Disability Services and Other Legislation Amendment Bill 2015

Explanatory Notes

Short title

The short title of the Bill is the Disability Services and Other Legislation Amendment Bill 2015.

Policy objectives and the reasons for them

The National Disability Insurance Scheme (NDIS) is a new way of providing supports to people with disability. As Queenslanders transition to the NDIS, including through an early launch, they will receive funding directly from the National Disability Insurance Agency (NDIA) to purchase their supports. Also, throughout the transition period, the Department of Communities, Child Safety and Disability Services (DCCSDS) will continue to fund disability services for those clients who have not yet entered the scheme, in accordance with the *Disability Services Act 2006* (the DSA).

DCCSDS is leading a whole of Government review of Queensland legislation. The review is being completed in two stages. Stage One involves the review of legislation to facilitate commencement of an early launch and transition to the NDIS from 1 April 2016. Stage Two will address the necessary amendments to enable full scheme roll out from 1 July 2019.

As part of Stage One, all relevant agencies across Queensland Government were required to identify the amendments to their portfolio legislation that are critical and essential to enable and support early launch and transition. Through this process, it was identified that most of the critical and essential amendments relate to the operation of Queensland's quality and safeguards system. A functioning quality and safeguards system is a key foundation to the disability service system.

The current Queensland quality and safeguards framework only applies to providers of disability services funded or delivered by DCCSDS. Existing contracts will be gradually phased out as the NDIS rollout proceeds. The loss of the contractual link to DCCSDS will eliminate the authority of the Queensland Government in relation to the provision of disability services. As a result, many of the existing legislative and contractual safeguards will be lost.

Another critical issue for NDIS transition relates to the funding arrangements and financial reconciliation processes that will need to occur throughout the transition period.

The policy objectives of the Bill are to ensure:

- Queenslanders who are receiving disability supports under the NDIS have the same level of safeguards as Queenslanders who are in receipt of disability supports funded by DCCSDS;
- provide DCCSDS with the necessary powers to monitor the compliance of NDIS non-government service providers with safeguards to protect NDIS participants receiving disability services
- provide DCCSDS with the authority to request identifiable client information from other Queensland Government agencies for the purpose of reconciliation against NDIA invoices
- the regulatory burden on non-government service providers is limited, as far as possible, acknowledging that during the transition period service providers will be required to be registered with the NDIA and meet Queensland's quality and safeguard requirements.

The Disability Services and Other Legislation Amendment Bill 2015 (the Bill) amends provisions in the *Coroners Act 2003*, *Disability Services Act 2006*, *Guardianship and Administration Act 2000*, *Powers of Attorney Act 1998*, *Public Guardian Regulation 2014* and *Working with Children (Risk Management and Screening) Act 2000.*

Achievement of policy objectives

The Bill achieves the objectives by providing for the following amendments.

DSA amendments

New threshold definitions

The Bill amends the DSA to redefine its jurisdiction and scope so that it extends to non-government service providers that are not funded by DCCSDS but through the NDIS. These amendments are designed to ensure the application of three key legislative safeguards: complaints management; criminal history screening; and restrictive practices framework.

Changes are made to the existing definition of 'funded service provider' to extend its scope to a provider that provides disability services prescribed by regulation to a participant under the participant's plan. This important change ensures that NDIS non-government providers are subject to the complaints management system maintained by the chief executive (as provided for under section 33) and the restrictive practices framework (pursuant to Part 6).

The Bill also introduces a new definition into the DSA to ensure persons engaged by NDIS non-government service providers are subject to criminal history screening requirements. This definition captures non-government service providers that provide disability services prescribed by regulation to a participant under the participant's plan. This key safeguard is important to ensure suitable persons support people with disability.

Monitoring and investigative powers

The Bill also introduces a new Part into the DSA which will allow DCCSDS to monitor the compliance of NDIS non-government service providers with the provisions of the DSA. These provisions include: (1) the power to require relevant information and documents; and (2) the power of entry, pursuant to a warrant.

These powers can be invoked to investigate issues concerning abuse, neglect or exploitation of people with disability, service delivery failures and to check whether NDIS non-government service providers are complying with the DSA.

The NDIA will be responsible for any enforcement measures, which will be triggered upon referral from the Queensland Government. The NDIA has the option to de-register providers under the *NDIS Act 2013* for non-compliance issues. Working arrangements to set out the detail of these processes are being developed with the Australian Government and the NDIA.

