



Queensland

Disability Services and Other Legislation Amendment Act 2016

Act No. 9 of 2016



Queensland

Disability Services and Other Legislation Amendment Act 2016

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Disability Services and Other Legislation Amendment Act 2016

Act No. 9 of 2016

An Act to amend the Coroners Act 2003, the Disability Services Act 2006, the Guardianship and Administration Act 2000, the Powers of Attorney Act 1998, the Public Guardian Regulation 2014 and the Working with Children (Risk Management and Screening) Act 2000 for particular purposes

[Assented to 24 March 2016]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Disability Services and Other Legislation Amendment Act 2016*.

2 Commencement

This Act commences on 1 April 2016.

Part 2 Amendment of Coroners Act 2003

3 Act amended

This part amends the *Coroners Act 2003*.

4 Amendment of s 9 (*Death in care defined*)

(1) Section 9(1)—

insert—

(e) the person was a participant who was—

(i) living in—

(A) accommodation provided to persons with a disability; or

(B) a residential service that is not a private dwelling or aged care facility; and

- (ii) receiving services paid for wholly or partly from funding under the NDIS in accordance with the person's participant's plan.

(2) Section 9(4)—

insert—

NDIS means National Disability Insurance Scheme under the NDIS Act.

NDIS Act means *National Disability Insurance Scheme Act 2013* (Cwlth).

participant has the meaning given by the NDIS Act, section 9.

participant's plan means a plan for a participant that is in effect under the NDIS Act, section 37.

plan, for a participant, has the meaning given by the NDIS Act, section 9.

Part 3 Amendment of Disability Services Act 2006

5 Act amended

This part amends the *Disability Services Act 2006*.

6 Amendment of s 12 (What are *disability services*)

Section 12—

insert—

- (g) another service prescribed by regulation.

[s 7]

7 Amendment of s 14 (Meaning of *funded service provider*)

(1) Section 14(1)—

omit, insert—

(1) A *funded service provider* is—

- (a) a service provider that receives funds from the department to provide disability services; or
- (b) a service provider that provides disability services prescribed by regulation to a participant under the participant's plan.

(2) Section 14(3)—

omit, insert—

(3) However, a funded service provider does not include—

- (a) another department receiving funds from the department; or
- (b) another department providing disability services prescribed by regulation to a participant under the participant's plan.

8 Insertion of new s 16A

Part 1, division 3—

insert—

16A Meaning of *NDIS non-government service provider*

An *NDIS non-government service provider* is a non-government service provider that provides disability services prescribed by regulation to a participant under the participant's plan.

9 Replacement of pt 5, hdg (Screening of particular persons engaged by department or funded non-government service providers)

Part 5, heading—

omit, insert—

Part 5	Screening of particular persons engaged by department or particular funded service providers
---------------	---

10 Amendment of s 40 (Main purpose of pt 5)

Section 40, ‘or a funded non-government service provider’—

omit, insert—

, a funded non-government service provider or an
NDIS non-government service provider

11 Amendment of s 42 (This part does not apply to persons engaged to provide disability services to children)

Section 42, ‘or a funded non-government service provider’—

omit, insert—

, a funded non-government service provider or an
NDIS non-government service provider

12 Amendment of s 46 (Persons engaged by a funded non-government service provider at a service outlet)

(1) Section 46, heading, after ‘service provider’—

insert—

or an NDIS non-government service provider

(2) Section 46(1), (2) and (6), after ‘funded non-government service provider’—

[s 13]

insert—

or an NDIS non-government service provider

- (3) Section 46(5), ‘a service provider’—

omit, insert—

a funded non-government service provider or an NDIS non-government service provider

13 Amendment of s 49 (Risk management strategies about persons engaged by funded non-government service providers)

- (1) Section 49, heading, after ‘service providers’—

insert—

or NDIS non-government service providers

- (2) Section 49(1), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (3) Section 49(2), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS non-government service provider

- (4) Section 49(2), penalty, paragraph (b), after ‘service provider’—

insert—

or an NDIS non-government service provider

14 Amendment of pt 5, div 5, hdg (Issue of prescribed notices for funded non-government service providers)

Part 5, division 5, heading, after ‘providers’—

insert—

and NDIS non-government service providers

15 Amendment of s 52 (Application for prescribed notice)

- (1) Section 52(1) and (5), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (2) Section 52(2)(b), ‘service provider’—

omit, insert—

funded non-government service provider or NDIS
non-government service provider

- (3) Section 52(3)(b), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS
non-government service provider

- (4) Section 52(4), ‘service provider’—

omit, insert—

funded non-government service provider, NDIS
non-government service provider

- (5) Section 52(6)(a) and (7)(a), after ‘funded non-government service provider’—

insert—

or NDIS non-government service provider

- (6) Section 52(6)(b), ‘funded non-government’—

omit.

