



Queensland

Disability Services Act 2006

Disability Services Regulation 2017

Current as at 1 July 2023

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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 Interpretation

In this regulation—

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

Part 2 Disability worker screening

4 Prescribed service—Act, s 12

For section 12(1)(g) of the Act, a service that is related to the provision of care and support, or protection to a forensic disability client at the Forensic Disability Service under the *Forensic Disability Act 2011* is prescribed for part 5 of the Act.

5 Prescribed entities for NDIS worker screening application—Act, s 65

- (1) For section 65(a)(iii) of the Act, the following entities are prescribed—
 - (a) the Agency;

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- (b) the NDIS commission;
 - (c) a service provider that receives Commonwealth funding to provide any of the following services or supports to people with disability—
 - (i) a service known as a local area coordination service;
 - (ii) a support provided to an NDIS participant known as an early intervention support for early childhood;
 - (iii) a service or support provided under a program called the information linkages and capacity building program administered by the department of the Commonwealth responsible for administering the *Social Security Act 1991* (Cwlth);
 - (d) an NDIS service provider that receives Commonwealth funding to provide a continuity of support service.
- (2) A ***continuity of support service*** is a disability service provided by an entity to a person with disability if—
- (a) the entity is an NDIS service provider; and
 - (b) the person is aged—
 - (i) if the person is an Aboriginal or Torres Strait Islander person—50 years or more; or
 - (ii) otherwise—65 years old; and
 - (c) an NDIS support or service that is of the same kind as the disability service is available to be provided to persons in the area in which the disability service is provided to the person; and
 - (d) the entity or another entity provided the disability service to the person before the NDIS support or service became available in the area.
- (3) In this section—

Agency see the *National Disability Insurance Scheme Act 2013* (Cwlth), section 9.

Commonwealth funding means recurrent or one-off funds from a department of the Commonwealth.

NDIS participant means a person who is a participant in the national disability insurance scheme under the *National Disability Insurance Scheme Act 2013* (Cwlth).

6 Criterion for NDIS worker screening application—Act, s 65

For section 65(b) of the Act, the criterion prescribed is that the person either—

- (a) lives, or proposes to live, in Queensland; or
- (b) is, or proposes to be, engaged to carry out NDIS disability work in Queensland.

7 Prescribed entities for State worker screening application—Act, s 66

For section 66(c) of the Act, the department in which the *Disability Services Act 2006*, part 5 is administered is prescribed.

8 Clearance holder to notify change in other information—Act, s 104

For section 104(3)(c) of the Act, the following matters about the person are prescribed—

- (a) the person starts or ends an engagement to carry out disability work for an entity;
- (b) the person starts or stops carrying out disability work as an NDIS sole trader or State sole trader.

9 Prescribed entities for other information—Act, s 138R

For section 138R(5) of the Act, definition *prescribed entity*, the following entities are prescribed—

- (a) the chief executive officer of the Australian Health Practitioner Regulation Agency established under the *Health Practitioner Regulation National Law (Queensland)*;
- (b) the chief executive of the department in which the *Animal Care and Protection Act 2001* is administered;
- (c) the health ombudsman under the *Health Ombudsman Act 2013*.

10 Serious offences and disqualifying offences

- (1) For schedule 8 of the Act, definition *serious offence*, an offence against a provision of an Act of the Commonwealth mentioned in schedule 2 or 3 is prescribed to be a serious offence—
 - (a) if each circumstance (if any) stated for the offence in the schedule applies to the offence; and
 - (b) regardless of whether the provision has been amended from time to time or numbered differently.
- (2) For schedule 8 of the Act, definition *disqualifying offence*, an offence against a provision of an Act of the Commonwealth mentioned in schedule 4 or 5 is prescribed to be a disqualifying offence—
 - (a) if each circumstance (if any) stated for the offence in the schedule applies to the offence; and
 - (b) regardless of whether the provision has been amended from time to time or numbered differently.