Information requesting power – financial reconciliation
The Bill will enable the chief executive to request auditing information about a person from the chief executive of another department to facilitate the monitoring and reconciliation of Queensland's funding contribution to the Scheme. DCCSDS will also be authorised to disclose to departments the relevant auditing information of their former clients who have now transitioned to the NDIS.

The scope of this power is required to be kept broad to ensure impacts across all departments can be identified and reconciled so that Queensland does not suffer negative financial impacts through the NDIS transition period.

Justice related amendments
The Bill also extends Queensland's existing quality and safeguard system to NDIS participants by:

- broadening the definition of 'visitable site' to permit a community visitor appointed under the *Public Guardian Regulation 2014* to visit sites in which an NDIS participant is receiving supports; and
- expanding the definition of 'death in care' under the *Coroners Act 2003* to cover NDIS participants.

Alternative ways of achieving policy objectives

Amending the Act is the only way of achieving the policy objectives.

Estimated cost for government implementation

The proposals in the Bill will be implemented through a combination of Queensland and Australian Government resources.

Consistency with fundamental legislative principles

Legislation does not have regard to the institution of Parliament (*Legislative Standards Act 1992*, section 4(2)(b)):

Under the Bill, the scope of NDIS non-government service providers is limited to providers that, under a participant's plan, provide disability services prescribed by regulation (see insertion of new s16A).

In adopting this approach, the new definition will capture non-government service providers through a statutory instrument rather than an Act of Parliament. Therefore, the power will not

be subject to the scrutiny of the Legislative Assembly and potentially does not have sufficient regard to the institution of Parliament.

The delegation of legislative power and the prescription of services by Regulation is justified on a number of grounds. The Regulation allows for the full range of disability services to be listed and represents the most practical mechanism to capture the relevant service providers.

In addition, this approach will not impact upon the rights of individuals. In requiring NDIS service providers to comply with the existing quality and safeguards system, Queensland is ensuring a level playing field. The result will be that NDIS non-government service providers will be required to meet the same levels and standards (for example, criminal history screening requirements and restrictive practices compliance) as providers that are funded by the Queensland Government. These standards are in place to protect the fundamental rights and liberties of people with disability.

Part 6 of the Bill amends the definition of 'visitable site' under the *Public Guardian Regulation 2014*. Section 39 of the *Public Guardian Act 2014* provides Executive Council with the power to prescribe a visitable site by regulation. While inclusion of the amendment to the *Public Guardian Regulation 2014* in the Bill may be inconsistent with Parliament's original intent under section 39, the amendment is justified because it is an integral part of the legislative package to be considered by Parliament to facilitate the NDIS operating in Queensland.

Legislation has sufficient regard to the rights and liberties of individuals (*Legislative Standards Act 1992*, section 4(3)):

Monitoring and investigative powers have been drafted for re-introduction into the DSA after they had been removed and consolidated in the *Community Services Act 2007* (the CSA) by legislation passed in 2014. These changes have sufficient regard to the rights and liberties of individuals as the re-introduction of the powers into the DSA is considered necessary on two grounds.

First, the application of the CSA is limited to funding provided by a Queensland Government department that is the subject of a funding declaration. Funding under the NDIS falls outside the application of the CSA. Second, the functions and powers included in the Bill are limited to monitoring and investigating NDIS non-government service providers. The purpose of including these powers is to ensure that persons in the State who are receiving services under the NDIS are still subject to the same protections from harm and exploitation as persons receiving State funding.

Consultation

Consultation has occurred across all relevant Queensland Government departments as well as the State Coroner and relevant statutory advocates, including the Office of the Public Guardian and the Office of the Public Advocate.

Consultation occurred with members of the Disability Services Partnership Forum. Membership of the Forum includes a range of service providers as well as peak and advocacy organisations. This includes: National Disability Services Queensland, Carers Queensland,

Synapse, Ozcare, BlueCare, Cerebral Palsy League, Multicap, Anuha Services, Queensland Mental Health Alliance, Queenslanders with Disability Network, Queensland Disability Advisory Council, Queensland Aged and Disability Advocacy, Queensland Advocacy Incorporated.

On the whole, members of the Forum were supportive of the Bill and its objectives.