16 Amendment of s 56 (Actions of chief executive after making decision on application)

Section 56(4), after ‘funded non-government service provider’—

insert—

[s 17]

or NDIS non-government service provider

17 Amendment of pt 5, div 6, hdg (Issue of exemption notices for funded non-government service providers)

Part 5, division 6, heading, after ‘service providers’—

insert—

and NDIS non-government service providers

18 Amendment of s 59 (Application for exemption notice)

(1) Section 59(1), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

(2) Section 59(2)(b), ‘service provider’—

omit, insert—

funded non-government service provider or NDIS non-government service provider

(3) Section 59(3)(b), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS non-government service provider

(4) Section 59(4), ‘service provider’—

omit, insert—

funded non-government service provider, NDIS non-government service provider

19 Amendment of s 63 (Actions of chief executive after making decision on application)

Section 63(4), after ‘funded non-government service provider’—

insert—

or NDIS non-government service provider

20 Amendment of pt 5, div 7, sdiv 1, hdg (Engagement of persons by funded non-government service provider)

Part 5, division 7, subdivision 1, heading, after ‘service provider’—

insert—

or NDIS non-government service provider

21 Amendment of s 65 (Starting engagement of certain regular engaged persons other than volunteers)

(1) Section 65(1)(a), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

(2) Section 65(1)(b) and (c), ‘funded non-government’—

omit.

(3) Section 65(2), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS non-government service provider

(4) Section 65(2), penalty, paragraph (b), after ‘service provider’—

insert—

or an NDIS non-government service provider

(5) Section 65(3)(b), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS non-government service provider

[s 22]

22 Amendment of s 66 (Starting engagement of new engaged persons other than volunteers)

- (1) Section 66(1)(a) and (b), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (2) Section 66(1)(c), ‘funded non-government’—

omit.

- (3) Section 66(2), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS non-government service provider

- (4) Section 66(2), penalty, paragraph (b), after ‘service provider’—

insert—

or an NDIS non-government service provider

- (5) Section 66(3)(b), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS non-government service provider

23 Amendment of s 67 (Continuing engagement of persons other than volunteers)

- (1) Section 67(1)(a), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (2) Section 67(1)(b), ‘funded non-government’—

omit.

-
- (3) Section 67(2), after ‘funded non-government service provider’, first mention—

insert—

or NDIS non-government service provider

- (4) Section 67(2), penalty, paragraph (b), after ‘service provider’—

insert—

or an NDIS non-government service provider

24 Amendment of s 68 (Starting engagement of volunteers)

- (1) Section 68(1), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (2) Section 68(2)(b), after ‘funded non-government service provider’—

insert—

or NDIS non-government service provider

25 Amendment of s 69 (Currency of prescribed notice for volunteer continuing engagement)

Section 69(1)(a), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

26 Amendment of s 70 (Prohibited engagement)

Section 70(2), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

[s 27]

27 Amendment of s 75 (Change in police information of person engaged by funded non-government service provider)

- (1) Section 75, heading, after ‘service provider’—
insert—
or NDIS non-government service provider
- (2) Section 75(1), after ‘funded non-government service provider’—
insert—
or an NDIS non-government service provider
- (3) Section 75(2) and (4)(a), ‘service provider’—
omit, insert—
funded non-government service provider or NDIS non-government service provider
- (4) Section 75(3), ‘service provider’, first mention—
omit, insert—
funded non-government service provider or NDIS non-government service provider
- (5) Section 75(3), penalty, paragraph (b), after ‘service provider’—
insert—
or an NDIS non-government service provider
- (6) Section 75(4)(b), ‘service provider’, first mention—
omit, insert—
funded non-government service provider or NDIS non-government service provider

28 Amendment of s 77 (Change in police information of other persons)

- (1) Section 77(1)(c), ‘or a funded non-government service provider’—

omit, insert—

, a funded non-government service provider or an
NDIS non-government service provider

- (2) Section 77(2) and (3), penalty, paragraph (b), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (3) Section 77(3), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS
non-government service provider

