

Disability Services and Other Legislation Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 97

made under the

Adoption Act 2009

Community Services Act 2007

Disability Services Act 2006

Prostitution Act 1999

Queensland Civil and Administrative Tribunal Act 2009

General Outline

Short title

Disability Services and Other Legislation Amendment Regulation (No. 1) 2014

Authorising law

Section 328 of the *Adoption Act 2009*

Section 135 of the *Community Services Act 2007*

Section 232 of the *Disability Services Act 2006*

Section 140 of the *Prostitution Act 1999*

Section 242 of the *Queensland Civil and Administrative Tribunal Act 2009*

Policy objectives and the reasons for them

The *Disability Services and Other Legislation Amendment Regulation (No. 1) 2014* (the amendment regulation) makes the various regulatory amendments required as a result of the *Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014* and indexes fees prescribed in the *Disability Services Regulation 2006* and the *Adoption Regulation 2009*, in accordance with the *Queensland Government Principles for Fees and Charges*.

Funding legislation amendments

The *Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014* (the Act) was passed by Parliament on 1 April 2014. It is planned to commence the Act on 1 July 2014.

The Act amends legislation currently used by the Department of Communities, Child Safety and Disability Services (the Department) to administer its investment in front line services

delivered by non-government organisations and local governments. It reduces and simplifies existing funding laws to remove unnecessary red tape while still enabling government to safeguard its investment.

The Act achieves this by repealing the *Family Services Act 1987* and streamlining the *Community Services Act 2007* (the CSA) and the *Disability Services Act 2006* (the DSA).

Included in the provisions to be removed from the CSA and the DSA are those allowing a regulation to prescribe requirements about how a funded service provider conducts its operations or provides community or disability services.

Accordingly the amendment regulation removes all existing prescribed requirements for community and disability service providers, which are set out in the *Community Services Regulation 2008* and the *Disability Services Regulation 2006* respectively.

The amendment regulation also makes some minor consequential amendments to other regulations that flow from the changes in the Act.

Indexation of fees

The DSA requires a prescribed fee to accompany applications made under its criminal history screening provisions. Fees set out in the *Disability Services Regulation 2006* are charged under this regime to help recover costs associated with conducting criminal history searches and issuing notices.

Delivering quality adoption services attracts considerable costs. Charging application, assessment and sometimes supervision fees, as set out in the *Adoption Regulation 2009*, assists the Department to meet, in part, the costs of providing these services.

The *Queensland Government Principles for Fees and Charges* require that agencies have processes in place to ensure that a fee maintains its value over time. Where regular comprehensive review is not cost effective or no specific indexation method has been approved by the Cabinet Budget Review Committee, agencies are required to apply the current Government indexation policy as advised by Queensland Treasury and Trade.

The rate of indexation advised by Queensland Treasury and Trade for increases in government fees and charges for 2014–15 is 3.5 per cent.

The amendment regulation indexes the fees prescribed in the *Disability Services Regulation 2006* and the *Adoption Regulation 2009* in accordance with this rate from 1 July 2014.

Achievement of policy objectives

Funding legislation amendments

The amendment regulation achieves its policy objectives by:

- repealing the *Community Services Regulation 2008* entirely as this regulation only sets out prescribed requirements;
- amending the *Disability Services Regulation 2006* to remove those sections relating to prescribed requirements; and

- making minor consequential amendments to:
 - the *Prostitution Regulation 2000* to replace a reference to the *Family Services Act 1987* with a reference to the CSA; and
 - the *Queensland Civil and Administrative Tribunal Regulation 2009* to reflect the Act's streamlining of current appeal processes that apply when a department uses its powers under the CSA or the DSA.

Indexation of fees

The amendment regulation achieves its policy objectives by:

- increasing fees prescribed under the *Disability Services Regulation 2006* and the *Adoption Regulation 2009* by 3.5 per cent from 1 July 2014.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the objectives of the authorising Acts.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Benefits and costs of implementation

Funding legislation amendments

Implementing the Act and the amendment regulation will remove duplicative and unnecessary legislative requirements, which will in turn reduce red tape costs for funded organisations and local governments.

Associated implementation costs will include:

- communication and awareness raising with non-government and local government stakeholders;
- making funding declarations about in-scope funding that is subject to the revised CSA;
- updating existing documents and policies to support the revised CSA; and
- providing information to departmental staff on the revised CSA.

All costs will be met from within existing resources.

Indexation of fees

Annual adjustments in adoption fees assist the Department to continue to meet, in part, the costs of providing quality adoption services, while maintaining an appropriate and sustainable fee structure. Under this fee structure, the Queensland Government continues to meet, in part, the costs of delivering adoption services.

There will be no additional implementation costs to government in adjusting the adoption fee schedule or the fee schedule under the *Disability Services Regulation 2006*.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles.

Consultation

The Office of Best Practice Regulation and the Department of Justice and Attorney-General were consulted on the amendment regulation. Both agencies were supportive of the amendments. The Office of Best Practice Regulation confirmed that the amendment regulation is excluded from the Regulatory Impact Statement system.

During the development of the *Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014*, consultations were undertaken with targeted key peak bodies in October 2013 and January 2014. The bodies consulted were the Local Government Association of Queensland, the Queensland Council of Social Service, National Disability Services, PeakCare and the Queensland Aboriginal and Torres Strait Islander Child Protection Peak. These bodies broadly supported the proposals in the Act and particularly welcomed the red tape reductions.

Regarding the indexation of fees, no consultation was undertaken outside government as the indexation of government fees and charges is prescribed under the *Financial Circular No. 2013-14/06*.