



Queensland

# Criminal History Screening Legislation Amendment Regulation (No. 1) 2010

## Subordinate Legislation 2010 No. 54

made under the

*Commission for Children and Young People and Child Guardian  
Act 2000*

*Public Service Act 2008*

*Youth Justice Act 1992*

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## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Criminal History Screening Legislation Amendment Regulation (No. 1) 2010*.

### **2 Commencement**

- (1) This regulation, other than section 9, commences on 1 April 2010.
- (2) Section 9 commences on 1 July 2010.

## **Part 2 Amendment of Commission for Children and Young People and Child Guardian Regulation 2001**

### **3 Regulation amended**

This part amends the *Commission for Children and Young People and Child Guardian Regulation 2001*.

### **4 Replacement of ss 2–8**

Sections 2 to 8—  
*omit, insert—*

### **‘2 Definitions**

‘The dictionary in schedule 5 defines particular words used in this regulation.

**‘3 Matters to be included in risk management strategies—Act, ss 171 and 172**

- ‘(1) For sections 171(1)(b) and 172(b) of the Act, the matters that must be included in a person’s risk management strategy are as follows—
- (a) a statement about commitment to the safety and wellbeing of children and the protection of children from harm;
  - (b) a code of conduct for interacting with children and young people;
  - (c) procedures for recruiting, selecting, training and managing persons engaged or proposed to be engaged by the person, as the procedures relate to the safety and wellbeing of children and the protection of children from harm;
  - (d) policies and procedures for handling disclosures or suspicions of harm, including reporting guidelines;
  - (e) a plan for managing breaches of the risk management strategy;
  - (f) policies and procedures for compliance with chapter 8 of the Act, including—
    - (i) implementing and reviewing the risk management strategy; and
    - (ii) keeping a written record, in relation to matters under chapter 8 of the Act, about each person (*engaged person*) engaged by the person, for example—
      - (A) whether or not the person considers the person must apply for a prescribed notice or exemption notice about the engaged person; and
      - (B) whether or not a prescribed notice application or an exemption notice application has been made by the person about the engaged person; and

- 
- (C) if a positive notice has been issued for the engaged person—the date of expiry of the notice;
  - (g) risk management plans for high risk activities and special events;
  - (h) strategies for communication and support, including—
    - (i) written information for parents and persons engaged by the person that includes details of the person’s risk management strategy or where the strategy can be accessed; and
    - (ii) training materials for persons engaged by the person to—
      - (A) help identify risks of harm and how to handle disclosures or suspicions of harm; and
      - (B) outline the person’s risk management strategy.
- ‘(2) In this section—

*risk management strategy* means a written strategy required to be developed and implemented under section 171 or 172 of the Act.

**‘4 Documents relating to proof of identity—Act, ss 176, 178, 200, 212, 249, 261 and 273**

- ‘(1) This section prescribes, for sections 176(3), 178(4), 200(2), 212(2), 249(3), 261(2) and 273(2) of the Act, the documents, relating to proof of identity, for a person (the *identified person*) that must be sighted by a certifying person.
- ‘(2) The certifying person must sight any of the following for the identified person—
- (a) 2 primary identification documents;
  - (b) 1 primary identification document and 1 secondary identification document;

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- (c) a document or documents that the commissioner notifies the certifying person is sufficient to establish the identified person's identity.
- '(3) If the certifying person sights documents under subsection (2)(a) or (b), the documents must show, between them, the following—
- (a) the identified person's full name;
  - (b) the identified person's date of birth;
  - (c) the identified person's signature.
- '(4) If the identified person's name in a document sighted under subsection (2) differs from the identified person's current name, the certifying person also must sight—
- (a) an official document evidencing the identified person's change of name; or
  - (b) a document the commissioner considers provides sufficient evidence of the identified person's change of name.

*Examples for subsection (4)(a) of an official document evidencing a change of name—*

- 1 marriage certificate
- 2 deed poll

- '(5) In this section—
- certifying person*** means—
- (a) an employer or proposed employer; or
  - (b) an education provider; or
  - (c) a prescribed person.

**'5 Record or disclosure of confidential information—Act, s 385**

- '(1) For section 385(4)(d) of the Act, a person may, for a purpose related to the administration of chapter 8 of the Act (including

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as applied by section 36 of the Act), make a record of, or disclose, the following confidential information—

- (a) whether there is a current prescribed notice application about a person under section 200 or 212 of the Act;
- (b) whether there is a current exemption notice application about a person under section 261 or 273 of the Act;
- (c) whether a person has a valid positive notice or a valid exemption notice.

*Example—*

A person may disclose information to a parent who is seeking to engage a person running a regulated business about whether the person has a valid positive notice.