29 Amendment of s 78 (False or misleading disclosure)

Section 78(a), after ‘service provider’—

insert—

or an NDIS non-government service provider

30 Amendment of s 83 (Chief executive may cancel a prescribed notice and substitute another prescribed notice)

Section 83(2), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

31 Amendment of s 84 (Chief executive may cancel an exemption notice and substitute another exemption notice)

Section 84(2), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

[s 32]

32 Amendment of s 85 (Cancellation of positive notice if relevant disqualified person)

Section 85(4), after ‘funded non-government service provider’—
insert—

or an NDIS non-government service provider

33 Amendment of s 86 (Suspension of positive notice if charged with disqualifying offence or subject to temporary or interim order)

Section 86(5), (6), (7) and (8), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

34 Amendment of s 88 (Suspension of a positive exemption notice if WWC positive notice suspended)

Section 88(6), (7) and (8), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

35 Amendment of s 89 (Ending of suspension and issue of further exemption notice or prescribed notice)

Section 89(8), after ‘funded non-government service provider’—
insert—

or an NDIS non-government service provider

36 Amendment of s 90 (Notifying holder of expiry of positive exemption notice)

Section 90(4), after ‘funded non-government service provider’—
insert—

or an NDIS non-government service provider

37 Amendment of s 91 (Request to cancel positive notice or positive exemption notice)

Section 91(4) and (5), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

38 Amendment of s 94 (Replacement notice etc. if change in engagement details)

Section 94(1), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

39 Amendment of s 98 (Offences for disqualified person)

(1) Section 98(3), after ‘funded non-government service provider’—

insert—

or NDIS non-government service provider

(2) Section 98(4), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

40 Amendment of s 131 (Chief executive to give notice to funded non-government service provider about making screening decision about engaged person)

(1) Section 131, heading, after ‘service provider’—

insert—

[s 41]

or NDIS non-government service provider

- (2) Section 131(3), after ‘a funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (3) Section 131(3)(g)(i), ‘funded non-government’—

omit.

- (4) Section 131(4), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS non-government service provider

41 Amendment of s 132 (Withdrawal of engaged person’s consent to screening)

- (1) Section 132(1)(a), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (2) Section 132(3)(d), (4)(d), (6)(b), (7)(b) and (8)(b), ‘service provider’—

omit, insert—

funded non-government service provider or NDIS non-government service provider

- (3) Section 132(5)(a), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or NDIS non-government service provider

- (4) Section 132(9), ‘service provider’, first mention—

omit, insert—

funded non-government service provider or an NDIS
non-government service provider

42 Amendment of s 133 (Compliance with requirement to end, or not start, a person's engagement)

- (1) Section 133(1), after 'funded non-government service provider'—

insert—

or an NDIS non-government service provider

- (2) Section 133(2), 'service provider'—

omit, insert—

funded non-government service provider or NDIS
non-government service provider

- (3) Section 133(3), 'service provider', first mention—

omit, insert—

funded non-government service provider or NDIS
non-government service provider

- (4) Section 133(4), 'service provider', first mention—

omit, insert—

funded non-government service provider or NDIS
non-government service provider

43 Amendment of s 138 (Register of persons engaged by funded non-government entities)

- (1) Section 138, heading, from 'funded'—

omit, insert—

**particular entities or for whom particular
applications are made**

- (2) Section 138(2)(b), (3) and (4), after 'funded non-government service provider'—

insert—

[s 44]

or an NDIS non-government service provider

44 Insertion of new pt 6A

After part 6—

insert—

Part 6A Investigation, monitoring and enforcement

Division 1 Preliminary

200A Purpose of part

The purpose of this part is to prescribe particular functions and powers of authorised officers appointed under the *Community Services Act 2007*.

200B References to exercise of powers

If—

- (a) a provision of this part refers to the exercise of a power by an authorised officer; and
- (b) 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.

200C Reference to document includes reference to reproductions from electronic document

A reference in this part to a document includes a reference to an image or writing—

- (a) produced from an electronic document; or

- (b) not yet produced, but reasonably capable of being produced, from an electronic document, with or without the aid of another article or device.

Division 2 Functions of authorised officers

200D Existing functions of authorised officers in relation to funding

For this Act and the *Community Services Act 2007*, section 24(d), the functions of an authorised officer, to the extent the *Community Services Act 2007* applies in relation to funding because of section 10 of that Act, include the following—

- (a) investigating, monitoring and ensuring compliance with this Act;
- (b) investigating or monitoring whether an occasion has arisen for the exercise of powers under the *Community Services Act 2007*;
- (c) facilitating the exercise of powers under the *Community Services Act 2007*.