Consistency with legislation of other jurisdictions

The approach adopted by Queensland in the Bill is broadly consistent with other jurisdictions. Each jurisdiction is committing to operate their existing quality and safeguards framework throughout the NDIS transition period.

However, given the quality and safeguards system in each jurisdiction operates differently, each state and territory is required to adopt an individualised approach.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the short title for the Act is the *Disability Services and Other Legislation Amendment Act 2015*.

Clause 2 provides that the Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Coroners Act 2003

Clause 3 provides that Part 2 (Amendment of Coroners Act 2003) of the Bill amends the C*oroners Act 2003.*

Clause 4 amends section 9 of the Coroners Act to extend the definition of "death in care" so that the jurisdiction of the Coroner includes the ability to investigate the deaths in care of NDIS participants. The amendments make clear that a death in care will include a person's death if, when the person died, the person was a NDIS participant who was either:

- living in accommodation provided to persons with a disability or a residential service (which is not a private dwelling or aged care facility); and
- receiving services paid for wholly or partly from funding under the NDIS in accordance with that participant's plan.

Clause 4 also introduces a range of new definitions, which include: NDIS; NDIS Act; participant; participant's plan; and plan.

Part 3 Amendment of Disability Services Act 2006

Clause 5 provides that Part 3 (Amendment of Disability Services Act 2006) of the Bill amends the Disability Services *Act 2006* (the DSA).

Clause 6 amends section 12 of the DSA to broaden the definition of disability services to include another service prescribed by regulation. This is required because the range of services provided under the NDIS is identified using different terminology to that currently identified in the DSA.

Clause 7 amends section 14 of the DSA (Meaning of funded service provider). The amendment ensures the application of two key legislative safeguards extend to service providers that provide disability services prescribed by regulation to a participant under the participant's plan.

First, it will ensure consumers, family members, carers, advocates or other persons have standing to make a complaint to the chief executive about the delivery of disability services by a NDIS service provider. Secondly, it will extend the application of the restrictive practices framework (Part 6 of the DSA) to include NDIS service providers who provides services to an adult with intellectual or cognitive disability.

Clause 7 also exempts certain service providers from the definition of 'funded service provider.' A funded service provider will not include another department providing disability

services prescribed by regulation to a participant under the participant's plan. This is to ensure that government providers of NDIS supports (for example, Hospital and Health Services) are not captured given they are already subject to and regulated by their own specific set of quality and safeguard measures.

The department, to the extent it provides disability services (through the direct delivery of Accommodation Support and Respite Services), remains a 'funded service provider' for the purposes of the DSA.

Clause 8 inserts a new section 16A (Meaning of NDIS non-government service provider) to enable the chief executive of DCCSDS to obtain the criminal history of, and related information about, persons engaged or to be engaged at a service outlet of a NDIS non-government provider.

The new definition provides that a NDIS non-government service provider is a non-government service provider that provides disability services to a participant under the participant's plan. The scope of this definition is limited to providers delivering specific types of disability services which are prescribed by Regulation. This allows for the full range of NDIS supports to be appropriately listed and to provide the necessary flexibility to amend this list if NDIS supports change or are updated.

Clause 9 replaces the current heading of Part 5 to recognise that this Part now addresses the screening for persons engaged by a broader range of funded service providers (that is, both funded non-government services providers and NDIS non-government service providers).

Clause 10 amends section 40 (Main purpose of pt 5) to recognise that the main purpose of Part 5 now includes authority for the chief executive to obtain the criminal history of, and related information about, persons engaged or to be engaged at a service outlet by a NDIS non-government service provider.

Clause 11 makes consequential amendments to section 42 (This part does not apply to persons engaged to provide disability services to children) to make clear that Part 5 does not apply to persons engaged or to be engaged by a NDIS non-government service provider to provide disability services only to children. Screening of such persons is dealt with under the *Working with Children (Risk Management) Act 2000*.

Clause 12 amends section 46 (Persons engaged by a funded non-government service provider at a service outlet) to make clear that the screening thresholds which set out the circumstances in which a service provider is deemed to be engaging a person at a service outlet apply to NDIS non-government service providers.

Clause 13 amends section 49 (Risk management strategies about persons engaged by funded non-government service providers) to ensure a NDIS non-government service provider must develop and implement a risk management strategy for persons engaged by the provider. This strategy is an important safeguard for people with disability to promote their wellbeing and protect them from abuse, neglect or exploitation.

