraph (a) “regulated”;
- (d) by omitting from paragraph (b) “regulated”;
- (e) by omitting from paragraph (c) “regulated”;
- (f) by omitting from paragraph (d) “regulated”.

**12. Regulations 4FA, 4FB and 4FC inserted**

After regulation 4F of the Principal Regulations, the following regulations are inserted in Division 1:

**4FA. Exemption for persons engaged in child and vulnerable adult-related (NDIS endorsed) activity**

For the purposes of section 15(2)(d) of the Act, the following classes of persons

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 12

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are prescribed as not being required to be registered to engage in a child and vulnerable adult-related (NDIS endorsed) activity:

- (a) a person specified in paragraph 14(a) or (c) of the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018*;
- (b) a person who is a worker of a registered NDIS provider complying with paragraph 14(b) of the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018*.

**4FB. Exemptions for persons engaged in child-related activity**

For the purposes of section 15(2)(e) of the Act, a person is not required to be registered to engage in a child-related activity in the following circumstances:

- (a) if—
  - (i) the person is engaged in the activity (other than an activity that consists of an overnight camp for children) for a particular employer in circumstances that

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 12

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involve the person being in more than incidental physical contact with a child; and

- (ii) at the same time as the person is so engaged in the activity for that particular employer, a registered person, or another person who is exempt from the requirement to be registered to engage in the activity, is also present and engaged in the activity for that particular employer; and
  - (iii) the person is so engaged in the activity for that particular employer for not more than 7 days in any calendar year;
- (b) if the person is a close relative of each child who is taking part in the activity and with whom the person has contact;
- (c) if the person is engaged in the activity as a volunteer and –
- (i) is a close relative of a child taking part, or who

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 12

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normally takes part, in the activity; and

- (ii) a close relative of each other child taking part in the activity is engaged, or is expected to be engaged, in the activity;
- (d) if the person is engaged in the activity in the same capacity as the child with whom the person has contact;
- (e) if the person is an employer or supervisor of a child, unless the child is engaged in a regulated activity;
- (f) if the person is engaged in the activity as a correctional officer, within the meaning of the *Corrections Act 1997*;
- (g) if the person is engaged in the activity and the only contact that the person has with a child is working with a record of the child;
- (h) if the person is an emergency management worker and is engaged in the activity for the purposes of dealing with an emergency;

- (i) if the person is engaged in the activity for a Tasmanian public authority or an agency of the Commonwealth (including a body, corporate or unincorporate, established under an Act of the Commonwealth) and the only contact that the person has with a child is providing a service to the child at a public counter or shopfront or by telephone, unless the person has more than incidental contact with the child;
- (j) if the person is engaged in the activity and the only contact that the person has with a child is providing information to, or receiving information from, the child by telephone, unless the person has more than incidental contact with the child.

**4FC. Exemptions for persons engaged in child-related activity or child and vulnerable adult-related (NDIS endorsed) activity**

For the purposes of section 15(2)(e) of the Act, a person is not required to be registered to engage in a child-related activity, or a child and vulnerable adult-related (NDIS endorsed) activity, in the following circumstances:

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 13

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- (a) if the person is under the age of 16 years;
- (b) if –
  - (i) the person is engaged in the regulated activity as a school student on a work experience placement or doing practical training; and
  - (ii) at the same time as the person is so engaged in the regulated activity, a registered person is also present and engaged in the regulated activity.

**13. Regulation 4Q inserted**

After regulation 4P of the Principal Regulations, the following regulation is inserted in Part 2A:

**4Q. Category of registration prescribed for section 35(1A) of Act**

For the purposes of section 35(1A) of the Act, the category of registration referred to as child and vulnerable adult-related (NDIS endorsed) activity is prescribed as a category of registration that may not be made subject to a condition.

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 14

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**14. Regulation 8 rescinded**

Regulation 8 of the Principal Regulations is rescinded.

**15. Schedule 2 substituted**

Schedule 2 to the Principal Regulations is rescinded and the following Schedule is substituted:

**SCHEDULE 2 – INFRINGEMENT NOTICE  
OFFENCES**

<b>Column 1</b>	<b>Column 2</b>	Regulation 7 <b>Column 3</b>
<b>Item no.</b>	<b>Section of Act</b>	<b>Penalty (penalty units)</b>
1.	Section 16(1)	20
2.	Section 16A(1)	5
3.	Section 17(1)	5
4.	Section 17(2)	20
5.	Section 17A(1)	5
6.	Section 24	5
7.	Section 24A(1)	1
8.	Section 41	20
9.	Section 44(1)	5

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

r. 15

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item no.</b>	<b>Section of Act</b>	<b>Penalty (penalty units)</b>
10.	Section 44(1B)	5
11.	Section 47(1)	5
12.	Section 47(2)	5
13.	Section 48(1)	1
14.	Section 48A(1)	1
15.	Section 52(3)	5
16.	Section 52A(6)	20
17.	Section 52B(5)	20
18.	Section 54(2)	5
19.	Section 54(3)	5
20.	Section 54A	5

*Registration to Work with Vulnerable People Amendment  
Regulations 2020  
Statutory Rules 2020, No. 93*

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

Notified in the *Gazette* on 30 December 2020.

These regulations are administered in the Department of Justice.

**EXPLANATORY NOTE**

*(This note is not part of the regulations)*

These regulations amend the *Registration to Work with Vulnerable People Regulations 2014* by –

- (a) providing for the incorporation of matters relating to the National Disability Insurance Scheme of the Commonwealth; and
- (b) updating the list of infringement notice penalties in Schedule 2; and
- (c) making other minor miscellaneous amendments consequential on the commencement of the *Registration to Work with Vulnerable People Amendment Act 2019*.