



Queensland

*Disability Services Act 2006*

# **Disability Services Regulation 2017**

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## Queensland

# Disability Services Regulation 2017

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# Disability Services Regulation 2017

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Disability Services Regulation 2017*.

### 2 Commencement

This regulation commences on 1 July 2017.

### 3 Dictionary

The dictionary in schedule 4 defines particular words used in this regulation.

## Part 2 Matters prescribed for Act

### 4 Prescribed services—Act, s 12, definition *disability services*

For section 12(g) of the Act, a service that is within a class of supports mentioned in the NDIS (Registration) Rules, section 20(3) is prescribed.

### 5 Prescribed disability services—Act, s 16A

For section 16A of the Act, a service provided by a registered NDIS provider that is within a class of supports mentioned in the NDIS (Registration) Rules, section 20(3) is prescribed.

[s 5AA]

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**5AA NDIS non-government service providers to which pt 5 of the Act does not apply—Act, s 41A**

- (1) For section 41A of the Act, an NDIS non-government service provider is prescribed if the provider—
  - (a) is an approved provider under the *Aged Care Quality and Safety Commission Act 2018* (Cwlth); and
  - (b) is providing residential care under the *Aged Care Act 1997* (Cwlth) to 1 or more participants in the national disability insurance scheme under the NDIS Act.

**5A When NDIS non-government service providers are engaging persons at service outlets—Act, s 46**

- (1) For section 46(8)(a) of the Act, an NDIS non-government service provider is engaging a person at a service outlet of the provider if—
  - (a) the person is key personnel of the provider; or
  - (b) the person is engaged in a role for which the normal duties are likely to require more than incidental contact with a person who is receiving disability services at the outlet; or
  - (c) the person is engaged in a role for which the normal duties include the direct delivery of supports or services—
    - (i) to a person who is receiving disability services at the outlet; and
    - (ii) mentioned in the list of specified supports and services published by the NDIS commissioner under the NDIS (WS) Rules, section 7.
- (2) In this section—

*key personnel* see the NDIS Act, section 11A.

*more than incidental contact* see the NDIS (WS) Rules, section 6.

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**6 Documents relating to proof of engaged person's identity prescribed—Act, s 52**

- (1) For section 52(3)(b) of the Act, a funded non-government service provider or NDIS non-government service provider must have sighted 1 primary identification document, and 1 secondary identification document, for the engaged person.
- (2) At least 1 of the documents sighted under subsection (1) must show the engaged person's signature.
- (3) If the engaged person's name in a document sighted under subsection (1) differs from the engaged person's current name, the provider must also have sighted—
  - (a) an official document evidencing the engaged person's change of name; or  
*Example—*  
a marriage certificate or a deed poll
  - (b) a document the chief executive considers provides sufficient evidence of the engaged person's change of name.

**6A Service providers to which pt 6 of the Act does not apply—Act, s 140**

For section 140(2) of the Act, a service provider that is an approved provider under the *Aged Care Quality and Safety Commission Act 2018* (Cwlth) is prescribed if—

- (a) the service provider is providing disability services to an adult; and
- (b) the adult is approved as a recipient of residential care under the *Aged Care Act 1997* (Cwlth), part 2.3.

**7 Information about restrictive practice approvals—Act, s 199**

- (1) This section applies if a relevant service provider is using a restrictive practice in relation to an adult with an intellectual or cognitive disability.

- (2) Within 14 days after the provider is given the restrictive practice approval to use the restrictive practice, the provider must give the following information to the chief executive—
  - (a) the adult's—
    - (i) full name; and
    - (ii) unique client identifier; and
    - (iii) date of birth; and
    - (iv) gender; and
    - (v) primary disability;
  - (b) the relevant service provider's—
    - (i) name; and
    - (ii) provider number; and
    - (iii) contact telephone number; and
    - (iv) email address;
  - (c) the type of disability services provided by the service provider;
  - (d) the person, identified by name or position title, authorised by the service provider to use the restrictive practice;
  - (e) the type of approval;
  - (f) who gave the approval;
  - (g) the restrictive practice;
  - (h) the date of the positive behaviour support plan for the adult that provides for the use of the restrictive practice;
  - (i) the date the approval was given;
  - (j) the date the approval expires.
- (3) Within 14 days after a change in any of the information given under subsection (2), the provider must give the chief executive the current information.