11 Risk assessment matters

- (1) For schedule 8 of the Act, definition *risk assessment matter*, each of the following is prescribed to be a risk assessment matter in relation to a person—
- (a) a disability worker screening application or corresponding interstate application made by the person was refused;
 - (b) a working with children check application or corresponding interstate application made by the person was refused;
 - (c) a clearance or interstate clearance held by the person was cancelled and an exclusion or interstate exclusion was issued to the person;
 - (d) a working with children clearance or interstate WWC authority held by the person was cancelled and a negative notice was issued to the person;
 - (e) the person is the subject of a workplace investigation about the person's alleged conduct that includes—
 - (i) assault or violent behaviour; or
 - (ii) inappropriate sexual behaviour; or
 - (iii) fraud, deceit or theft; or
 - (iv) failing to provide appropriate care for a vulnerable person in the person's care;
 - (f) the person is or was the subject of an investigation by a government entity and, as a result of the investigation, the person becomes subject to a condition or restriction in relation to having contact with a child;
 - (g) disciplinary action is taken against the person;
 - (h) a domestic violence order is made against the person.
- (2) In this section—
corresponding interstate application means—

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- (a) for a disability worker screening application—an application, however called, made under a corresponding law that corresponds to a disability worker screening application; or
- (b) for a working with children check application—an application, however called, made under a corresponding WWC law that corresponds to a working with children check application.

corresponding State law means a law of another State that relates to the screening of persons who carry out, or propose to carry out, work in that State that corresponds to State disability work.

corresponding WWC law means a law of another State that substantially corresponds to the Working with Children Act.

interstate clearance means—

- (a) an interstate NDIS clearance; or
- (b) a clearance, however called, issued under a corresponding State law that corresponds to a State clearance.

interstate exclusion means—

- (a) an interstate NDIS exclusion; or
- (b) an exclusion, however called, issued under a corresponding State law that corresponds to a State exclusion.

interstate WWC authority means an authority, however called, issued under a corresponding WWC law that corresponds to a working with children clearance.

negative notice means—

- (a) a negative notice under the Working with Children Act; or
- (b) a notice, however called, issued under a corresponding WWC law that corresponds to a notice mentioned in paragraph (a).

Part 3 Restrictive practices

12 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.

13 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).

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

14 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

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- (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.

Part 4 Miscellaneous provisions

15 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).

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

participant see the NDIS Act, section 9.

plan see the NDIS Act, section 9.

16 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;
 - (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.

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- (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).

17 Fees

The fees payable under the Act are stated in schedule 1.

17A Rounding of amounts expressed as numbers of fee units

- (1) This section applies for working out the amount of a fee expressed in this regulation as a number of fee units.
- (2) For the purpose of the *Acts Interpretation Act 1954*, section 48C(3), the amount is to be rounded—
 - (a) if the result is not more than \$100—to the nearest multiple of 5 cents (rounding one-half upwards); or
 - (b) if the result is more than \$100 but not more than \$1,000—to the nearest multiple of 10 cents (rounding one-half upwards).

Example—

If a fee were 35 fee units and the value of a fee unit were \$1.015, the number of dollars obtained by multiplying 35 by \$1.015 would be \$35.525. Because \$35.525 is halfway between \$35.50 and \$35.55, it is rounded upwards, so the amount of the fee would be \$35.55.

18 Refund or waiver of fees

- (1) This section applies if a person who holds a clearance—
 - (a) gives the chief executive a notice under section 103 of the Act in relation to the clearance; and
 - (b) is required to pay the prescribed application fee under section 103(3) of the Act.

-
- (2) The chief executive must waive the proportion of the amount of a prescribed application fee mentioned in schedule 1, item 2 or 4 that is the same as the proportion of the term of the person's clearance, rounded down to the nearest whole year, that elapsed before the notice was given.

Part 5 Repeal and transitional provision

19 Repeal

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

20 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.

Editor's note—

Section 9 was renumbered by the *Disability Services and Other Legislation (Worker Screening) Amendment Regulation 2021*, section 14.

Schedule 1 Fees

section 17

Part 1 Particular fees related to NDIS clearances

	\$
1 Application for an NDIS clearance (Act, s 68(1)(c))—	
(a) for a volunteer	nil
(b) for an applicant who proposes to carry out disability work as an NDIS sole trader, or as an NDIS sole trader and a State sole trader, only on an unpaid basis	nil
(c) otherwise	138.00
2 Prescribed application fee (Act, s 103)—	
(a) for a person who holds an NDIS clearance who is engaged to carry out disability work other than as a volunteer	138.00
(b) for an NDIS sole trader who carries out disability work for financial reward	138.00

Part 2 Other fees

	Fee units
3 Application for a State clearance (Act, s 68(1)(c))—	
(a) for a volunteer	nil

	Fee units
(b) for an applicant who proposes to carry out State disability work as a State sole trader only on an unpaid basis	nil
(c) otherwise	97.60
4 Prescribed application fee (Act, s 103)—	
(a) for a person who holds a State clearance who is engaged to carry out disability work other than as a volunteer	97.60
(b) for a State sole trader who carries out disability work for financial reward	97.60
5 Application for a replacement clearance card (Act, s 105(2)(b))	14.75
6 Application to cancel an exclusion (Act, s 131(1)(c))—	
(a) for an NDIS exclusion	119.00
(b) for a State exclusion	97.60