Note—

See the *Community Services Act 2007*, part 4, divisions 3 and 4 for powers an authorised officer may exercise under that Act for the performance of the authorised officer's functions under this section.

200E Additional functions of authorised officers in relation to NDIS non-government service providers

Without limiting section 200D, for this Act and the *Community Services Act 2007*, section 24(d), an authorised officer also has the functions of—

[s 44]

- (a) investigating, monitoring and ensuring compliance of NDIS non-government service providers with this Act; and
- (b) for the purposes of paragraph (a)—
 - (i) investigating or monitoring whether an occasion has arisen for the exercise of powers under this Act; and
 - (ii) facilitating the exercise of powers under this Act.

Division 3 Powers of authorised officers for particular functions

Subdivision 1 Preliminary

200F Application of division for particular functions

This division applies for the performance of the functions of an authorised officer mentioned in section 200E.

Subdivision 2 General power of entry

200G General power to enter places

- (1) An authorised officer may enter a place if—
 - (a) an occupier of the place consents under subdivision 3 to the entry and section 200J has been complied with for the occupier; or
 - (b) it is a public place and the entry is made when it is open to the public; or

-
- (c) the entry is authorised under a warrant and, if there is an occupier of the place, section 200Q has been complied with for the occupier; or
- (d) it is the place of business of an NDIS non-government service provider and is—
- (i) open for carrying on the business; or
 - (ii) otherwise open for entry.
- (2) For subsection (1)(d), a ***place of business*** does not include a part of the place where a person resides.
- (3) If the power to enter arose only because an occupier of the place consented to the entry, the power is subject to any conditions of the consent and ceases if the consent is withdrawn.
- (4) If the power to enter is under a warrant, the power is subject to the terms of the warrant.
- (5) In this section—

public place means a place, or part of the place—

- (a) the public is entitled to use, that is open to members of the public or that is used by the public, whether or not on payment of money; or

Examples of a place that may be a public place under paragraph (a)—

a beach, a park, a road

- (b) the occupier of which allows, whether or not on payment of money, members of the public to enter.

Examples of a place that may be a public place under paragraph (b)—

a saleyard, a showground

Subdivision 3 Entry by consent

200H Application of subdivision

This subdivision applies if an authorised officer intends to ask an occupier of a place to consent to the authorised officer or another authorised officer entering the place under section 200G(1)(a).

200I Incidental entry to ask for access

For the purpose of asking the occupier for the consent, an authorised officer may, without the occupier's consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact an occupier of the place.

200J Matters authorised officer must tell occupier

Before asking for the consent, the authorised officer must give a reasonable explanation to the occupier—

- (a) about the purpose of the entry, including the powers intended to be exercised; and
- (b) that the occupier is not required to consent; and
- (c) that the consent may be given subject to conditions and may be withdrawn at any time.

200K Consent acknowledgement

- (1) If the consent is given, the authorised officer may ask the occupier to sign an acknowledgement of the consent.
- (2) The acknowledgement must state—
 - (a) the purpose of the entry, including the powers to be exercised; and
 - (b) the following has been explained to the occupier—
 - (i) the purpose of the entry, including the powers intended to be exercised;
 - (ii) that the occupier is not required to consent;
 - (iii) that the consent may be given subject to conditions and may be withdrawn at any time; and
 - (c) the occupier gives the authorised officer or another authorised officer consent to enter the place and exercise the powers; and
 - (d) the time and day the consent was given; and
 - (e) any conditions of the consent.
- (3) If the occupier signs the acknowledgement, the authorised officer must immediately give a copy to the occupier.
- (4) If—
 - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
 - (b) a signed acknowledgement complying with subsection (2) for the entry is not produced in evidence;

[s 44]

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

Subdivision 4 Entry under warrant

200L Application for warrant

- (1) An authorised officer may apply to a magistrate for a warrant for a place.
- (2) The authorised officer must prepare a written application that states the grounds on which the warrant is sought.
- (3) The written application must be sworn.
- (4) The magistrate may refuse to consider the application until the authorised officer gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

200M Issue of warrant

- (1) A magistrate may issue a warrant for a place only if the magistrate is satisfied there are reasonable grounds for suspecting that it is necessary to enter the place—
 - (a) to protect a person who is a 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