(4) The relevant service provider must give the information in the form approved by the chief executive.

(5) In this section—

**CEO** means CEO within the meaning of the *National Disability Insurance Scheme Act 2013* (Cwlth).

**provider number** means—

(a) for each relevant service provider—the unique number allocated to the relevant service provider under a service contract between the relevant service provider and the department; and

(b) for a relevant service provider who is an NDIS non-government service provider—any unique registration number allocated to the relevant service provider by the CEO on the relevant service provider’s registration as a registered provider of supports.

**registered provider of supports** means a registered provider of supports within the meaning of the *National Disability Insurance Scheme Act 2013* (Cwlth).

## **8 Information about use of restrictive practices—Act, s 199**

(1) This section applies if a relevant service provider is using a restrictive practice in relation to an adult with an intellectual or cognitive disability.

(2) The provider must give the following information to the chief executive for each calendar month in which the restrictive practice is used—

(a) the adult’s full name;

(b) the adult’s unique client identifier;

(c) the restrictive practice used;

(d) the days on which, or the days between which, the restrictive practice was used;

(e) the times when the restrictive practice started and ended on each of the days;

- (f) the frequency with which the restrictive practice was used;
  - (g) any episodic or isolated uses of the restrictive practice;
  - (h) the place where the restrictive practice was used;
  - (i) any injury to a person that happened when the restrictive practice was used;
  - (j) if a mechanical or physical restraint was used—the type of restraint;
  - (k) if the restrictive practice involved restricting access to an object—the object;
  - (l) if a medication was used as a chemical restraint—
    - (i) the generic name of the medication; and
    - (ii) the proprietary name of the medication; and
    - (iii) the prescribed dose of the medication; and
    - (iv) the prescribed frequency of the dose of the medication; and
    - (v) the name of the doctor who prescribed the medication.
- (3) The provider must give the information to the chief executive using an electronic system approved by the chief executive.
- (4) The provider must give the information to the chief executive—
- (a) on the second Friday of the calendar month immediately after the calendar month in which the restrictive practice is used; and
  - (b) at other times if the chief executive, by written notice to the provider, requires the provider to do so.
- (5) A notice under subsection (4)(b) must state—
- (a) the period to which the information must relate; and
  - (b) the type of information, mentioned in subsection (2), that the provider is required to give; and

- (c) when the provider must give the information to the chief executive.

## **8A Prescribed relevant service providers—Act, s 199**

- (1) For section 199(1) of the Act, an NDIS provider providing a class of supports to a participant under a plan is prescribed.
- (2) In this section—

*class of supports* means a class of supports mentioned in the NDIS (Registration) Rules, section 20(3).

*participant* see the NDIS Act, section 9.

*plan* see the NDIS Act, section 9.

## **9 Records funded non-government service provider must make and keep—Act, s 215**

- (1) For section 215 of the Act, the records a funded non-government service provider must make and keep are as follows—
  - (a) the address of each of the provider's service outlets;
  - (b) for each of the provider's consumers—
    - (i) the consumer's name, address and telephone number; and
    - (ii) the name, address and telephone number of the person nominated by the consumer as the emergency contact for the consumer;
  - (c) the following relating to the screening of persons engaged or proposed to be engaged by the provider—
    - (i) copies of applications or other documents given by the provider to the chief executive;
    - (ii) documents received by the provider from the chief executive;

[s 9A]

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- (d) documents relating to written complaints made to the provider about the delivery or non-delivery of disability services by the provider;
  - (e) copies of documents given by the provider to the chief executive relating to incidents that have happened in the provision of disability services by the provider;
  - (f) if a compliance notice has been given to the provider by the chief executive, a copy of the compliance notice;
  - (g) the financial records required to be kept by the provider under the funding agreement entered into by the provider.
- (2) A record mentioned in subsection (1) must be kept for at least 7 years after the record is made.
- (3) In this section—  
**compliance notice** see the *Community Services Act 2007*, section 19(1).