Schedule 2 Current serious offences against a provision of an Act of the Commonwealth

section 10(1)

1 Crimes (Internationally Protected Persons) Act 1976 (Cwlth)

Provision	Relevant heading	Circumstances for offence
8(2)(b)	Offences	the offence is not a disqualifying offence

2 Criminal Code (Cwlth)

Provision	Relevant heading	Circumstances for offence
71.3	Manslaughter of a UN or associated person	
71.4	Intentionally causing serious harm to a UN or associated person	the offence is not a disqualifying offence
71.5	Recklessly causing serious harm to a UN or associated person	the offence is not a disqualifying offence
71.8	Unlawful sexual penetration	the offence is not a disqualifying offence
71.9	Kidnapping a UN or associated person	the offence is not a disqualifying offence
71.10	Unlawful detention of UN or associated person	the offence is not a disqualifying offence
73.2	Aggravated offence of people smuggling (danger of death or serious harm etc.)	the offence is not a disqualifying offence

Provision	Relevant heading	Circumstances for offence
73.3	Aggravated offence of people smuggling (at least 5 people)	the offence is not a disqualifying offence
73.3A	Supporting the offence of people smuggling	the offence is not a disqualifying offence
73.8	Making, providing or possessing a false travel or identity document	the offence was committed in relation to a travel or identity document for a child or vulnerable person
73.9	Providing or possessing a travel or identity document issued or altered dishonestly or as a result of threats	the offence was committed in relation to a travel or identity document for a child or vulnerable person
73.10	Providing or possessing a travel or identity document to be used by a person who is not the rightful user	the offence was committed in relation to a travel or identity document for a child or vulnerable person
80.1	Treason	
80.1AA	Treason—assisting enemy to engage in armed conflict	
80.1AC	Treachery	
80.2(1)	Urging violence against the Constitution etc.	
80.2A	Urging violence against groups	
80.2B	Urging violence against members of groups	
80.2C	Advocating terrorism	
80.2D	Advocating genocide	
82.3	Offence of sabotage involving foreign principal with intention as to national security	

Provision	Relevant heading	Circumstances for offence
82.4	Offence of sabotage involving foreign principal reckless as to national security	
82.5	Offence of sabotage with intention as to national security	
82.6	Offence of sabotage reckless as to national security	
82.7	Offence of introducing vulnerability with intention as to national security	
82.8	Offence of introducing vulnerability reckless as to national security	
82.9	Preparing for or planning sabotage offence	
83.1	Advocating mutiny	
83.2	Assisting prisoners of war to escape	
83.3	Military-style training involving foreign government principal etc.	
91.1	Espionage—dealing with information etc. concerning national security which is or will be communicated or made available to foreign principal	
91.2	Espionage—dealing with information etc. which is or will be communicated or made available to foreign principal	
91.3	Espionage—security classified information etc.	

Provision	Relevant heading	Circumstances for offence
91.6	Aggravated espionage offence	
91.8	Espionage on behalf of foreign principal	
91.11	Offence of soliciting or procuring an espionage offence or making it easier to do so	
91.12	Offence of preparing for an espionage offence	
92.2	Offence of intentional foreign interference	
92.3	Offence of reckless foreign interference	
92.4	Offence of preparing for a foreign interference offence	
92.7	Knowingly supporting foreign intelligence agency	
92.8	Recklessly supporting foreign intelligence agency	
92.9	Knowingly funding or being funded by foreign intelligence agency	
92.10	Recklessly funding or being funded by foreign intelligence agency	
92A.1	Theft of trade secrets involving foreign government principal	
101.1	Terrorist acts	
101.2	Providing or receiving training connected with terrorist acts	

Provision	Relevant heading	Circumstances for offence
101.4	Possessing things connected with terrorist acts	
101.5	Collecting or making documents likely to facilitate terrorist acts	
101.6	Other acts done in preparation for, or planning, terrorist acts	
102.2	Directing the activities of a terrorist organisation	
102.3	Membership of a terrorist organisation	
102.4	Recruiting for a terrorist organisation	
102.5	Training involving a terrorist organisation	
102.6	Getting funds to, from or for a terrorist organisation	
102.7	Providing support to a terrorist organisation	
102.8	Associating with terrorist organisations	
103.1	Financing terrorism	
103.2	Financing a terrorist	
115.2	Manslaughter of an Australian citizen or a resident of Australia	
115.3	Intentionally causing serious harm to an Australian citizen or a resident of Australia	the offence is not a disqualifying offence