Clause 14 amends the current heading of Part 5, Division 5 to recognise that the Division will now address the issuing of prescribed notices for NDIS non-government service providers as well as funded non-government service providers.

Clause 15 makes various consequential amendments to section 52 (Application for prescribed notice) to enable NDIS non-government service providers who propose to start engaging or continue engaging a person at a service outlet of the provider (the engaged person), to apply to the chief executive for a prescribed notice about that person.

Clause 16 amends section 56(4) to provide that, following the chief executive issuing a prescribed notice to the engaged person, the chief executive must give notice to the NDIS non-government service provider as to the outcome of whether the person was given a positive notice or negative notice.

Clause 17 amends the current heading of Part 5, Division 6 to recognise that the Division will now address the issuing of exemption notices for NDIS non-government service providers as well as funded non-government service providers.

Clause 18 makes various consequential amendments to section 59 (Application for exemption notice) to enable NDIS non-government service providers who propose to start engaging, or continue engaging, a person who holds a Working with Children positive notice, to apply to the chief executive for an exemption notice about that person.

Clause 19 amends section 63(4) to provide that, following the chief executive issuing an exemption notice to a person, the chief executive must give notice to the NDIS non-government service provider as to the outcome of whether the person was given a positive exemption notice or negative exemption notice.

Clause 20 amends the current heading of Part 5, Division 7, Subdivision 1 to recognise that the Subdivision now addresses the screening for persons engaged by a broader range of funded non-government service providers (that is, both funded non-government service providers and NDIS non-government service providers).

Clause 21 makes various consequential amendments to section 65 (Starting engagement of certain regular engaged persons other than volunteers) to extend the current requirements in relation to starting the engagement of persons who have been previously engaged by the provider at a service outlet, to NDIS non-government service providers.

Clause 22 makes various consequential amendments to section 66 (Starting engagement of new engaged persons other than volunteers) to extend the current requirements to NDIS non-government service providers in relation to starting the engagement of new persons at a service outlet of the provider.

Clause 23 makes various consequential amendments to section 67 (Continuing engagement of persons other than volunteers) to extend the current requirements to NDIS non-government service providers in relation to the continuing engagement of persons other than volunteers at a service outlet of the provider.

Clause 24 amends section 68 (Starting engagement of volunteers) to ensure a NDIS non-government service provider does not engage a volunteer at a service outlet unless the volunteer has: (a) a current positive notice or current positive exemption notice and the provider has notified the chief executive that the provider is proposing to engage the

volunteer; or (b) a Working with Children positive notice and the provider has applied for an exemption notice.

Clause 25 amends section 69 (Currency of prescribed notice for volunteer continuing engagement) to extend the current requirements to NDIS non-government service providers in relation to the process to be followed for recognising a previous positive notice of a volunteer engaged by a provider until the pending application for a further prescribed notice or exemption notice is decided.

Clause 26 amends section 70 (Prohibited engagement) to make clear that the thresholds of prohibited engagement apply to NDIS non-government service providers.

Clause 27 makes various consequential amendments to section 75 (Change in police information of person engaged by funded non-government service provider). These amendments ensure that: (a) a person engaged by a NDIS non-government service provider must immediately disclose to the provider if there has been a change in the person's police information; and (b) on receiving this disclosure, a NDIS non-government service provider must not continue to engage the person without applying for a prescribed notice or exemption notice.

Clause 28 amends section 77 (Change in police information of other persons) to ensure that before starting engagement with a NDIS non-government service provider, a person notifies the provider if there has been a change in that person's police information since the person was issued with a positive notice or exemption notice. In addition, on receiving this disclosure, a NDIS non-government service provider must not engage the person without applying for a further prescribed notice or exemption notice about the person.

Clause 29 amends section 78(a) to make it an offence for a person to give a NDIS non-government service provider who is proposing to engage that person any information that is false or misleading.

Clause 30 amends section 83(2) to ensure that the chief executive must give notice to a NDIS non-government service provider if the chief executive cancels a positive notice about a person engaged by a provider and substitutes it with a negative notice.

Clause 31 amends section 84(2) to ensure that the chief executive must give notice to a NDIS non-government service provider if the chief executive cancels a positive exemption notice about a person engaged by a provider and substitutes it with a negative exemption notice.

