

Disability Services and Other Legislation (Fees) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 264

made under the

Disability Services Act 2006

Working with Children (Risk Management and Screening) Act 2000

General Outline

Short title

Disability Services and Other Legislation (Fees) Amendment Regulation 2020 (the Amendment Regulation)

Authorising law

This Amendment Regulation is made under:

- the *Disability Services Act 2006* (DSA), sections 68, 103, 105, 131 and 239
- the *Working with Children (Risk Management and Screening) Act 2000*, section 401

Policy objectives and the reasons for them

On 3 May 2018, the Premier of Queensland signed the *Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme* (IGA), committing Queensland to implement nationally consistent National Disability Insurance Scheme (NDIS) worker screening to enhance regulatory safeguards and protect people with disability who receive NDIS supports or services from risk of harm. Under the IGA, all states and territories have agreed to set application fees on a cost-recovery basis where possible.

The *Disability Services and Other Legislation (Worker Screening) Amendment Act 2020* (Amendment Act) will implement nationally consistent NDIS worker screening and continue a state screening system for disability services outside the jurisdiction of the NDIS Quality and Safeguards Commission (NDIS Commission) in Queensland.

The objective of the Amendment Regulation is to support the Amendment Act by prescribing the fees for NDIS worker screening applications and continue fees for the state disability worker screening system.

It also makes necessary amendments to prescribe a reduced working with children check (WWCC) application fee for a person who seeks to combine their WWCC application with an application for a NDIS or State clearance (collectively termed a disability clearance) (a combined application) or a

person who makes their WWCC application and is the holder of a disability clearance, or has a disability worker screening application in progress. This is because people working with children with disability will require both a disability clearance and a blue card. In particular, the combined application will allow a person to make one application and pay one fee for both checks.

Achievement of policy objectives

To achieve its objective, the Amendment Regulation will amend the *Disability Services Regulation 2017* to prescribe the fees for NDIS worker screening applications on a cost recovery basis and continue existing fees for state disability worker screening applications.

Fees for persons changing from volunteer to paid work will be calculated on a pro rata basis depending on the length of time left on their current card. Applications for volunteers will continue to be processed free of charge.

The proposed fees are set out in the table provided below:

| Type of fee | Fees for NDIS worker screening applications | Revised fees for State disability applications (CPI increase applied) |
|---|---|---|
| Application and renewal | \$117 | \$95.95 |
| Application and renewal for volunteers and persons engaged on an unpaid basis | Nil | Nil |
| Cancel an exclusion or a negative notice | \$117 | \$95.95 |
| Lost or replacement card | \$14.50 | \$14.50 |
| Change of engagement (volunteer to paid) | \$117 prorate basis depending on the length of time left on a person's clearance. | \$95.95 prorate basis depending on the length of time left on a person's clearance. |
| Eligibility declaration | NA – process will not exist | NA – process will not exist |

Amendments to the *Working with Children (Risk Management and Screening) Regulation 2020*
Section 188(2) of the *Working with Children (Risk Management and Screening) Act 2000* provides that a working with children check (general) application must be accompanied by the prescribed fee for the application, unless section 189 applies to the applicant. Schedule 2 of the *Working with Children (Risk Management and Screening) Regulation 2020* (WWC Regulation) outlines the fees payable.

The Amendment Regulation amends the WWC Regulation to set a reduced fee of \$10 for a WWCC application where it is made as part of a combined application or the applicant is the holder of a disability clearance, or if the application is made by a person who has made a disability worker screening application.

Consistency with policy objective of authorising law

The Amendment Regulation is consistent with the main objectives of the Amendment Act to:

1. support nationally consistent worker screening for the NDIS and the IGA;
2. enable Queensland to operate a state disability worker screening system for certain disability services that it continues to fund, or deliver, outside of the jurisdiction of the NDIS Commission;
3. streamline and strengthen the legislative framework for disability worker screening in

- Queensland; and
4. ensure the blue card system operates effectively and efficiently alongside the disability worker screening system and the strongest possible safeguards are maintained in relation to persons working with children with disability.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is consistent with the policy objectives of other legislation. It creates provisions to ensure the proper and effective implementation of the worker screening framework under the DSA.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objective. The Amendment Regulation implements critical provisions to support the proper and effective implementation of the worker screening framework under the DSA.