**9A Delayed application of particular provisions in pt 5 of the Act—Act, s 239**

- (1) For section 239(2)(a) and (b) of the Act, during the transition period the delayed sections of the Act do not apply in relation to—
- (a) a service provider (a ***new NDIS non-government service provider***) that becomes an NDIS non-government service provider on the commencement because of section 5; and
  - (b) the engagement of a person (a ***new engaged person***) by a new NDIS non-government service provider; and
  - (c) the engagement of a person (also a ***new engaged person***) who, because of section 5A, on the commencement becomes a person, for part 5 of the Act, engaged by an NDIS non-government service provider.
- (2) The ***transition period*** is the period ending on—

- (a) if within 4 months after the commencement a prescribed notice application or exemption notice application about the new engaged person, other than a person who is a sole trader, is made by a relevant service provider and the chief executive becomes aware the new engaged person was convicted of a serious offence—the day the chief executive issues a written notice to the provider that made the application stating—
    - (i) the transition period has ended; and
    - (ii) the provider is not allowed to engage the new engaged person before the application is decided; or
  - (b) if within 4 months after the commencement a prescribed notice application or exemption notice application about the new engaged person, who is a sole trader, is made by a relevant service provider and the chief executive becomes aware the new engaged person was convicted of a serious offence—the day the chief executive issues a written notice to the sole trader stating—
    - (i) the transition period has ended; and
    - (ii) the sole trader must not provide disability services as an NDIS non-government service provider at a service outlet of the service provider before the application is decided; or
  - (c) if paragraphs (a) and (b) do not apply and within 4 months after the commencement a prescribed notice application or exemption notice application is made about the new engaged person by a relevant service provider—the day the application is decided, withdrawn or taken to have been withdrawn under the Act; or
  - (d) if paragraphs (a), (b) and (c) do not apply—the day that is 4 months after the commencement.
- (3) However, if subsection (2)(c) applies and the application is not decided, withdrawn, or taken to be withdrawn before the final day, the transition period ends on the final day.

- (4) If the chief executive issues a notice under subsection (2)(a), the chief executive must issue a written notice to the new engaged person stating—
- (a) the transition period has ended; and
  - (b) the provider is not allowed to engage the new engaged person before the prescribed notice application or exemption notice application is decided.

- (5) In this section—

*delayed sections of the Act* means sections 65, 66, 67, 67A and 68 of the Act.

*final day* means the day that is 1 year after the commencement.

*relevant service provider* means—

- (a) a new NDIS non-government service provider; or
- (b) an NDIS non-government service provider mentioned in subsection (1)(c).

**10 Fee for application for prescribed notice about engaged person—Act, s 52**

For section 52(2)(d) of the Act, the prescribed fee is \$95.95.

**11 Fee for application to cancel negative notice or negative exemption notice—Act, s 82**

For section 82(5)(c) of the Act, the prescribed fee is \$95.95.

**12 Fee for application for replacement positive notice, positive notice card or positive exemption notice—Act, s 92**

For section 92(2) of the Act, the prescribed fee is \$14.50.

**13 Fee for eligibility application—Act, s 99**

For section 99(4)(c) of the Act, the prescribed fee is \$95.95.

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## Part 3                      Repeal and transitional provision

### 14            Repeal

The Disability Services Regulation 2006, SL No. 161 is repealed.

### 15            References in s 9(1)(f) to compliance notice

(1) In section 9(1)(f), a reference to a compliance notice includes a reference to a compliance notice given under former section 161 of the Act.