Provision	Relevant heading	Circumstances for offence
115.4	Recklessly causing serious harm to an Australian citizen or a resident of Australia	the offence is not a disqualifying offence
119.1	Incursions into foreign countries with the intention of engaging in hostile activities	
119.4	Preparations for incursions into foreign countries for purpose of engaging in hostile activities	
122.1	Communication and other dealings with inherently harmful information by current and former Commonwealth officers etc.	
122.2	Conduct by current and former Commonwealth officers etc. causing harm to Australia's interests	
122.4	Unauthorised disclosure of information by current and former Commonwealth officers etc.	
134.1	Obtaining property by deception	
134.2	Obtaining a financial advantage by deception	
135.1	General dishonesty	
135.2	Obtaining financial advantage	
135.4	Conspiracy to defraud	
136.1	False or misleading statements in applications	
137.1	False or misleading information	

Provision	Relevant heading	Circumstances for offence
137.2	False or misleading documents	
142.2	Abuse of public office	
144.1	Forgery	
145.1	Using forged document	
145.2	Possession of forged document	
145.4	Falsification of documents etc.	
145.5	Giving information derived from false or misleading documents	
148.1	Impersonation of an official by a non-official	
148.2	Impersonation of an official by another official	
268.4	Genocide by causing serious bodily or mental harm	the offence is not a disqualifying offence
268.10	Crime against humanity—enslavement	the offence is not a disqualifying offence
268.11	Crime against humanity—deportation or forcible transfer of population	
268.12	Crime against humanity—imprisonment or other severe deprivation of physical liberty	
268.13	Crime against humanity—torture	the offence is not a disqualifying offence
268.14	Crime against humanity—rape	the offence is not a disqualifying offence

Provision	Relevant heading	Circumstances for offence
268.15	Crime against humanity—sexual slavery	the offence is not a disqualifying offence
268.16	Crime against humanity—enforced prostitution	the offence is not a disqualifying offence
268.17	Crime against humanity—forced pregnancy	
268.18	Crime against humanity—enforced sterilisation	
268.19	Crime against humanity—sexual violence	the offence is not a disqualifying offence
268.20	Crime against humanity—persecution	
268.21	Crime against humanity—enforced disappearance of persons	the offence is not a disqualifying offence
268.22	Crime against humanity—apartheid	
268.23	Crime against humanity—other inhumane act	
268.25	War crime—torture	the offence is not a disqualifying offence
268.26	War crime—inhumane treatment	the offence is not a disqualifying offence
268.27	War crime—biological experiments	the offence is not a disqualifying offence
268.28	War crime—wilfully causing great suffering	the offence is not a disqualifying offence
268.29	War crime—destruction and appropriation of property	

Provision	Relevant heading	Circumstances for offence
268.30	War crime—compelling service in hostile forces	
268.31	War crime—denying a fair trial	
268.32	War crime—unlawful deportation or transfer	
268.33	War crime—unlawful confinement	
268.34	War crime—taking hostages	
268.35	War crime—attacking civilians	
268.36	War crime—attacking civilian objects	
268.37	War crime—attacking personnel or objects involved in a humanitarian assistance or peacekeeping mission	
268.38	War crime—excessive incidental death, injury or damage	the offence is not a disqualifying offence
268.39	War crime—attacking undefended places	
268.40	War crime—killing or injuring a person who is <i>hors de combat</i>	the offence is not a disqualifying offence
268.41	War crime—improper use of a flag of truce	the offence is not a disqualifying offence
268.42	War crime—improper use of a flag, insignia or uniform of the adverse party	the offence is not a disqualifying offence
268.43	War crime—improper use of a flag, insignia or uniform of the United Nations	the offence is not a disqualifying offence

Provision	Relevant heading	Circumstances for offence
268.44	War crime—improper use of the distinctive emblems of the Geneva Conventions	the offence is not a disqualifying offence
268.45	War crime—transfer of population	
268.46	War crime—attacking protected objects	
268.47	War crime—mutilation	the offence is not a disqualifying offence
268.48	War crime—medical or scientific experiments	the offence is not a disqualifying offence
268.49	War crime—treacherously killing or injuring	the offence is not a disqualifying offence
268.50	War crime—denying quarter	the offence is not a disqualifying offence
268.51	War crime—destroying or seizing the enemy’s property	
268.52	War crime—depriving nationals of the adverse power of rights or actions	
268.53	War crime—compelling participation in military operations	
268.54	War crime—pillaging	
268.55	War crime—employing poison or poisoned weapons	the offence is not a disqualifying offence
268.56	War crime—employing prohibited gases, liquids, materials or devices	the offence is not a disqualifying offence
268.57	War crime—employing prohibited bullets	