Clause 32 amends section 85(4) to ensure that the chief executive must give notice to a NDIS non-government service provider if a person who is engaged by the provider is the holder of a positive notice becomes a relevant disqualified person and the chief executive must cancel the positive notice and replace it with a negative notice.

Clause 33 makes various consequential amendments to section 86 (Suspension of positive notice if charged with disqualifying offence or subject to temporary or interim order) to ensure the chief executive provides notice to a NDIS non-government service provider if a person engaged by the provider has his or her positive notice suspended. In addition, a NDIS non-government service provider to whom a notice is given must not: (a) allow that person to

work at a service outlet of the provider; and (b) terminate the person's engagement or continued engagement solely or mainly because the provider is given the notice.

Clause 34 makes various consequential amendments to section 88 (Suspension of a positive exemption notice if WWC positive notice suspended) to ensure the chief executive provides notice to a NDIS non-government service provider if a person engaged by the provider has his or her positive exemption notice suspended. In addition, a NDIS non-government service provider to whom a notice is given must not: (a) allow that person to work at a service outlet of the provider while the person's exemption notice is suspended; and (b) terminate the person's engagement or continued engagement solely or mainly because the provider is given the notice.

Clause 35 amends section 89(8) to ensure that the chief executive must give notice to a NDIS non-government service provider if the chief executive issues a further exemption notice or a prescribed notice to a person engaged by the provider who had their positive exemption notice suspended.

Clause 36 amends section 90(4) to ensure that the chief executive must give notice to a NDIS non-government service provider if the chief executive issues to a person engaged by the provider a notice stating that the persons' positive exemption notice has ceased to have effect and that a prescribed notice application may be made about the person.

Clause 37 amends section 91 (Request to cancel positive notice or positive exemption notice) to ensure that the chief executive must give notice to a NDIS non-government service provider if the chief executive cancels the positive notice or positive exemption notice of a person engaged by the provider.

Clause 38 amends section 94(1) to make clear that this section applies if the holder of a positive notice that is not suspended changes the person's engagement by a NDIS non-government service provider from engagement as a volunteer to engagement as other than a volunteer.

Clause 39 amends section 98 (Offences for disqualified person) to ensure that the chief executive must give notice to a NDIS non-government service provider that made an application for a prescribed notice under section 52 if the chief executive is satisfied that the person for whom the application has been made is a disqualified person. On receipt of such a notice, the NDIS non-government service provider must not allow the person to start or continue in engagement by the provider.

Clause 40 makes various consequential amendments to section 131 (Chief executive to give notice to funded non-government service provider about making screening decision about engaged person) to ensure the chief executive provides the required notice to a NDIS non-government service provider if the chief executive becomes aware that the police information about an engaged person has changed and considers that this change is relevant to the engagement of the person by the provider.

Clause 41 amends section 132 (Withdrawal of engaged person's consent to screening) to extend the circumstances by which an engaged person may withdraw their consent to screening to persons engaged by a NDIS non-government service provider.

Clause 42 amends section 133 to make clear that a NDIS non-government service provider does not incur any liability because, in compliance with provisions of Part 5 of the DSA, the provider does not engage or continue to engage the person at a service outlet.

Clause 43 amends section 138 (Register of persons engaged by funded non-government entities) to require the chief executive to keep a register with up-to-date information which includes persons engaged by a NDIS non-government providers.

Clause 44 inserts a new Part 6A (Investigation, monitoring and enforcement) into the DSA.

Section 200A recognises the purpose of part 6A is to prescribe particular functions and powers on authorised officers that are appointed under the *Community Services Act 2007* (the CSA). For the most part, the powers in this Part will apply exclusively to NDIS non-government service providers.

Section 200B recognises that if a provision in this Part refers to the exercise of a power by an authorised officer and there is no reference to a specific power, the reference is to the exercise of all or any authorised officer's powers under this Part or a warrant, to the extent the powers are relevant.

Section 200C makes clear that any reference in this Part to a 'document' includes a reference to an image or writing produced from an electronic document; or not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.

Section 200D makes clear that the existing functions of authorised officers for the purposes of the DSA and the CSA continue to operate, notwithstanding the introduction of this new Part. These existing functions relate to the monitoring of funding provided by a department that is the subject of a funding declaration, in accordance with section 10 of the CSA.

Section 200E confers additional functions to authorised officers appointed under the CSA in relation to NDIS non-government service providers. These functions include investigating, monitoring and ensuring compliance of NDIS non-government service providers with the DSA, including determining whether an occasion has arisen for the exercise of powers under the DSA.

