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# Public Guardian (NDIS) Amendment Regulation 2019

Explanatory notes for SL 2019 No. 114

Made under the

*Public Guardian Act 2014*

## General Outline

### Short Title

*Public Guardian (NDIS) Amendment Regulation 2019*

### Authorising law

Sections 49A(2), 49A(3), 72A(2), 72A(3) and 148 of the *Public Guardian Act 2014* (PGA).

### Policy objectives and the reasons for them

The purpose of the *Public Guardian (NDIS) Amendment Regulation 2019* (Amendment Regulation) is to amend the *Public Guardian Regulation 2014* (PG Regulation) to make amendments arising as a consequence of the *Disability Services and Other Legislation (NDIS) Amendment Act 2019* (Amendment Act).

The Amendment Act amends a number of Acts, including the PGA to continue important safeguards for people with disability under the National Disability Insurance Scheme (NDIS) in Queensland from 1 July 2019. These continuing safeguards will include the community visitor program (adult) and community visitor program (child) established under the PGA for certain NDIS participants. The Amendment Act ensures that community visitors (adult) and (child) must continue to visit visitable sites where certain NDIS participants are in order to protect the participants' rights and interests.

The Amendment Act amends the definition of a *visitable site* and *residential facility* in the PGA (sections 39 and 51) for the community visitor (adult) and (child) programs in relation to NDIS participants to ensure that:

- adult NDIS participants in receipt of certain categories of high levels of support and care under the NDIS continue to be visitable by community visitors; and
- child NDIS participants in receipt of respite care under the NDIS continue to be visitable by community visitors.

In order for the Public Guardian to be able to identify the physical location of these visitable sites, the Amendment Act introduces new reporting requirements for certain NDIS providers and registered NDIS providers to provide prescribed information about visitable sites to the Public Guardian. For community visitors (adult), section 49A(2) of the PGA requires certain registered NDIS providers to give the Public Guardian, in the way and at the times prescribed by regulation, *required information*. For community visitors (child), section 72A (2) of the PGA requires certain NDIS providers and registered NDIS providers to give the Public Guardian, in the way and at the times prescribed by regulation, the *required information*. In both cases *required information* is the information prescribed by regulation.

The purpose of the Amendment Regulation is to prescribe the information that certain NDIS providers and registered NDIS providers must give to the Public Guardian and the times at which that information must be provided.

## **Achievement of policy objectives**

### *Community visitor program (adult)*

The Amendment Regulation (clause 6) provides that for section 49A of the PGA, the following *required information* is prescribed—(a) the registered NDIS provider’s—name; and contact telephone number; and email address; and (b) the address of each visitable site at which the registered NDIS provider provides services or supports in relation to which section 49A of the PGA applies.

The registered NDIS provider must give the Public Guardian the required information on a quarterly basis. However, to provide both the Office of the Public Guardian (OPG) and registered NDIS providers with sufficient time to prepare for these reporting requirements, the first report is not due until 14 October 2019. After that time the required information must be reported within 14 days after the end of each quarter.

### *Community visitor program (child)*

The Amendment Regulation (clause 7) provides that for section 72A of the PGA, the following *required information* is prescribed—(a) the NDIS provider’s or registered NDIS provider’s—name; and contact telephone number; and email address; and (b) the address of each place at which the NDIS provider or registered NDIS provider provides the child accommodation service in relation to which section 72A of the PGA applies.

The NDIS provider or registered NDIS provider must give the Public Guardian the required information on a quarterly basis. However, to provide the OPG and NDIS providers or registered NDIS providers with sufficient time to prepare for these reporting requirements, the first report is not due until 14 October 2019. After that time the required information must be reported within 14 days after the end of each quarter.

### *Other amendments*

The Amendment Regulation (clause 8) also amends the PG Regulation to omit schedule 1, section 1(1)(e) and (2) in relation to prescribed visitable sites for adult NDIS participants as the definition of visitable site in relation to adult NDIS participants is now located in section 39 of the PGA.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objectives of the PGA.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

There are not expected to be any significant costs associated with the implementation of the Amendment Regulation.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

Consultation occurred with the OPG and key disability organisations on the information to be prescribed as required information under the Amendment Regulation.

The OPG supports the Amendment Regulation and overall key disability organisations also supported the proposed reporting requirements.