Provision	Relevant heading	Circumstances for offence
268.58	War crime—outrages upon personal dignity	
268.59	War crime—rape	the offence is not a disqualifying offence
268.60	War crime—sexual slavery	the offence is not a disqualifying offence
268.61	War crime—enforced prostitution	the offence is not a disqualifying offence
268.62	War crime—forced pregnancy	
268.63	War crime—enforced sterilisation	
268.64	War crime—sexual violence	the offence is not a disqualifying offence
268.66	War crime—attacking persons or objects using the distinctive emblems of the Geneva Conventions	
268.67	War crime—starvation as a method of warfare	
268.68	War crime—using, conscripting or enlisting children	
268.71	War crime—mutilation	the offence is not a disqualifying offence
268.72	War crime—cruel treatment	
268.73	War crime—torture	the offence is not a disqualifying offence
268.74	War crime—outrages upon personal dignity	
268.75	War crime—taking hostages	

Provision	Relevant heading	Circumstances for offence
268.76	War crime—sentencing or execution without due process	the offence is not a disqualifying offence
268.77	War crime—attacking civilians	
268.78	War crime—attacking persons or objects using the distinctive emblems of the Geneva Conventions	
268.79	War crime—attacking personnel or objects involved in a humanitarian assistance or peacekeeping mission	
268.80	War crime—attacking protected objects	
268.81	War crime—pillaging	
268.82	War crime—rape	the offence is not a disqualifying offence
268.84	War crime—enforced prostitution	the offence is not a disqualifying offence
268.85	War crime—forced pregnancy	
268.86	War crime—enforced sterilisation	
268.87	War crime—sexual violence	the offence is not a disqualifying offence
268.88	War crime—using, conscripting or enlisting children	
268.89	War crime—displacing civilians	
268.90	War crime—treacherously killing or injuring	the offence is not a disqualifying offence
268.91	War crime—denying quarter	the offence is not a disqualifying offence

Provision	Relevant heading	Circumstances for offence
268.92	War crime—mutilation	the offence is not a disqualifying offence
268.93	War crime—medical or scientific experiments	the offence is not a disqualifying offence
268.94	War crime—destroying or seizing an adversary’s property	
268.95	War crime—medical procedure	
268.96	War crime—removal of blood, tissue or organs for transplantation	
268.97	War crime—attack against works or installations containing dangerous forces resulting in excessive loss of life or injury to civilians	the offence is not a disqualifying offence
268.98	War crime—attacking undefended places or demilitarized zones	the offence is not a disqualifying offence
268.99	War crime—unjustifiable delay in the repatriation of prisoners of war or civilians	
268.100	War crime—apartheid	
268.101	War crime—attacking protected objects	
270.3	Slavery offences	the offence is not a disqualifying offence
270.5	Servitude offences	the offence is not a disqualifying offence
270.6A	Forced labour offences	the offence is not a disqualifying offence

Provision	Relevant heading	Circumstances for offence
270.7	Deceptive recruiting for labour or services	the offence is not a disqualifying offence
270.7B	Forced marriage offences	the offence is not a disqualifying offence
270.7C	Offence of debt bondage	the offence is not a disqualifying offence
271.2	Offence of trafficking in persons	the offence is not a disqualifying offence
271.3	Trafficking in persons—aggravated offence	the offence is not a disqualifying offence
271.5	Offence of domestic trafficking in persons	the offence is not a disqualifying offence
271.6	Domestic trafficking in persons—aggravated offence	the offence is not a disqualifying offence
271.7B	Offence of organ trafficking—entry into and exit from Australia	the offence is not a disqualifying offence
271.7C	Organ trafficking—aggravated offence	the offence is not a disqualifying offence
271.7D	Offence of domestic organ trafficking	the offence is not a disqualifying offence
271.7E	Domestic organ trafficking—aggravated offence	the offence is not a disqualifying offence
273B.4	Failing to protect child at risk of child sexual abuse offence	
274.2	Torture	the offence is not a disqualifying offence
302.2	Trafficking commercial quantities of controlled drugs	

