

Working with Children (Risk Management and Screening) and Other Legislation Amendment (Postponement) Regulation 2020

Explanatory notes for SL 2020 No. 64

Made under the

Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019

General Outline

Short Title

Working with Children (Risk Management and Screening) and Other Legislation Amendment (Postponement) Regulation 2020

Authorising law

Section 15DA of the *Acts Interpretation Act 1954*
Section 2 of the *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019*

Policy objectives and the reasons for them

The *Working with Children (Risk Management and Screening) and Other Legislation Amendment Act 2019* (Amendment Act) received assent on 24 May 2019.

The policy objectives of the Amendment Act are to amend the *Working with Children (Risk Management and Screening) Act 2000* (WWC Act) to:

- give effect to the Government's election commitment to introduce automated blue card application processes to prevent people commencing paid work while a blue card application is pending ('No Card, No Start' election commitment); and
- implement recommendations from the Queensland Family and Child Commission (QFCC) reports *Keeping Queensland's children more than safe: Review of the blue*

card system (QFCC Report) and Recommendation 28 Supplementary Review: A report on information sharing to enhance the safety of children in regulated home-based services (Supplementary Review).

Certain provisions of the Amendment Act commenced by proclamation on 1 July 2019. These provisions included:

- providing stronger protections for children by elevating additional offences to the list of serious and disqualifying offences under the WWC Act;
- establishing a new framework for dealing with cardholders and applicants charged with or convicted of a serious offence; and
- requiring all adult household members of home-based stand-alone care services to hold a blue card.

Sections 6, 60 (to the extent it was not in force) and 65 of the Amendment Act, which established a register of regulated persons who provide home-based care services to children and associated amendments, commenced by proclamation on 5 August 2019.

Section 2 of the Amendment Act provides for the remaining provisions of the Amendment Act to commence on a day to be fixed by proclamation. These remaining provisions give effect to the following objectives:

- implement the Government's 'No Card, No Start' election commitment and introduce automated blue card application processes to prevent people commencing paid child-related work while a blue card application is pending;
- streamline the application process by enabling applications to be made manually or through an online process, creating more flexibility for applicants;
- remove the requirement that a person must have an agreement to work with an organisation before applying for a working with children check;
- enable organisations to manage their blue card obligations as well as communications with the chief executive, including relevant notifications, through an online organisation portal;
- strengthen the identity check process by introducing a photograph on the working with children card;
- remove the ability for a person performing child-related work to rely on an exemption under the WWC Act (for example, the volunteer parent exemption) if they are considered ineligible to work with children (for example, a negative notice holder); and
- introduce a simplified frequency test which means a person is not required to hold a blue card if the person is employed to work, and works, in the employment (whether paid or voluntary) for not more than seven days in a calendar year.

If not extended by regulation the remaining provisions of the Amendment Act that have not yet commenced will automatically commence on 25 May 2020. The *Working with Children (Risk Management and Screening) and Other Legislation Amendment*

(Postponement) Regulation 2020 (Postponement Regulation) will delay the commencement of the remaining provisions of the Amendment Act to 25 May 2021.

Delaying commencement of the remaining reforms under the Amendment Act is necessary to enable organisations providing child-related services to ensure continuity of service delivery while taking all necessary steps to deal with the ongoing health emergency of COVID-19. COVID-19 represents a significant risk to the health and wellbeing of many Queenslanders and has the potential to cause adverse economic and social consequences.

A proclamation fixing the commencement date of the remaining provisions of the Amendment Act to a date earlier than 25 May 2021 could be made having regard to the state of the COVID-19 emergency and the readiness of organisations for the 'No Card, No Start' requirement.

Achievement of policy objectives

The Postponement Regulation will extend the period under section 15DA(2) of the *Acts Interpretation Act 1954* (AIA) to the end of 24 May 2021, so that the remaining provisions of the Amendment Act that have not yet commenced will automatically commence on 25 May 2021. The Postponement Regulation will expire on 26 May 2021.

Consistency with policy objectives of authorising law

The Postponement Regulation is consistent with the policy objectives of the Amendment Act.

Inconsistency with policy objectives of other legislation

The Postponement Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

Any costs associated with delaying the commencement of reforms under the Amendment Act will be met from existing budget provided for the 'No Card, No Start' project.

Delaying commencement of the remaining reforms under the Amendment Act will enable organisations to focus on the continuity of service delivery and deal with the challenges of COVID-19.

Consistency with fundamental legislative principles

The Postponement Regulation is consistent with fundamental legislative principles.

Consultation

Due to the urgent nature of the Postponement Regulation, community consultation on the proposal was not possible. However, the decision to make the Postponement Regulation was made having regard to minimising the impact of COVID-19 on the availability and continuity of critical child-related services.

The postponement will be communicated widely throughout the many channels available to the blue card system (including its website and stakeholder newsletter).

A self-assessment by DJAG determined that no further regulatory impact analysis is required as the regulatory proposal is excluded under category (g) of the *Queensland Government Guide to Better Regulation* – regulatory proposals that are of a machinery nature.