



Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 25th day of May 2015

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 32 of the Vulnerable Children Act 2014, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Schedule 8
Confirmation of identity

Regulations

1 Title

These regulations are the Vulnerable Children (Requirements for Safety Checks of Children's Workers) Regulations 2015.

2 Commencement

These regulations come into force on 1 July 2015.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Vulnerable Children Act 2014

authenticate, in relation to a photograph of a person, means—

- (a) to write on the back of the photograph “Certified true likeness of [*full name of person*]” (or words to that effect); and
- (b) to sign and date that certification

identity referee means a person—

- (a) who is nominated by a person (**person A**) who produces documents under regulation 5(1)(b); and
- (b) who—
 - (i) has known person A for at least 12 months; and
 - (ii) is at least 16 years of age; and
 - (iii) is not related to person A and not part of person A's extended family; and
 - (iv) is not a spouse or partner of person A; and
 - (v) does not live at the same address as person A

primary identity document, in relation to a person, means a document relating to the person that is of a type specified in Part 1 of the Schedule

secondary identity document, in relation to a person, means a document relating to the person that is of a type specified in Part 2 of the Schedule

specified organisation has the meaning given to it by section 24 of the Act and includes a person or an organisation acting on behalf of the specified organisation

supporting name change document, in relation to a person, means a document relating to the person that is of a type specified in Part 3 of the Schedule.

Part 1

Safety checks of new and existing children's workers

4 Application of this Part

This Part sets out the requirements for a safety check undertaken by a specified organisation under section 25 or 26 of the Act of a person who—

- (a) is, or is proposed to be, employed or engaged by a specified organisation as a children's worker of the following category:
 - (i) a core worker; or
 - (ii) a non-core worker; and
- (b) has not had a safety check completed by the specified organisation under this Part or Part 2 within the preceding 3 years.

5 Identity confirmation

- (1) A specified organisation must require a person in respect of whom a safety check is being undertaken under this Part to confirm his or her identity by—
 - (a) using an electronic identity credential within the meaning of section 8 of the Electronic Identity Verification Act 2012; or
 - (b) producing the original of—
 - (i) a primary identity document; and
 - (ii) a secondary identity document.
- (2) If neither of the documents produced by a person under subclause (1)(b) contains a photograph of the person, the specified organisation must require the person to—
 - (a) produce with those documents—
 - (i) a photograph of himself or herself authenticated by an identity referee; or
 - (ii) a verification statement signed and dated by an identity referee that verifies that the primary identity document produced by the person relates to that person; and
 - (b) provide the name and contact details of the identity referee.
- (3) If a person's name is different from the person's name on a document produced under subclause (1)(b)(i) or (ii), the specified organisation must require the per-

son to produce together with that document a supporting name change document as evidence of the person's name change.

- (4) After a person has produced the documents required by subclauses (1) to (3), the specified organisation must cause a search to be made of its personnel records to ascertain whether the identity confirmed by the person—
- (a) is being used by any other person employed or engaged, or proposed to be employed or engaged, by the organisation; or
 - (b) has been used by any other person employed or engaged by the organisation.

6 Information about previous criminal convictions (if any), etc

- (1) A specified organisation must arrange to obtain from the New Zealand Police Vetting Service a Police vet of a person in respect of whom a safety check is being undertaken under this Part.
- (2) However, subclause (1) does not apply if—
- (a) a Police vet of the person has been obtained by the specified organisation within the preceding 3 years; or
 - (b) the person is a current member of a professional organisation and that organisation routinely arranges a Police vet of—
 - (i) all new members; and
 - (ii) all current members, at intervals of not more than 3 years; or
 - (c) the person is, under any enactment, licensed or registered to carry on a particular activity and the licensing or registration authority is required under the enactment to obtain a Police vet of—
 - (i) any person it licenses or registers; and
 - (ii) any person currently licensed or registered, at intervals of not more than 3 years.

7 Other information

- (1) A specified organisation must, for any person in respect of whom a safety check is being undertaken under this Part,—
- (a) require the person to provide the following information:
 - (i) a chronological summary of his or her work history, if any, for the preceding 5 years (including a description of previous employment positions); and
 - (ii) the name of—
 - (A) any professional organisation of which the person is a current member, if that membership is relevant to the person's employment or engagement, or proposed employment or engagement, by the specified organisation; or