Provision	Relevant heading	Circumstances for offence
303.4	Cultivating commercial quantities of controlled plants	
304.1	Selling commercial quantities of controlled plants	
305.3	Manufacturing commercial quantities of controlled drugs	
305.4	Manufacturing marketable quantities of controlled drugs	the offence committed is an aggravated offence under section 310.4(2)
306.2	Pre-trafficking commercial quantities of controlled precursors	
306.3	Pre-trafficking marketable quantities of controlled precursors	the offence committed is an aggravated offence under section 310.4(3)
306.4	Pre-trafficking controlled precursors	the offence committed is an aggravated offence under section 310.4(3)
307.1	Importing and exporting commercial quantities of border controlled drugs or border controlled plants	
307.11	Importing and exporting commercial quantities of border controlled precursors	
308.3	Possessing plant material, equipment or instructions for commercial cultivation of controlled plants	the offence is committed in relation to the intended cultivation or sale of a commercial quantity of a controlled plant or any of its products

Provision	Relevant heading	Circumstances for offence
309.2	Supplying controlled drugs to children	
309.3	Supplying marketable quantities of controlled drugs to children for trafficking	
309.4	Supplying controlled drugs to children for trafficking	
309.7	Procuring children for trafficking marketable quantities of controlled drugs	
309.8	Procuring children for trafficking controlled drugs	
309.10	Procuring children for pre-trafficking marketable quantities of controlled precursors	
309.11	Procuring children for pre-trafficking controlled precursors	
309.12	Procuring children for importing or exporting marketable quantities of border controlled drugs or border controlled plants	
309.13	Procuring children for importing or exporting border controlled drugs or border controlled plants	
309.14	Procuring children for importing or exporting marketable quantities of border controlled precursors	

Provision	Relevant heading	Circumstances for offence
309.15	Procuring children for importing or exporting border controlled precursors	
310.2	Danger from exposure to unlawful manufacturing	
310.3	Harm from exposure to unlawful manufacturing	
372.1	Dealing in identification information	the offence was committed in relation to identification information for a child or vulnerable person
372.1A	Dealing in identification information that involves use of a carriage service	the offence was committed in relation to identification information for a child or vulnerable person
372.2	Possession of identification information	the offence was committed in relation to identification information for a child or vulnerable person
474.17A	Aggravated offences involving private sexual material—using a carriage service to menace, harass or cause offence	
480.4	Dishonestly obtaining or dealing in personal financial information	the offence was committed in relation to personal financial information for a child or vulnerable person

Schedule 3 Repealed or expired serious offences against a provision of an Act of the Commonwealth

section 10(1)

1 Criminal Code (Cwlth)

Provision	Relevant heading	Circumstances for offence
271.9	Debt offence	<p>bondage—aggravated</p> <p>as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Act 2018</i> (Cwlth)</p> <p>the offence was committed against an adult who was not a vulnerable person</p>

Schedule 4 **Current disqualifying offences against a provision of an Act of the Commonwealth**

section 10(2)

1 *Crimes (Internationally Protected Persons) Act 1976 (Cwlth)*

Provision	Relevant heading	Circumstances for offence
8(1)	Offences	
8(2)(b)	Offences	the offence was committed against a child or vulnerable person

2 *Criminal Code (Cwlth)*

Provision	Relevant heading	Circumstances for offence
71.2	Murder of a UN or associated person	
71.4	Intentionally causing serious harm to a UN or associated person	the offence was committed against a child or vulnerable person
71.5	Recklessly causing serious harm to a UN or associated person	the offence was committed against a child or vulnerable person
71.8	Unlawful sexual penetration	the offence was committed against a child or vulnerable person
71.9	Kidnapping a UN or associated person	the offence was committed against a child or vulnerable person, other than in a familial context

Provision	Relevant heading	Circumstances for offence
71.10	Unlawful detention of UN or associated person	the offence was committed against a child or vulnerable person, other than in a familial context
73.2	Aggravated offence of people smuggling (danger of death or serious harm etc.)	the offence was committed against a child or vulnerable person
73.3	Aggravated offence of people smuggling (at least 5 people)	the offence was committed against at least 1 person who was a child or vulnerable person
73.3A	Supporting the offence of people smuggling	the offence was committed in relation to an offence of people smuggling that was committed against at least 1 person who was a child or vulnerable person
115.1	Murder of an Australian citizen or a resident of Australia	
115.3	Intentionally causing serious harm to an Australian citizen or a resident of Australia	the offence was committed against a child or vulnerable person
115.4	Recklessly causing serious harm to an Australian citizen or a resident of Australia	the offence was committed against a child or vulnerable person
268.3	Genocide by killing	
268.4	Genocide by causing serious bodily or mental harm	the offence was committed against at least 1 person who was a child or vulnerable person