Benefits and costs of implementation

The implementation of NDIS worker screening is expected to increase application volumes resulting in increased operating costs compared to the current yellow card screening system. In addition, there are costs associated with implementation, including the development of an ICT system to effectively interface with the national worker screening database.

The Queensland Government has provided funding as part of both the 2018-19 and 2019-20 budget processes to meet the costs of continuing to operate a disability worker screening system as well as prepare for implementation of NDIS worker screening. For example, in the 2018-19 budget \$1.2 million was provided over three years to support nationally consistent NDIS worker screening by contributing towards the cost of developing and implementing the national worker screening database to be managed by the NDIS Commission.

The Queensland Government will invest further funding over the next two years to enable the costs of operating the NDIS check and implementing a combined application process with the blue card system to be met. The new online application portal will streamline the application process and assist in reducing wait times for applicants.

The setting of application fees are subject to usual government approval processes but, as agreed under the IGA, fee structures are designed to achieve cost recovery of the operational costs of NDIS worker screening, noting the validity period for the check will now be five years. Volunteers will continue to have their fees waived.

Fees for state disability worker screening will remain consistent with current fees and the same three-year validity period will apply.

Applications for volunteers will continue to be processed free of charge.

Consistency with fundamental legislative principles

The amendments in the Amendment Regulation are consistent with fundamental legislative principles.

Consultation

In November 2020, the Office of Best Practice Regulation in the Queensland Productivity Commission (QPC) assessed the proposed changes and determined that no further regulatory impact assessment is required under the Queensland Government Guide to Better Regulation. The QPC noted that while the proposed fees may impact on some stakeholders, these are unlikely to be significant and reflect the administrative requirements of the national policy agreed under the IGA.

The Commonwealth Government undertook extensive consultation between 16 February 2015 to 30 April 2015 to assess regulatory impacts on participants, suppliers and specific stakeholder groups of the NDIS Quality and Safeguards Framework. The Commonwealth Government also undertook extensive targeted consultation during development of the NDIS (Practice Stands – Worker Screening) Rules 2018 and IGA from 2017. The Department of Social Services prepared a Decision Regulation Impact Statement (RIS) that was provided to the then COAG Disability Reform Council.

The IGA provides that fees are to be set on a cost recovery basis.

During the period from October to November 2018, the then Department of Communities, Disability Services and Seniors (the former Department) conducted a public consultation process which canvassed community views in relation to proposed legislative reforms for NDIS worker screening. Views were sought regarding the screening of unregistered NDIS providers, ‘no card, no start’ and whether screening systems should interact with each other. Results of consultation informed the development of policy positions for NDIS worker screening.

In February 2020, the former Department undertook further targeted consultation that informed key stakeholders about the proposed legislative amendments related to NDIS worker screening and sought stakeholders’ perspectives on operational implementation. This included consultation with Queensland Advocacy Incorporated, Queenslanders with Disability Network, other non-government organisations and peak bodies within the disability services and community sector and people with disability. Results of consultation informed the implementation of policy issues on which Queensland has discretion, including technical and operational impacts. Stakeholders were generally supportive of the legislative amendments to implement worker screening.

There was no specific consultation on the proposed fees. Stakeholders noted during the Parliamentary Committee consideration of the Amendment Act the need to ensure fees remained affordable and did not act as a disincentive. The fees have been set consistent with the IGA to achieve cost recovery based on anticipated application volumes. It is noted that a five year validity period means the fees charged are less than current fees when considered on an annualised basis. In addition, volunteer applications will continue to be processed free of charge.