- (B) any licensing authority that has issued a current licence to the person for the carrying on of a particular activity that is relevant to the person's employment or engagement, or proposed employment or engagement, by the specified organisation; or
 - (C) any registration authority that has issued a current registration or practising certificate to the person for the carrying on of a particular activity that is relevant to the person's employment or engagement, or proposed employment or engagement, by the specified organisation; and
 - (iii) the name of at least 1 referee who is not related to the person and not part of the person's extended family; and
 - (iv) any other information that the specified organisation considers relevant to an assessment of the person under regulation 8; and
 - (b) interview the person (face to face, by telephone, or by using other communication technologies) for the purpose of obtaining information relevant to an assessment of the person under regulation 8.
- (2) The specified organisation must seek from at least 1 organisation or authority named by the person under subclause (1)(a)(ii) (if any) any information held by, or known to, that organisation or authority that is or may be relevant to an assessment of the person under regulation 8, and it is sufficient compliance with this requirement if the specified organisation obtains confirmation that the person is currently a member of the organisation or currently licensed or registered by the authority, as the case may be.
- (3) The specified organisation must contact at least 1 referee named by the person under subclause (1)(a)(iii) to request any information held by, or known to, the referee that is or may be relevant to an assessment of the person under regulation 8.
- (4) However, the requirements of subclauses (1)(a)(i), (iii), and (iv) and (b) and (3) do not apply if the person in respect of whom a safety check is being undertaken under this Part by a specified organisation is employed or engaged by the specified organisation at the time the safety check is being undertaken.

8 Risk assessment

- (1) A specified organisation must assess a person in respect of whom a safety check is being undertaken under this Part to determine—
 - (a) whether the person poses, or would pose, any risk to the safety of children as a children's worker; and
 - (b) if the person does, or would, pose such a risk, the extent of that risk, having regard to whether the person is, or is proposed to be, employed or engaged as—
 - (i) a core worker; or

- (ii) a non-core worker.
- (2) In carrying out an assessment under subclause (1), the specified organisation must take into account—
 - (a) any information gathered under regulations 5 to 7; and
 - (b) any guidelines on risk assessments issued by a key agency.
- (3) The assessment must be carried out,—
 - (a) if the specified organisation is an individual,—
 - (i) by the individual; or
 - (ii) by a person or an organisation acting on behalf of the individual; or
 - (iii) in part by the individual and in part by a person or an organisation acting on behalf of the individual; or
 - (b) if the specified organisation is not an individual,—
 - (i) by an officer or an employee or the governing body of the specified organisation; or
 - (ii) by a person or an organisation acting on behalf of the specified organisation; or
 - (iii) in part by an officer or an employee or the governing body of the specified organisation and in part by a person or an organisation acting on behalf of the specified organisation.

Part 2

Periodic safety checks

9 Application of this Part

This Part sets out the requirements for the safety check undertaken by a specified organisation under section 27 of the Act of a person who—

- (a) is employed or engaged by the specified organisation as a children's worker of the following category:
 - (i) a core worker; or
 - (ii) a non-core worker; and
- (b) has had a safety check completed by the specified organisation under Part 1 or this Part within the preceding 3 years.

10 Identity confirmation

- (1) A specified organisation must require a person in respect of whom a safety check is being undertaken under this Part to confirm whether, since he or she was last safety checked, his or her name has changed to a name that is different

from the name on any document that he or she produced under regulation 5(1)(b).

- (2) If, under subclause (1), a person confirms that there has been a change in his or her name, the specified organisation must require the person to confirm his or her identity by producing a supporting name change document as evidence of his or her name change.

11 Information about previous criminal convictions (if any), etc

- (1) A specified organisation must arrange to obtain from the New Zealand Police Vetting Service a Police vet of a person in respect of whom a safety check is being undertaken under this Part.
- (2) However, subclause (1) does not apply if any of the circumstances described in regulation 6(2) exist.

12 Other information

- (1) A specified organisation must require a person in respect of whom a safety check is being undertaken under this Part to provide the name of—
 - (a) any professional organisation of which the person is a current member, if that membership is relevant to the person's employment or engagement by the specified organisation; or
 - (b) any licensing authority that has issued a current licence to the person for the carrying on of a particular activity that is relevant to the person's employment or engagement by the specified organisation; or
 - (c) any registration authority that has issued a current registration or practising certificate to the person for the carrying on of a particular activity that is relevant to the person's employment or engagement by the specified organisation.
- (2) The specified organisation must seek from at least 1 organisation or authority named by the person under subclause (1) (if any) any information held by, or known to, that organisation or authority that is or may be relevant to an assessment of the person under regulation 13, and it is sufficient compliance with this requirement if the specified organisation obtains confirmation that the person is currently a member of the organisation or currently licensed or registered by the authority, as the case may be.