Provision	Relevant heading	Circumstances for offence
268.5	Genocide by deliberately inflicting conditions of life calculated to bring about physical destruction	
268.6	Genocide by imposing measures intended to prevent births	
268.7	Genocide by forcibly transferring children	
268.8	Crime against humanity—murder	
268.9	Crime against humanity—extermination	
268.10	Crime against humanity—enslavement	the offence was committed against at least 1 person who was a child or vulnerable person
268.13	Crime against humanity—torture	the offence was committed against at least 1 person who was a child or vulnerable person
268.14	Crime against humanity—rape	the offence was committed against a child or vulnerable person
268.15	Crime against humanity—sexual slavery	the offence was committed against a child or vulnerable person
268.16	Crime against humanity—enforced prostitution	the offence was committed against at least 1 person who was a child or vulnerable person

Provision	Relevant heading	Circumstances for offence
268.19	Crime against humanity—sexual violence	the offence was committed against at least 1 person who was a child or vulnerable person
268.21	Crime against humanity—enforced disappearance of persons	the offence was committed against at least 1 person who was a child or vulnerable person
268.24	War crime—wilful killing	
268.25	War crime—torture	the offence was committed against at least 1 person who was a child or vulnerable person
268.26	War crime—inhumane treatment	the offence was committed against at least 1 person who was a child or vulnerable person
268.27	War crime—biological experiments	the offence was committed against at least 1 person who was a child or vulnerable person
268.28	War crime—wilfully causing great suffering	the offence was committed against at least 1 person who was a child or vulnerable person
268.38	War crime—excessive incidental death, injury or damage	the commission of the offence resulted in death
268.40	War crime—killing or injuring a person who is <i>hors de combat</i>	the commission of the offence resulted in death
268.41	War crime—improper use of a flag of truce	the commission of the offence resulted in death

Provision	Relevant heading	Circumstances for offence
268.42	War crime—improper use of a flag, insignia or uniform of the adverse party	the commission of the offence resulted in death
268.43	War crime—improper use of a flag, insignia or uniform of the United Nations	the commission of the offence resulted in death
268.44	War crime—improper use of the distinctive emblems of the Geneva Conventions	the commission of the offence resulted in death
268.47(1)	War crime—mutilation	
268.47(2)	War crime—mutilation	the offence was committed against at least 1 person who was a child or vulnerable person
268.48(1)	War crime—medical or scientific experiments	
268.48(2)	War crime—medical or scientific experiments	the offence was committed against at least 1 person who was a child or vulnerable person
268.49	War crime—treacherously killing or injuring	the commission of the offence resulted in death
268.50	War crime—denying quarter	the commission of the offence resulted in death
268.55	War crime—employing poison or poisoned weapons	the commission of the offence resulted in death
268.56	War crime—employing prohibited gases, liquids, materials or devices	the commission of the offence resulted in death
268.59	War crime—rape	the offence was committed against a child or vulnerable person

Provision	Relevant heading	Circumstances for offence
268.60	War crime—sexual slavery	the offence was committed against a child or vulnerable person
268.61	War crime—enforced prostitution	the offence was committed against a child or vulnerable person
268.64	War crime—sexual violence	the offence was committed against at least 1 person who was a child or vulnerable person
268.65	War crime—using protected persons as shields	the commission of the offence resulted in death
268.70	War crime—murder	
268.71(1)	War crime—mutilation	
268.71(2)	War crime—mutilation	the offence was committed against at least 1 person who was a child or vulnerable person
268.73	War crime—torture	the offence was committed against at least 1 person who was a child or vulnerable person
268.76	War crime—sentencing or execution without due process	the commission of the offence resulted in death
268.82	War crime—rape	the offence was committed against a child or vulnerable person
268.84	War crime—enforced prostitution	the offence was committed against at least 1 person who was a child or vulnerable person

Provision	Relevant heading	Circumstances for offence
268.87	War crime—sexual violence	the offence was committed against at least 1 person who was a child or vulnerable person
268.90	War crime—treacherously killing or injuring	the commission of the offence resulted in death
268.91	War crime—denying quarter	the commission of the offence resulted in death
268.92(1)	War crime—mutilation	
268.92(2)	War crime—mutilation	the offence was committed against at least 1 person who was a child or vulnerable person
268.93	War crime—medical or scientific experiments	the commission of the offence resulted in death
268.97	War crime—attack against works or installations containing dangerous forces resulting in excessive loss of life or injury to civilians	the commission of the offence resulted in death
268.98	War crime—attacking undefended places or demilitarized zones	the commission of the offence resulted in death
270.3	Slavery offences	the offence was committed against a child or vulnerable person
270.5	Servitude offences	the offence was committed against a child or vulnerable person
270.6A	Forced labour offences	the offence was committed against a child or vulnerable person

