



Queensland

# Commission for Children and Young People and Child Guardian Regulation 2011

## Subordinate Legislation 2011 No. 148

made under the

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

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## **1 Short title**

This regulation may be cited as the *Commission for Children and Young People and Child Guardian Regulation 2011*.

## **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(1)(b) and 172(b)**

- (1) For the Act, sections 171(1)(b) and 172(b), the following matters must be included in a person's risk management strategy—
- (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;
  - (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 the Act, chapter 8, including policies and procedures about—
    - (i) implementing and reviewing the risk management strategy; and
    - (ii) keeping a written record of matters under the Act, chapter 8 about each person (*engaged person*) engaged by the person, for example—

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- (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 the Act, section 171 or 172.

#### **4 Documents relating to proof of identity—Act, sch 7, definition *proof of identity documents***

- (1) This section prescribes, for the Act, schedule 7, definition *proof of identity documents*, the documents relating to the identity of a person (the *identified person*) that must be sighted by a certifying person.

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- (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;
  - (c) a document or documents that the commissioner considers provides sufficient evidence 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 or documents the commissioner considers provides sufficient evidence of the identified person's change of name.

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

marriage certificate, 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.

***primary identification document*** means a document mentioned in schedule 1.

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*secondary identification document* means a document mentioned in schedule 2.

**5 Record or disclosure of confidential information—Act, s 385(4)(d)**

- (1) For the Act, section 385(4)(d), a person may, for a purpose related to the administration of the Act, chapter 8, including as applied by the Act, section 357H, make a record of, or disclose, the following confidential information—
- (a) whether there is a prescribed notice application about a person under the Act, section 200 or 212 that has not been withdrawn or decided;
  - (b) whether there is an exemption notice application about a person under the Act, section 261 or 273 that has not been withdrawn or decided;
  - (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 another person running a regulated business about whether that person has a valid positive notice.

- (2) In this section—

*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.

[s 7]

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**7 Fees**

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

**8 Repeal**

The Commission for Children and Young People and Child Guardian Regulation 2001, SL No. 35 is repealed.

## **Schedule 1      Primary identification documents**

section 4(5)

- a birth certificate
- an Australian passport that is current or has been expired for less than 2 years
- a current overseas passport
- a citizenship certificate or notice of citizenship
- a current document evidencing permanent residency status
- a current driver licence containing the person's photograph
- a current overseas passport
- a current proof of age card

## **Schedule 2      Secondary identification documents**

section 4(5)

- a current identification card issued by the Commonwealth or a State as evidence of the person's entitlement to a financial benefit

*Examples—*

- Commonwealth seniors health card
- health care card
- medicare card
- pensioner concession card
- repatriation health card
- a current gaming machine licence issued under the *Gaming Machine Act 1991*
- a current licence issued under the *Security Providers Act 1993* to carry out the functions of a bodyguard, crowd controller, private investigator, security adviser, security equipment installer or security officer
- a current licence issued under the *Weapons Act 1990*
- a current positive exemption notice
- a current positive notice blue card
- a current student identification card containing the person's photograph and signature that is issued by an educational institution
- a current account card, or current credit card, issued by a financial institution, that contains the person's name and signature
- a passbook issued by a financial institution that shows the passbook's last entry to be less than 6 months before the passbook is sighted



- a recent account statement issued by a financial institution
- a recent notice of assessment issued under the *Income Tax Assessment Act 1997* (Cwlth)

## **Schedule 3 Usual functions of employment**

### section 6

#### **1 Child accommodation services**

For the Act, schedule 1, section 9, a function of employment is not a usual function of employment if—

- (a) the employment is organised by a school or a recognised body; and
- (b) the employee performs the function—
  - (i) as a volunteer; and
  - (ii) not more than twice in the same year; and
  - (iii) for a period that is, or for periods that are each, 10 days or less.

#### **2 Performing functions at an event or as a guest**

For the Act, schedule 1, part 1, other than section 9, a function of employment is not a usual function of employment if it is performed—

- (a) as a volunteer; and
- (b) not more than twice in the same year; and
- (c) for a period that is, or for periods that are each, 10 days or less; and
- (d) by the employee—
  - (i) at an event attended by more than 100 people that is organised at a State or national level in relation to a sporting, cultural or skill based activity by a school or a recognised body if the recognised body is—
    - (A) operating at a State or national level in Australia; or

- (B) representing at a State or national level associations, clubs or other organisations, including, for example, an organisation that is a peak body for other clubs in an area; or

*Examples for subparagraph (i)—*

- Australian sporting championships organised by a national sporting organisation
- a national gathering of members of State based organisations for cultural or sporting development

- (ii) as a guest of a school or a recognised body for the purpose of observing, or supplying information or entertainment to, 10 or more people; and

*Examples for subparagraph (ii)—*

- a teacher from another country observing students as a guest of a school
- a worker telling students about the worker's occupation

- (e) in a situation in which the employee is unlikely to be physically present with a child without another person who is an adult also being present.

## Schedule 4 Fees

section 7

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1 Fee for an application for an eligibility declaration (Act, s 178) . . . . .	72.50
2 Fee for a prescribed notice application relating to regulated employment (Act, s 200)—	
(a) if the application is about a person proposing to be, or continue being, employed in regulated employment as a volunteer . . . . .	nil
(b) otherwise . . . . .	72.50
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 . . . . .	72.50
4 Fee for an application for cancellation of a negative notice (Act, s 236) . . . . .	72.50
5 Fee for an application for replacement of a current positive notice, positive notice blue card or positive exemption notice (Act, s 347) . . . . .	11.00
6 Fee for the commissioner giving information under the <i>Education (Queensland College of Teachers) Act 2005</i> , s 15D . . . . .	11.55

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## Schedule 5 Dictionary

## section 2

***birth certificate***—

- (a) includes a current birth card issued by the New South Wales Registry of Births Deaths and Marriages; and
- (b) does not include a commemorative birth certificate within the meaning of the *Births, Deaths and Marriages Registration Act 2003*, section 44(19).

***citizenship certificate*** means a certificate, declaration or other instrument of a person's nationality issued under the *Australian Citizenship Act 2007* (Cwlth) or the repealed *Australian Citizenship Act 1948* (Cwlth).

***current***, for a document, means that at the time the document is sighted, the document has not expired or been cancelled.

***document evidencing permanent residency status*** means a document issued by the department in which the *Migration Act 1958* (Cwlth) is administered as evidence of the person's status as a permanent resident of Australia.

***driver licence*** means—

- (a) a driver licence under the *Transport Operations (Road Use Management) Act 1995*; or
- (b) a learner licence under the *Transport Operations (Road Use Management) Act 1995*.

***educational institution*** means—

- (a) an education provider; or
- (b) a school; or
- (c) an entity established or recognised, for educational purposes, under an Act or law of the Commonwealth or another State.

***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.

***proof of age card*** means a card issued by any of the following that includes proof of a person's age—

- (a) the department in which the *Transport Operations (Road Use Management) Act 1995* is administered;
- (b) an entity of the government of another State performing functions similar to the department in which the *Transport Operations (Road Use Management) Act 1995* is administered;
- (c) an entity of the government of a foreign country.

*Example for paragraph (a)—*

18+ card

***recent***, for a document, means the issuing date of the document is not earlier than 6 months before the document is sighted.

***recognised body*** means a corporation, an incorporated association or a charity registered under the *Collections Act 1966*.

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#### ENDNOTES

- 1 Made by the Governor in Council on 4 August 2011.
- 2 Notified in the gazette on 5 August 2011.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Communities.