13 Risk assessment

- (1) A specified organisation must assess a person in respect of whom a safety check is being undertaken under this Part to determine—
 - (a) whether the person poses any risk to the safety of children as a children's worker; and
 - (b) if the person does pose such a risk, the extent of that risk, having regard to whether the person is employed or engaged as—

- (i) a core worker; or
- (ii) a non-core worker.
- (2) In carrying out an assessment under subclause (1), the specified organisation must take into account—
 - (a) any information gathered under regulations 10 to 12; and
 - (b) any guidelines on risk assessments issued by a key agency.
- (3) The assessment must be carried out,—
 - (a) if the specified organisation is an individual,—
 - (i) by the individual; or
 - (ii) by a person or an organisation acting on behalf of the individual; or
 - (iii) in part by the individual and in part by a person or an organisation acting on behalf of the individual; or
 - (b) if the specified organisation is not an individual,—
 - (i) by an officer or an employee or the governing body of the specified organisation; or
 - (ii) by a person or an organisation acting on behalf of the specified organisation; or
 - (iii) in part by an officer or an employee or the governing body of the specified organisation and in part by a person or an organisation acting on behalf of the specified organisation.

Schedule

Confirmation of identity

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Part 1

Primary identity documents

| Document type | Issuing agency |
|---|--------------------------------|
| New Zealand passport | Department of Internal Affairs |
| Overseas passport (may include New Zealand immigration visa or permit issued by Ministry of Business, Innovation, and Employment (Immigration New Zealand)) | Overseas authority |
| New Zealand emergency travel document | Department of Internal Affairs |
| New Zealand refugee travel document | Department of Internal Affairs |
| New Zealand certificate of identity (issued under the Passports Act 1992 to non-New Zealand citizens who cannot obtain a passport from their country of origin) | Department of Internal Affairs |

| | |
|--|--|
| New Zealand certificate of identity (issued under the Immigration Act 1987 to people who have refugee status) | Ministry of Business, Innovation, and Employment (Immigration New Zealand) |
| New Zealand firearms licence | New Zealand Police |
| New Zealand full birth certificate that is issued on or after 1 January 1998 and that carries a unique identification number | Department of Internal Affairs |
| New Zealand citizenship certificate | Department of Internal Affairs |

Part 2

Secondary identity documents

| Document type | Issuing agency |
|--|--|
| New Zealand driver licence | NZ Transport Agency |
| 18+ card | Hospitality New Zealand Incorporated |
| Community services card | Ministry of Social Development |
| SuperGold Card | Ministry of Social Development |
| Veteran SuperGold Card | Ministry of Social Development |
| New Zealand student photo identification card | New Zealand educational institution |
| New Zealand employee photo identification card | Employer |
| New Zealand electoral roll record | Electoral Enrolment Centre of New Zealand Post Limited |
| Inland Revenue number | Inland Revenue Department |
| New Zealand issued utility bill, issued not more than 6 months earlier | |
| Steps to Freedom form | Department of Corrections |

Part 3

Supporting name change documents

| Document type | Issuing agency |
|--|--------------------------------|
| New Zealand birth certificate (issued for the purpose) | Department of Internal Affairs |
| Change of name by statutory declaration | Department of Internal Affairs |
| Change of name by deed poll | Department of Internal Affairs |
| New Zealand name change certificate | Department of Internal Affairs |
| New Zealand marriage certificate | Department of Internal Affairs |
| New Zealand civil union certificate | Department of Internal Affairs |
| New Zealand order dissolving marriage or civil union | Ministry of Justice |
| New Zealand order declaring marriage or civil union void | Ministry of Justice |

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 July 2015, are made under the Vulnerable Children Act 2014 and set out the requirements for safety checks of children's workers.

The safety check requirements in these regulations apply to all children's workers, and to both core workers and non-core workers.

The requirements for the first safety check of a children's worker are set out in *regulations 5 to 8* and comprise—

- a full identity check (which requires confirmation of identity either by using an electronic credential or by producing a primary and secondary identity document); and
- a Police vet; and
- the gathering of other information (less information is required to be gathered if the children's worker is an existing employee or contractor); and
- a risk assessment.

The requirements for a subsequent safety check of a children's worker that is carried out within 3 years after a previous safety check are set out in *regulations 10 to 13* and comprise—

- an identity check (which, if a person's name differs from that on a primary or secondary document produced to confirm identity for a first safety check, requires a supporting name change document to be produced); and
- a Police vet; and
- the seeking of information from any relevant professional organisation or licensing or registration authority; and
- a risk assessment.

Issued under the authority of the Legislation Act 2012.

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These regulations are administered by the Ministry of Education.