- (b) to check whether an NDIS non-government service provider has complied with, or is complying with, this Act.
- (2) However, the magistrate may issue a warrant under subsection (1)(b) only if the magistrate is satisfied noncompliance may significantly affect the delivery of a service to a participant.
- (3) The warrant must state—
 - (a) the place to which the warrant applies; and
 - (b) that a stated authorised officer may, with necessary and reasonable help and force—
 - (i) enter the place and any other place necessary for the entry; and
 - (ii) exercise the officer’s powers; and
 - (c) particulars of the reason it is necessary to enter the place that the magistrate considers appropriate; and
 - (d) the hours of the day or night when the place may be entered; and
 - (e) the evidence that may be seized under the warrant; and
 - (f) the magistrate’s name; and
 - (g) the day and time of the warrant’s issue; and
 - (h) the day, within 14 days after the warrant’s issue, the warrant ends.

200N Electronic application

- (1) An application under section 200L may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the authorised officer reasonably considers it necessary because of—
 - (a) urgent circumstances; or

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- (b) other special circumstances, including, for example, the authorised officer's remote location.
- (2) The application—
 - (a) may not be made before the authorised officer prepares the written application under section 200L(2); but
 - (b) may be made before the written application is sworn.

2000 Additional procedure if electronic application

- (1) For an application under section 200N, the magistrate may issue the warrant (the *original warrant*) only if the magistrate is satisfied—
 - (a) it was necessary to make the application under section 200N; and
 - (b) the way the application was made under section 200N was appropriate.
- (2) After the magistrate issues the original warrant—
 - (a) if there is a reasonably practicable way of immediately giving a copy of the warrant to the authorised officer, including, for example, by sending a copy by fax or email, the magistrate must immediately give a copy of the warrant to the authorised officer; or
 - (b) otherwise—
 - (i) the magistrate must tell the authorised officer the information mentioned in section 200M(3); and
 - (ii) the authorised officer must complete a form of warrant, including by writing on it the information mentioned in section 200M(3) provided by the magistrate.

-
- (3) The copy of the warrant mentioned in subsection (2)(a), or the form of warrant completed under subsection (2)(b) (in either case the ***duplicate warrant***), is a duplicate of, and as effectual as, the original warrant.
- (4) The authorised officer must, at the first reasonable opportunity, send to the magistrate—
- (a) the written application complying with section 200L(2) and (3); and
 - (b) if the authorised officer completed a form of warrant under subsection (2)(b)—the completed form of warrant.
- (5) The magistrate must keep the original warrant and, on receiving the documents under subsection (4)—
- (a) attach the documents to the original warrant; and
 - (b) give the original warrant and documents to the clerk of the court of the relevant magistrates court.
- (6) Despite subsection (3), if—
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a warrant issued under this section; and
 - (b) the original warrant is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a warrant authorised the exercise of the power.
- (7) This section does not limit section 200L.
- (8) In this section—
- relevant magistrates court***, in relation to a magistrate, means the Magistrates Court that the

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magistrate constitutes under the *Magistrates Act 1991*.

200P Defect in relation to a warrant

- (1) A warrant is not invalidated by a defect in—
 - (a) the warrant; or
 - (b) compliance with section 200L, 200M or 200N;unless the defect affects the substance of the warrant in a material particular.
- (2) In this section—

warrant includes a duplicate warrant mentioned in section 200O(3).

200Q Entry procedure

- (1) This section applies if an authorised officer named in a warrant issued under this subdivision for a place is intending to enter the place under the warrant.
- (2) Before entering the place, the authorised officer must do or make a reasonable attempt to do the following things—
 - (a) identify himself or herself to a person who is an occupier of the place and is present by producing a copy of the authorised officer's identity card or another document evidencing the authorised officer's appointment;
 - (b) give the person a copy of the warrant;
 - (c) tell the person the authorised officer is permitted by the warrant to enter the place;

- (d) give the person an opportunity to allow the authorised officer immediate entry to the place without using force.
- (3) However, the authorised officer need not comply with subsection (2) if the authorised officer believes on reasonable grounds that entry to the place without compliance is required to ensure the effective execution of the warrant is not frustrated.
- (4) In this section—
warrant includes a duplicate warrant mentioned in section 200O(3).

Subdivision 5 General powers of authorised officer after entering place

200R Application of subdivision

- (1) The powers under this subdivision may be exercised if an authorised officer enters a place under section 200G(1)(a), (c) or (d).
- (2) However, if the authorised officer enters under section 200G(1)(a) or (c), the powers under this subdivision are subject to any conditions of the consent or terms of the warrant.

