

THE NATIONAL REGISTER FOR SEX OFFENDERS

Chapter 6 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, Amendment 13 of 2021



WHAT IS THE NATIONAL REGISTER FOR SEX OFFENDERS (NRSO) AND WHY WAS IT CREATED?

- The National Register for Sex Offenders (NRSO) was established in 2007.
- It aims to protect vulnerable persons from anyone found guilty and convicted of a sexual offence.
- The NRSO is a record of particulars of individuals found guilty of a sexual offence against vulnerable persons.
- The Register also carry particulars of individuals found guilty before the law came into being.

PROHIBITION OF CERTAIN TYPES OF EMPLOYMENT FOR PEOPLE WHO HAVE BEEN CONVICTED OF SEXUAL OFFENCE:

- Anyone found guilty of a sexual offence against any vulnerable persons may not:
 - Be employed to work with vulnerable persons;
 - Hold any position related to his or her job, or for any financial benefit which puts him or her in any position of authority, supervision or care of a vulnerable person;
 - Hold any position where he or she enjoys access to vulnerable persons or places where vulnerable persons are present;
 - Be granted a license or given approval to manage or operate a body in relation tasked with supervision over vulnerable persons;
 - Become the foster parent, kinship caregiver, temporary adoptive parents of a child or a curator of a person with a mental disability.

WHAT DOES THE REGISTER EXPECT OF EMPLOYERS?

- An employer with staff, or who intends to employ staff, who works with vulnerable persons may apply to the Registrar for a clearance certificate, by asking whether or not the details of the employee appear on the Register.
- An employer shall not employ anyone whose name appears on the National Register for Sex Offenders.

WHAT MUST AN EMPLOYER DO IF A STAFF MEMBER'S NAME APPEARS ON THE REGISTER?

If an employer at any time finds out that the name of an employee appears on the Register, the employer must immediately terminate the employment of the worker, unless the person can be moved to another post which will not bring the worker into contact with vulnerable persons.

WHAT DOES THE REGISTER EXPECT OF EMPLOYEES?

- An employee found guilty of a sexual offence against vulnerable persons must inform the employer about the conviction.
- In terms of Criminal Procedure Act, the employee must inform his/her new employer about the conviction when applying for a job.
- An employee who doesn't inform his or her employer about the conviction is guilty of an offence.
- This could lead to a fine or up to seven (7) years of imprisonment, or both fine and imprisonment.
- A person who does not reveal that he/she has been found guilty of a sexual offence and applies for permission to run a business or organisation working with vulnerable persons is breaking the law.

WHAT HAPPENS TO AN EMPLOYER WHO DOES NOT ACT AGAINST OFFENDERS IN THE WORKPLACE?

An employer, who does not comply with the law, is guilty of an offence and could be given a fine or be imprisoned for a term not exceeding seven (7) years or to both a fine and jail sentence.

WHAT IS A CLEARANCE CERTIFICATE?

- It is a document from the Registrar confirming whether a person's particulars appears on the Register or not.

HOW DOES ONE APPLY FOR A CLEARANCE CERTIFICATE?

- The Register is held in a confidential manner, only the Registrar has access to the content in the Register.
- However, if one needs to apply for clearance certificate, the process is, an application must be made to the Registrar of the NRSO at National Office or Delegated Officials (Director Legal Administration & Advocacy) at the Provincial Offices directly or via the nearest court to determine whether or not the particulars of a person mentioned in the application are recorded in the Register and the Registrar must on receiving a compliant application form for a clearance or as soon as it is reasonably practicable but in any event within 10 working days after receiving of such compliant application issue a certificate, confirming whether a person's particulars appears on the Register or not.

WHAT IS THE PROCESS AND WHO CAN APPLY FOR A CLEARANCE CERTIFICATE?

- A person in terms of his or her own particulars may apply by submitting a J738 (FORM 7)
- An employer/ licencing authority/ relevant authority in respect of particulars of another may apply using J739 (FORM 8)
- A person applying for the certificate to determine whether the particulars of another person have been included in the national register for sex offenders may apply using a J958 (FORM 8A)
- All the forms are available on the Department of Justice & Constitutional Development website (www.justice.gov.za) alternatively at the Provincial Offices/Courts.

WHO IS AN EMPLOYER?

An employer refers to any public or private organisation, including any club, person, or association that hires staff who, as part of their job, are placed in a position where: they work with vulnerable persons, they take charge of, or are involved in looking after a child vulnerable persons, and/or they have access to vulnerable persons, or work in places where vulnerable persons gather.

WHAT EMPLOYERS DO TO KEEP VULNERABLE PERSONS SAFE?

- The law requires all employers to take reasonable steps to prevent workers whose names are in the Register from working with vulnerable persons, as part of their job. This may mean transferring the person to another post or position, when it is possible.
- If the transfer will not ensure the safety of a vulnerable persons, the employment must be terminated immediately.
- An employer must immediately end the employment of someone who fails to divulge a conviction of a sexual offence against vulnerable person and who has been dealt with in terms of the Criminal Procedure Act.



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