Provision	Relevant heading	Circumstances for offence
270.7	Deceptive recruiting for labour or services	the offence was committed against a child or vulnerable person
270.7B	Forced marriage offences	the offence was committed against a child or vulnerable person
270.7C	Offence of debt bondage	the offence was committed against a child or vulnerable person
271.2	Offence of trafficking in persons	the offence was committed against a child or vulnerable person
271.3	Trafficking in persons—aggravated offence	the offence was committed against a child or vulnerable person
271.4	Offence of trafficking in children	
271.5	Offence of domestic trafficking in persons	the offence was committed against a child or vulnerable person
271.6	Domestic trafficking in persons—aggravated offence	the offence was committed against a child or vulnerable person
271.7	Offence of domestic trafficking in children	
271.7B	Offence of organ trafficking—entry into and exit from Australia	the offence was committed against a child or vulnerable person
271.7C	Organ trafficking—aggravated offence	the offence was committed against a child or vulnerable person

Provision	Relevant heading	Circumstances for offence
271.7D	Offence of domestic organ trafficking	the offence was committed against a child or vulnerable person
271.7E	Domestic organ trafficking—aggravated offence	the offence was committed against a child or vulnerable person
272.8	Sexual intercourse with child outside Australia	
272.9	Sexual activity (other than sexual intercourse) with child outside Australia	
272.10	Aggravated offence—sexual intercourse or other sexual activity with child outside Australia	
272.11	Persistent sexual abuse of child outside Australia	
272.12	Sexual intercourse with young person outside Australia—defendant in position of trust or authority	
272.13	Sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority	
272.14	Procuring child to engage in sexual activity outside Australia	
272.15	“Grooming” child to engage in sexual activity outside Australia	

Provision	Relevant heading	Circumstances for offence
272.15A	“Grooming” person to make it easier to engage in sexual activity with a child outside Australia	
272.18	Benefiting from offence against this Division	
272.19	Encouraging offence against this Division	
272.20	Preparing for or planning offence against this Division	
273.6	Possessing, controlling, producing, distributing or obtaining child abuse material outside Australia	
273.7	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people	
273A.1	Possession of child-like sex dolls etc.	
274.2	Torture	the offence was committed against a child or vulnerable person
471.19	Using a postal or similar service for child abuse material	
471.20	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service	

Provision	Relevant heading	Circumstances for offence
471.22	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people	
471.24	Using a postal or similar service to procure persons under 16	
471.25	Using a postal or similar service to “groom” persons under 16	
471.25A	Using a postal or similar service to “groom” another person to make it easier to procure persons under 16	
471.26	Using a postal or similar service to send indecent material to person under 16	
474.22	Using a carriage service for child abuse material	
474.22A	Possessing or controlling child abuse material obtained or accessed using a carriage service	
474.23	Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service	
474.23A	Conduct for the purposes of electronic service used for child abuse material	

Provision	Relevant heading	Circumstances for offence
474.24A	Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people	
474.25A	Using a carriage service for sexual activity with person under 16 years of age	
474.25B	Aggravated offence—using a carriage service for sexual activity with person under 16 years of age	
474.25C	Using a carriage service to prepare or plan to cause harm to, engage in sexual activity with, or procure for sexual activity, persons under 16	
474.26	Using a carriage service to procure persons under 16 years of age	
474.27	Using a carriage service to “groom” persons under 16 years of age	
474.27A A	Using a carriage service to “groom” another person to make it easier to procure persons under 16 years of age	
474.27A	Using a carriage service to transmit indecent communication to person under 16 years of age	

3 Customs Act 1901 (Cwlth)

Provision	Provision heading	Circumstances for offence
233BAB	Special offence relating to tier 2 goods	the offence was committed in relation to items of child abuse material

Schedule 5 Repealed or expired disqualifying offences against a provision of an Act of the Commonwealth

section 10(2)

1 Criminal Code (Cwlth)

Provision	Relevant heading	Circumstances for offence
271.9	Debt bondage—aggravated offence	as the provision was in force from time to time before its repeal by the <i>Crimes Legislation Amendment (International Crime Cooperation and Other Measures) Act 2018</i> (Cwlth) the offence was committed against a child or vulnerable person
273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia	as the provision was in force from time to time before its repeal by the <i>Combating Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
471.16	Using a postal or similar service for child pornography material	as the provision was in force from time to time before its repeal by the <i>Combating Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)

Provision	Relevant heading	Circumstances for offence
471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
474.19	Using a postal or similar service for child abuse material	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)
474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service	as the provision was in force from time to time before its repeal by the <i>Combatting Child Sexual Exploitation Legislation Amendment Act 2019</i> (Cwlth)