‘(2) In this section—

***current—***

- (a) for a prescribed notice application—means a prescribed notice application that has not been withdrawn or decided; or
- (b) for an exemption notice application—means an exemption notice application that has not been withdrawn or decided.

***valid—***

- (a) for a positive notice—means a current positive notice that has not been suspended; or
- (b) for a positive exemption notice—means a current positive exemption notice that has not been suspended.

## ‘6 Usual functions of employment—Act, sch 1, s 15

‘Schedule 3 sets out whether a function of employment is a usual function of employment for the functions and provisions of the Act mentioned in the schedule.

## **‘7 Fees**

‘The fees payable under the Act are stated in schedule 4.

## **‘8 When fee for a volunteer becomes payable**

‘The fee mentioned in schedule 4, item 2, for a prescribed notice application about a volunteer becomes payable when and only if both of the following happen—

- (a) the volunteer is issued a positive notice in relation to the application;
- (b) a change mentioned in section 350(1)(a) or (b) of the Act happens during the term of the positive notice.’.

## **5 Amendment of sch 1 (Primary identification documents)**

- (1) Schedule 1, authorising provision, ‘sections 6 and 7’—

*omit, insert—*

‘section 4’.

- (2) Schedule 1, entry for citizenship certificate, after ‘certificate’—

*insert—*

‘or notice of citizenship’.

## **6 Amendment of sch 2 (Secondary identification documents)**

- (1) Schedule 2, authorising provision, ‘sections 6 and 7’—

*omit, insert—*

‘section 4’.

- (2) Schedule 2, after entry for current positive notice blue card—

*insert—*

‘• current positive exemption notice’.



**7 Amendment and renumbering of sch 2A (Usual functions of employment)**

- (1) Schedule 2A, authorising provision, ‘section 8’—  
*omit, insert—*  
 ‘section 6’.
- (2) Schedule 2A, sections 1 and 2, ‘section 6B’—  
*omit, insert—*  
 ‘section 9’.
- (3) Schedule 2A—  
*renumber* as schedule 3.

**8 Insertion of new sch 4**

After schedule 3 as renumbered—  
*insert—*

**‘Schedule 4 Fees**

		section 7
		\$
1	Fee for an application for an eligibility declaration (Act, s 178) .....	70.00
2	Fee for a prescribed notice application relating to regulated employment (Act, s 200) .....	70.00
3	Fee for a prescribed notice application relating to a regulated business (Act, s 212)—	
(a)	if the application is about a person proposing to carry on, or continue carrying on, a regulated business, other than for financial reward. ....	nil
(b)	otherwise .....	70.00

[s 9]

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	\$
4 Fee for an application for cancellation of a negative notice (Act, s 236) . . . . .	70.00
5 Fee for an application for replacement of a positive notice, positive notice blue card or positive exemption notice (Act, s 347) . . . . .	10.30’.

**9 Amendment of sch 4 (Fees)**

Schedule 4—

*insert—*

‘6 Fee for the commissioner giving, and the college of teachers obtaining, information under the *Education (Queensland College of Teachers) Act 2005*, s 15D . . . . . 11.55’.

**10 Amendment and renumbering of sch 3 (Dictionary)**

(1) Schedule 3, authorising provision, ‘section 3’—

*omit, insert—*

‘section 2’.

(2) Schedule 3, definition *citizenship certificate*, after ‘under the’—

*insert—*

‘repealed’.

(3) Schedule 3—

*insert—*

‘*notice of citizenship* means a notice given under the *Australian Citizenship Act 2007* (Cwlth), section 37 stating that a person is an Australian citizen at a particular time.’.

(4) Schedule 3, definitions *primary identification document* and *secondary identification document—*

*relocate* to section 4(5).

- (5) Schedule 3—  
*renumber* as schedule 5.

## **Part 3**                      **Amendment of Public Service Regulation 2008**

### **11**      **Regulation amended**

This part amends the *Public Service Regulation 2008*.

### **12**      **Omission of ss 15 and 16**

Sections 15 and 16—  
*omit*.

## **Part 4**                      **Amendment of Youth Justice Regulation 2003**

### **13**      **Regulation amended**

This part amends the *Youth Justice Regulation 2003*.

### **14**      **Amendment of s 31 (Correspondence)**

Section 31(5), editor's note—

*omit, insert*—

*'Note for subsection (5)*—

For other matters about dealing with correspondence of a child, see—

- (a) section 276 of the Act; and

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(b) the *Commission for Children and Young People and Child Guardian Act 2000*, section 114.’

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#### ENDNOTES

- 1 Made by the Governor in Council on 25 March 2010.
- 2 Notified in the gazette on 26 March 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Communities.

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