200S General powers

- (1) The authorised officer may do any of the following (each a *general power*)—
 - (a) search any part of the place;
 - (b) inspect, examine or film any part of the place or anything at the place;

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- (c) take for examination a thing, or a sample of or from a thing, at the place;
 - (d) place an identifying mark in or on anything at the place;
 - (e) take an extract from, or copy, a document at the place or take the document to another place to copy;
 - (f) produce an image or writing at the place from an electronic document or, to the extent it is not practicable, take a thing containing an electronic document to another place to produce an image or writing;
 - (g) take to, into or onto the place and use any person, equipment and materials the authorised officer reasonably requires for exercising the officer's powers under this subdivision;
 - (h) confer alone with a person at the place;
 - (i) require a person at the place to answer questions by the authorised officer to help the authorised officer ascertain whether this Act is being or has been complied with;
 - (j) remain at the place for the time necessary to achieve the purpose of the entry.
- (2) The authorised officer may take a necessary step to allow the exercise of a general power.
 - (3) If the authorised officer takes a document from the place to copy it, the authorised officer must copy the document and return it to the place as soon as practicable.
 - (4) If the authorised officer takes from the place an article or device reasonably capable of producing a document from an electronic document to produce the document, the authorised officer

must produce the document and return the article or device to the place as soon as practicable.

(5) In this section—

examine includes analyse, test, account, measure, weigh, grade, gauge and identify.

200T Power to require reasonable help

- (1) The authorised officer may make a requirement (a *help 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 produce a document or to give information.
- (2) When making the help requirement, the authorised officer must warn the person it is an offence not to comply with the requirement unless the person has a reasonable excuse.

200U Offence to contravene help requirement

- (1) A person of whom a help requirement is made must comply with the requirement unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- (2) It is a reasonable excuse for an individual to not comply with a help requirement if complying might tend to incriminate the individual or expose the individual to a penalty.

200V Failure to answer questions

- (1) A person of whom a requirement is made under section 200S(1)(i) must comply with the requirement, unless the person has a reasonable excuse.

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Maximum penalty—40 penalty units.

- (2) It is a reasonable excuse for the person to not comply with the requirement if complying with the requirement might tend to incriminate the person.

Subdivision 6 Additional information-obtaining power

200W Power to require information

- (1) This section applies if an authorised officer reasonably believes—
 - (a) an offence against this Act has been committed by an NDIS non-government service provider; or
 - (b) there has been a service delivery failure by an NDIS non-government service provider and the service provider may be able to give information about the failure; or
 - (c) 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.
- (2) The authorised officer may, by notice given to the NDIS non-government service provider, require the service provider to give the authorised officer information related to the offence or matter mentioned in subsection (1) within a stated reasonable time and in a stated way.
- (3) A requirement under subsection (2) is an *information requirement*.

- (4) For information that is an electronic document, compliance with the information requirement requires the giving of a clear image or written version of the electronic document.
- (5) The authorised officer may keep information that is a document to copy it.
- (6) If the authorised officer copies the document, or an entry in the document, the authorised officer may require the NDIS non-government service provider who has possession or control of the document to certify the copy as a true copy of the document or entry.
- (7) A requirement under subsection (6) is a ***document certification requirement***.
- (8) The authorised officer must return the document to the NDIS non-government service provider as soon as practicable after copying it.
- (9) However, if a document certification requirement is made of a person, the authorised officer may keep the document until the person complies with the requirement.
- (10) When making an information requirement or document certification requirement, the authorised officer must warn the NDIS non-government service provider it is an offence not to comply with the requirement unless the service provider has a reasonable excuse.
- (11) In this section—
service delivery failure means a significant failure to deliver a service to a participant who is paying for the service wholly or partly under the participant's plan.

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200X Offence to contravene information requirement

- (1) An NDIS non-government service provider of whom an information requirement is made must comply with the requirement unless the service provider has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) It is a reasonable excuse for an individual to not comply with the information requirement if complying with the requirement might tend to incriminate the individual or expose the individual to a penalty.

- (3) If a court convicts a person of an offence against subsection (1), the court may also order the person to give to a stated authorised officer, within a stated time and in a stated way, the information to which the information requirement related.