(2) In this section—

*former section 161 of the Act* means section 161 of the Act as in force from time to time before its repeal by the *Communities Legislation (Funding Red Tape Reduction) Amendment Act 2014*, section 59.

*Note—*

Section 59 of that Act commenced on 1 July 2014.

## **Schedule 2      Primary identification documents**

schedule 4, definition *primary identification document*

- birth certificate
- current Australian driver licence containing a photograph of the engaged person
- international travel document
- an evidence of Australian citizenship document
- visa, or entry permit, under the *Migration Act 1958* (Cwlth)
- current consular identity document containing a photograph of the engaged person
- another document the chief executive considers provides sufficient identification of the engaged person



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## Schedule 3      Secondary identification documents

schedule 4, definition *secondary identification document*

- recent account or notice issued by a public utility

*Examples—*

- 1 council rates notice
- 2 electricity account statement
- 3 gas account statement
- 4 land valuation notice
- 5 telephone account statement

- recent document evidencing electoral enrolment
- identification card issued by the Commonwealth or a State as evidence of the engaged person's entitlement to a financial benefit

*Examples—*

- 1 Commonwealth seniors health card
- 2 health care card
- 3 medicare card
- 4 pensioner concession card
- 5 repatriation health card

- current account card, or current credit card, issued by a financial institution
- account statement issued by a financial institution that shows the statement's date of issue is less than 1 year before the statement is sighted by the provider
- passbook issued by a financial institution that shows the passbook's last entry is less than 1 year before the passbook is sighted by the provider
- another document the chief executive considers provides sufficient identification of the engaged person

## Schedule 4 Dictionary

### section 3

***Australian driver licence*** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

***Australian electoral roll*** means an electoral roll maintained under a law of the Commonwealth or a State.

***birth certificate***, for an engaged person, means a certified copy of a birth certificate of the engaged person containing the name of at least 1 of the engaged person's parents.

***consular identity document***, for an engaged person, means a document showing the engaged person is a member of a consular post.

***document evidencing electoral enrolment***, for an engaged person, means—

- (a) a document that is part of an Australian electoral roll and sets out the engaged person's name; or
- (b) a document, issued by an entity responsible for maintaining an Australian electoral roll, that shows the engaged person's name is set out in an Australian electoral roll.

***evidence of Australian citizenship document***, for an engaged person, means—

- (a) a notice given to the person under the *Australian Citizenship Act 2007* (Cwlth), part 2, division 4 stating the person is an Australian citizen at a particular time; or
- (b) a certificate, declaration or other instrument evidencing the person is an Australian citizen or Australian national issued under the repealed *Australian Citizenship Act 1948* (Cwlth).

***international travel document*** means—

- (a) a current passport; or

- 
- (b) any other current identity document that—
    - (i) has the characteristics of a passport; and
    - (ii) was issued by a government, the United Nations or an agency of the United Nations for the purposes of international travel; or
  - (c) an expired passport that expired less than 2 years before the expired passport is sighted by the provider; or
  - (d) another expired identity document, that—
    - (i) has the characteristics of a passport; and
    - (ii) was issued by a government, the United Nations or an agency of the United Nations for the purposes of international travel; and
    - (iii) expired less than 2 years before the expired identity document is sighted by the provider.

***member of a consular post*** has the same meaning as in the *Consular Privileges and Immunities Act 1972* (Cwlth).

***NDIS (Registration) Rules*** means the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* (Cwlth).

***NDIS (WS) Rules*** means the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018* (Cwlth).

***primary identification document*** means a document mentioned in schedule 2.

***recent***, for a document being sighted by a funded non-government service provider or NDIS non-government service provider, means having a date of issue less than 1 year before the document is sighted by the provider.

***restrictive practice approval*** see section 195(7) of the Act.

***secondary identification document*** means a document mentioned in schedule 3.

***unique client identifier***, for an adult, means the unique number allocated to the adult by the department.