Section 200F makes clear that in relation to the performance of the functions of an authorised officer mentioned in section 200E, Part 6A Divisions 3 and 4 of the DSA applies instead of Part 4, Divisions 3 and 4 of the CSA.

The new section 200G outlines the circumstances in which an authorised officer may enter a place. These include if:

- the occupier consents to the entry
- it is a public place and the entry is made when it is open to the public
- the entry is authorised by a warrant
- it is the place of business for an NDIS non-government service provider and is open for carrying on business or otherwise open for entry.

Section 200H notes that Subdivision 3 of Part 6A applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer entering the place.

Section 200I makes clear that there may be circumstances under which an authorised officer needs to enter land around premises at the place or enter part of the place to make contact with the occupier.

Section 200J outlines the matters which an authorised officer is required to provide a reasonable explanation of before asking the occupier for consent to enter the place.

Section 200K provides that if an occupier gives consent, the authorised officer has the discretion to ask the occupier to sign a document which acknowledges that consent was given.

Section 200L enables an authorised officer to make application to a magistrate for a warrant for a place.

Section 200M sets the thresholds and particulars which must be met before a magistrate may issue a warrant. In particular, a warrant may only be issued if the magistrate is satisfied there are reasonable grounds for suspecting that it is necessary to enter the place:

- to protect a person who is an NDIS participant receiving services, under the person's participant's plan, from an NDIS non-government service provider at the place from risk of harm because of abuse, neglect or exploitation; or
- to check whether an NDIS non-government service provider has complied with, or is complying with, the DSA.

Section 200N allows for an application for a warrant under section 200L to be made by electronic communication if the authorised officer reasonably considers it necessary because of urgent or special circumstances. Section 200O sets out additional procedural requirements if an electronic application is made.

Section 200P makes clear that a warrant is not invalidated by a defect in the warrant unless that defect affects the substance of the warrant in a material way. Section 200Q outlines the procedure and steps which must be followed before entry, if an authorised officer intends to enter the place under the warrant.

Section 200R notes that the powers under Subdivision 5 may be exercised if an authorised officer enters a place when either: (1) consent has been obtained from the occupier; (2) the entry is authorised under a warrant; or (3) it is a place of business.

Section 200S identifies the general powers which are at the disposal of an authorised officer after entering a place.

Section 200T recognises that an authorised officer may make a requirement of an occupier of the place or a person at the place to give the authorised officer reasonable help to exercise a general power, including, for example, to give information. Section 200U recognises that it is an offence to contravene a requirement under section 200T unless the person has a reasonable excuse. This offence comes with a maximum penalty of 40 penalty units.

Section 200V recognises that it is an offence for a person to fail to answer questions asked by an authorised officer to help the officer ascertain whether the DSA is being or has been

complied with, unless the person has a reasonable excuse. This offence comes with a maximum penalty of 40 penalty units.

Section 200W enables an authorised officer to require information of an NDIS non-government service provider if that officer reasonably believes:

- an offence against the DSA has been committed
- there has been a service delivery failure by the provider and the provider may be able to give information about the failure; or
- a person who is a participant receiving services, under the person's participant's plan, from an NDIS non-government service provider may be at risk of harm because of abuse, neglect or exploitation by the service provider.

Section 200X provides that it is an offence for a NDIS non-government service provider to contravene a requirement under section 200W. This offence comes with a maximum penalty of 50 penalty units.

Clause 45 amends section 215 to ensure a NDIS non-government service provider must make, and keep records as prescribed under regulation. The type of records include: the name, address and telephone number for each of the provider's consumers; and documents relating to written complaints made to the provider about the delivery of disability services by the provider.

Clause 46 amends section 228 to enable a person to disclose information to a NDIS non-government service provider for the needs of a person with disability.

Clause 47 amends section 229 to enable the chief executive to give notice to a NDIS non-government service provider requiring the provider to give information to the chief executive relating to the provision of disability services to consumers of the provider.

Clause 48 amends section 230 to protect NDIS non-government service providers from liability in situations where the provider has given the chief executive information under the DSA.

Clause 49 amends section 231 to ensure the chief executive advises a NDIS non-government service provider before disclosing any information the chief executive has obtained under section 229 to another entity.

