



Queensland

Commission for Children and Young People Amendment Regulation (No. 1) 2006

Explanatory Notes for SL 2006 No. 102

made under the

Commission for Children and Young People and Child Guardian Act 2000

Short title

Commission for Children and Young People Amendment Regulation (No. 1) 2006 (“the regulation”).

Authorising law

Commission for Children and Young People and Child Guardian Act 2000 (“the Act”):

- s 99G(4);
- s 100(3)(b);
- s 101(3)(b).

Objective of the legislation

The objectives of the *Commission for Children and Young People Amendment Regulation (No.1) 2006* are to—

- assist organisations to comply with their obligation to develop and implement a risk management strategy by outlining the minimum requirements of this strategy; and
- amend existing requirements for applying to the commission for a positive prescribed notice to enable a broader range of persons to comply with the identification requirements while maintaining a high level of security in relation to the documents accepted for identification verification purposes.

Reasons for subordinate legislation

Section 99G(4) of the Act provides for the matters which are to be included in a risk management strategy to be prescribed by regulation. The regulation does not currently contain details of the minimum requirements for a risk management strategy.

Section 100(3)(b) and section 101(3)(b) of the Act provide for a regulation to prescribe the documents which an employer, education provider or prescribed person must sight and certify, in order for an application for a prescribed notice to be made to the commissioner.

It is often necessary for the commission to seek further information regarding the identity of person about whom an application for a positive prescribed notice is made. Operational issues and stakeholder feedback suggest that the identification requirements of the Act should be amended to enable a broader range of documents to be accepted so that persons are able to comply with the identification requirements.

These amendments allow for more flexibility in providing identification documents, whilst maintaining a high level of security in relation to the documents accepted for identification verification.

Consistency with authorising law

The regulation is considered to be consistent with the policy objectives of the Act. The amendments in respect of the identification requirements for persons applying for a positive prescribed notice continue to require a high level of security in respect of those documents, whilst allowing for flexibility in the documents which may be provided. The provisions in relation to risk management strategies are consistent with the general objective of the Act to require employers and businesses to bear responsibility for the development of adequate risk management strategies.

Accordingly, the regulation is considered to be consistent with the authorising law.

Achieving the objective

The amendments in respect of risk management strategies achieve the objective by prescribing a detailed list of the minimum requirements of a risk management strategy.

The proposed regulation achieves the objectives in relation to identification requirements by—

- allowing a person certifying documents to sight either a primary and secondary document, or two primary documents (as opposed to the current requirement which is to sight one primary and one secondary document);
- amending the lists of documents to be used in the identification process, to ensure an appropriate balance between the need to include documents which have a high level of security associated with their issuance, but which are sufficiently broad to enable a wide range of persons in the community to be able to satisfy the requirements;
- requiring that the full name, date of birth and signature be contained in either or both of the documents provided, to ensure that the identification process retains a high level of security, and to guard against identity fraud in the application process; and
- allowing the commissioner to retain a discretion to approve alternative documents to establish the identity of a person where they cannot, due to exceptional circumstances, provide documents which conform with the standard requirements.

Administration costs

There are no administrative costs associated with the implementation of this regulation.

Fundamental legislative principles

The regulation seeks to provide greater flexibility for persons required to have their identity documents certified as part of the part 6 employment

screening process. These amendments do not alter the basic legislative framework under which part 6 of the Act operates. There are consequently no fundamental legislative principles infringed by these amendments.

The regulation also sets out the contents of risk management strategies which must be developed and maintained by certain employers and businesses under the Act. As the requirement to develop and maintain a risk management strategy already exists under the Act, and this regulation seeks only to clarify the matters which must be contained in that strategy there are no infringements of fundamental legislative principles.

Consultation

The minimum requirements of a risk management strategy have been developed and discussed as part of approximately 200 risk management workshops run by the commission over the past 12 months attended by over 3000 people. The workshops have enabled discussion with key stakeholders regarding the minimum requirements of a risk management strategy.

Consultation was undertaken through the CLLO network and the child safety directors' network within government. Feedback was provided by the following government agencies:

- Department of Aboriginal and Torres Strait Islander Policy;
- Department of Child Safety;
- Department of Corrective Services;
- Department of Education and the Arts;
- Department of Emergency Services;
- Department of Employment and Training;
- Department of Energy;
- Department of Housing;
- Department of Industrial Relations;
- Department of Justice and Attorney General;
- Department of Local Government, Planning, Sport and Recreation;
- Department of Main Roads;
- Department of Natural Resources, Mines and Water;

- Department of Premier and Cabinet;
- Department of Primary Industries and Fisheries;
- Department of Public Works;
- Department of State Development, Trade and Innovation;
- Department of Tourism, Fair Trading and Wine Industry Development;
- Disability Services Queensland;
- Environmental Protection Agency;
- Office of Public Service, Merit and Equity;
- Queensland Health; and
- Queensland Police Service.

Notes on provisions

Clause 1 states the short title of the regulation.

Clause 2 provides the commencement dates for the regulation other than section 5, and for the commencement of section 5.

Clause 3 provides that the regulation amends the *Commission for Children and Young People Regulation 2001*.

Clause 4 amends the title of the regulation to achieve consistency with the title of the *Commission for Children and Young People and Child Guardian Act 2000* (“the Act”).

Clause 5 inserts a new section 3A. Matters to be included in risk management strategies—Act, s 99G(4). The section provides a list of the minimum requirements of a risk management strategy required to be developed by certain employers and businesses.

Clause 6 amends the existing section 6, which outlines the requirements for identification documents for persons engaging in regulated employment under the Act. New subsection (1) provides that an employer, education provider or prescribed person must sight either a primary and secondary document, or two primary documents. Subsection (1) also allows the

sighting of a document or documents which the commissioner has advised will be acceptable to establish the identity of a person.

Subsection (2) provides that where primary or secondary documents are sighted, the documents must contain, between them, the person's full name, date of birth and signature.

Clause 7 amends the existing section 7, which outlines the requirements for identification documents for regulated businesses under the Act. New subsection (1) provides that a prescribed person must sight either a primary and secondary document, or two primary documents. Subsection (1) also allows the sighting of a document or documents which the commissioner has advised will be acceptable to establish the identity of a person.

Subsection (2) provides that where primary or secondary documents are sighted, the documents must contain, between them, the person's full name, date of birth and signature.

Clause 8 inserts a new section 9, providing transitional provisions for the commencement of the provisions relation to the identification requirements of the Act. These transitional provisions will allow the use of the identification requirements which were in force prior to amendments for a period of 12 months to allow affected organisations subject to the pre-existing requirements time to familiarise themselves with the new requirements.

Clause 9 inserts replacement schedules 1 and 2. New schedule 1 contains an amended list of documents which are regarded as "primary identification documents". New schedule 2 contains an amended list of documents which are regarded as "secondary identification documents".

Clause 10 inserts replacement schedule 3 which contains an amended list of definitions for the regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of the Premier and Cabinet.