45 Amendment of s 215 (Funded non-government service provider must keep records)

- (1) Section 215, heading, after ‘service provider’—

insert—

or NDIS non-government service provider

- (2) Section 215, after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

46 Amendment of s 228 (Confidentiality of other information)

- (1) Section 228(2), after ‘subsection (4)’—

insert—

or (5)

- (2) Section 228(5)(a), ‘funded non-government service provider or’—

omit, insert—

funded non-government service provider, an NDIS non-government service provider or another

47 Amendment of s 229 (Power to require information or documents)

- (1) Section 229(1), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (2) Section 229(2), after ‘service provider’—

insert—

or NDIS non-government service provider

- (3) Section 229(3), ‘service provider’—

omit, insert—

funded non-government service provider or NDIS non-government service provider

48 Amendment of s 230 (Protection from liability for giving information)

- (1) Section 230(1) and (2), after ‘funded non-government service provider’—

insert—

or an NDIS non-government service provider

- (2) Section 230(2), ‘the provider’—

omit, insert—

the service provider

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49 Amendment of s 231 (Chief executive to advise on-disclosure)

(1) Section 231(1), after ‘service provider’—

insert—

or an NDIS non-government service provider

(2) Section 231(2), after ‘service provider’—

insert—

or NDIS non-government service provider

50 Replacement of s 233 (Monitoring and enforcement)

Section 233—

omit, insert—

233 Chief executive may enter into arrangements about giving and receiving information about eligible persons

- (1) The purpose of this section is to facilitate the monitoring and reconciliation of funding under this Act and other Acts and the NDIS Act by sharing information about persons who may be eligible persons.
- (2) If the chief executive requests auditing information about persons who may be eligible persons from the chief executive of another department, the other chief executive must comply with the request.
- (3) To facilitate the giving of auditing information about persons who may be eligible persons, the chief executive and the chief executive of the other department may enter into a written arrangement by which the auditing information is given or received.
- (4) Without limiting subsection (3), the arrangement may provide for the electronic transfer of

auditing information about persons who may be eligible persons.

- (5) However, if auditing information about persons who may be eligible persons is to be electronically transferred and, under this Act, there is a limitation on who may access the information or the purposes for which the information may be used, the arrangement must provide for the limitation.
- (6) Without limiting section 228(5), the chief executive may disclose to the chief executive of another department under the arrangement mentioned in subsection (3) the fact that an eligible person has become, or will not become, a participant.

- (7) In this section—

auditing information, about a person who may be an eligible person, means each of the following—

- (a) the person's full name;
- (b) the person's unique agency client identifier, if any;
- (c) the person's date of birth;
- (d) the person's gender;
- (e) the person's residential address;
- (f) the name and full contact details of the person's carer or guardian and details of any relationship between the person and the person's carer or guardian.

eligible person means a person receiving services funded or delivered by a department who may meet the access criteria under the NDIS Act, section 21.

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51 Insertion of new ss 241A and 241B

Part 8, division 3—

insert—

241A Review of impact of NDIS on Act

- (1) The Minister must review the efficacy and efficiency of this Act in the light of amendments of the Act made by the *Disability Services and Other Legislation Amendment Act 2016*.
- (2) The review must be completed by 30 June 2019.

241B Expiry of pt 6A

Part 6A expires on 30 June 2019.

52 Insertion of new pt 9, div 10

Part 9—

insert—

Division 10 Transitional provisions for Disability Services and Other Legislation Amendment Act 2016

339 Warrant may be executed

- (1) This section applies if, before 1 July 2019, a warrant is issued under section 200M and in force but not executed before that date.
- (2) The warrant continues in force according to its terms and may be executed after 30 June 2019.
- (3) Part 6A continues to have effect for all matters relating to the execution and enforcement of the warrant.

340 Offences against pt 6A may continue to be prosecuted

- (1) This section applies if a person contravened—
 - (a) a provision of part 6A before 1 July 2019; or
 - (b) a provision of part 6A as it continued to have effect under section 339 after 30 June 2019.
- (2) The person may be prosecuted and punished for the contravention despite the expiry of part 6A and, for the purpose of the prosecution and punishment, part 6A continues to have effect despite its expiry.

53 Amendment of sch 8 (Dictionary)

- (1) Schedule 8—

insert—

authorised officer means an authorised officer appointed under the *Community Services Act*, section 25.

electronic document means a document of a type under the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

general power see section 200S(1).

help requirement see section 200T(1).

information requirement see section 200W(3).

NDIS Act means *National Disability Insurance Scheme Act 2013* (Cwlth).