Clause 50 inserts a new section 233 which will allow the chief executive to enter into arrangements about the giving and receiving of information about persons who may be eligible persons. The purpose of this section is to allow for the exchange of information to facilitate monitoring and reconciliation of Queensland's funding contributions to the NDIS. Section 233 will enable the chief executive of the department to obtain auditing information about persons who may be eligible persons from the chief executive of another department.

Eligible persons refer to persons receiving services funded or delivered by a Queensland Government department who may meet the access criteria under the NDIS Act, section 21.

Auditing information includes:

- the person's full name

- the person's unique agency client identifier, if any;
- the person's date of birth, gender and residential address
- the name and full contact details of the person's carer or appointed guardian and details of any relationship between the person and the person's carer or guardian.

The scope of this power needs to be kept broad given the potential impacts of the NDIS on all Queensland Government departments is yet to be ascertained. The prescription of specific departments may inadvertently impede the reconciliation that is required to ensure that Queensland does not suffer negative financial impact.

In addition, section 233 authorises DCCSDS to disclose to other departments the fact that an eligible person has become, or will not become, an NDIS participant. This will allow for departments to effectively manage and adjust their funding contracts with non-government providers as well as ensure the continuity of supports for those persons identified by the NDIA as being not eligible.

Clause 51 inserts new sections 241A and 241B. Section 241A requires the Minister for Disability Services to review the efficacy and efficiency of the DSA in the light of amendments made by the *Disability Services and Other Legislation Amendment Act 2015*. Section 241B operates as a sunset provision and recognises that Part 6A expires on 30 June 2019.

Clause 52 inserts transitional provisions through the inclusion of Part 9, Division 10 (Transitional provisions for Disability Services and Other Legislation Amendment Act 2015).

Section 339 notes that if a warrant is issued under section 200M and is in force, but not executed before 30 June 2019, the warrant continues in force according to its terms and may be executed after that date. Section 340 recognises that if a person contravenes a provision of Part 6A prior to 1 July 2019, the person may be prosecuted and punished for the contravention despite the expiry of Part 6A.

Clause 53 inserts a range of new definitions into Schedule 8 (Dictionary). These include: authorised officer; electronic document; general power; help requirement; information requirement; NDIS Act; NDIS non-government service provider; occupier; participant; participant's plan; plan; reasonably believes; and reasonably suspects.

Clause 53 also amends existing definitions, which include consumer, engaged and regulated employment to refer to NDIS non-government service providers.

Part 4 Amendment of Guardianship and Administration Act 2000

Clause 54 provides that Part 4 (Amendment of Guardianship and Administration Act 2000) of the Bill amends the *Guardianship and Administration Act 2000*.

Clause 55 amends Schedule 2, section 2 to broaden the definition of personal matter for which a substitute decision-maker may be appointed to include services provided to the adult.

Part 5 Amendment of Powers of Attorney Act 1998

Clause 56 provides that Part 5 (Amendment of Powers of Attorney Act 1998) of the Bill amends the *Powers of Attorney Act 1998*.

Clause 57 amends Schedule 2, section 2 to broaden the definition of personal matter for which a substitute decision-maker may be appointed to include services provided to the principal.

Part 6 Amendment of Public Guardian Regulation 2014

Clause 58 provides that Part 6 (Amendment of Public Guardian Regulation 2014) of the Bill amends the *Public Guardian Regulation 2014*.

Clause 59 omits and inserts a new Schedule 1 of the PG Regulation to:

- expand the definition of visitable site to include a place, other than a private dwelling house where a NDIS funded adult participant, with impaired capacity for a personal matter or a financial matter or with an impairment, lives; and
- insert a range of new definitions, which include: funded adult participant, NDIS Act, participant, participant's plan; and plan.

Part 7 Amendment of Working with Children (Risk Management and Screening) Act 2000

Clause 60 provides that Part 8 (Amendment of Working with Children (Risk Management and Screening) Act 2000) of the Bill amends the *Working with Children (Risk Management and Screening) Act 2000*.

Clause 61 amends Schedule 1 to ensure the various definitions of regulated employment and business incorporate NDIS non-government service providers. These consequential amendments ensure the interface between Working with Children checks and working with vulnerable people checks (under Part 5 of the DSA) remains consistent.

Clause 62 inserts a new definition into Schedule 7 (Dictionary) of an NDIS non-government service provider.