NDIS non-government service provider see section 16A.

occupier, of a place, includes the following—

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- (a) if there is more than 1 person who apparently occupies the place—any 1 of the persons;
- (b) any person at the place who is apparently acting with the authority of a person who apparently occupies the place;
- (c) if no-one apparently occupies the place—any person who is an owner of the place.

participant has the meaning given by the NDIS Act, section 9.

participant's plan means a plan for a participant that is in effect under the NDIS Act, section 37.

plan, for a participant, has the meaning given by the NDIS Act, section 9.

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

- (2) Schedule 8, definition *consumer*, after 'funded non-government service provider'—

insert—

or an NDIS non-government service provider

- (3) Schedule 8, definition *engaged*, after 'funded non-government service provider'—

insert—

or an NDIS non-government service provider

- (4) Schedule 8, definition *regulated engagement*, paragraph (b), after 'funded non-government service provider'—

insert—

or an NDIS non-government service provider

Part 4 **Amendment of Guardianship and Administration Act 2000**

54 Act amended

This part amends the *Guardianship and Administration Act 2000*.

55 Amendment of sch 2 (Types of matters)

Schedule 2, section 2—

insert—

(ba) services provided to the adult;

Part 5 **Amendment of Powers of Attorney Act 1998**

56 Act amended

This part amends the *Powers of Attorney Act 1998*.

57 Amendment of sch 2 (Types of matters)

Schedule 2, section 2—

insert—

(ba) services provided to the principal;

[s 58]

Part 6 Amendment of Public Guardian Regulation 2014

58 Regulation amended

This part amends the *Public Guardian Regulation 2014*.

59 Replacement of sch 1 (Visitable sites)

Schedule 1—

omit, insert—

Schedule 1 Visitable sites

section 3

Note—

An adult, with impaired capacity for a personal matter or a financial matter or with an impairment, who lives or receives services at a place prescribed in this schedule is a consumer. See the Act, section 39, definition *consumer*, paragraph (c).

1 Prescribed visitable sites

- (1) A place, other than a private dwelling house, that is any of the following—
- (a) a place—
 - (i) where an adult with impaired capacity for a personal matter or a financial matter, or with an impairment, lives; and
 - (ii) that is wholly or partly funded by—
 - (A) the department that is mainly responsible for disability services; or

- (B) the department that is mainly responsible for public health;
- (b) a place where an adult with impaired capacity for a personal matter or a financial matter, or with an impairment—
 - (i) lives; and
 - (ii) receives services from—
 - (A) the department that is mainly responsible for disability services; or
 - (B) an entity that receives financial assistance from the department that is mainly responsible for disability services, or from the department that is mainly responsible for public health, to supply the service;
- (c) a place, other than an aged care facility, where an adult with an impairment—
 - (i) lives; and
 - (ii) receives services from the department that is mainly responsible for public health;
- (d) a place—
 - (i) where an adult with impaired capacity for a personal matter or a financial matter, or with an impairment, lives; and
 - (ii) that is part of premises to which one of the following applies—
 - (A) a residential service conducted in the premises is registered under the *Residential Services (Accreditation) Act 2002* and

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personal care services are provided in the premises;

(B) there is a current application for level 3 accreditation under that Act of a residential service conducted in the premises;

(C) a residential service conducted in the premises is accredited at level 3 under that Act;

(e) a place where a funded adult participant with impaired capacity for a personal matter or a financial matter, or with an impairment, lives.

(2) In subsection (1)—

funded adult participant means an adult who is a participant and has a participant's plan.

NDIS Act means *National Disability Insurance Scheme Act 2013* (Cwlth).

participant has the meaning given by the NDIS Act, section 9.

participant's plan means a plan for a participant that is in effect under the NDIS Act, section 37.

plan, for a participant, has the meaning given by the NDIS Act, section 9.

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

60 Act amended

This part amends the *Working with Children (Risk Management and Screening) Act 2000*.

61 Amendment of sch 1 (Regulated employment and businesses for employment screening)

- (1) Schedule 1, section 6(2)(a), (3)(d)(i) and (ii)(A), after 'provider'—

insert—

or an NDIS non-government service provider

- (2) Schedule 1, section 6(2)(b), 'funded non-government'—

omit.

- (3) Schedule 1, section 6(4), definition *consumer*, after 'provider'—

insert—

or an NDIS non-government service provider

- (4) Schedule 1, section 16(1)(d), after 'provider'—

insert—

or an NDIS non-government service provider

62 Amendment of sch 7 (Dictionary)

Schedule 7—

insert—

NDIS non-government service provider see the *Disability Services Act 2006*, section 16A.

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