



Queensland

*Working with Children (Risk Management and Screening) Act
2000*

Working with Children (Risk Management and Screening) Regulation 2011

Current as at 1 July 2019

Reprint note

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Working with Children (Risk Management and Screening) Regulation 2011

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Working with Children (Risk Management and Screening) Regulation 2011

1 Short title

This regulation may be cited as the *Working with Children (Risk Management and Screening) Regulation 2011*.

2 Definitions

The dictionary in schedule 5 defines particular words used in this regulation.

3 Matters to be included in risk management strategies— Act, ss 171(1)(b) and 172(b)

- (1) For the Act, sections 171(1)(b) and 172(b), the following matters must be included in a person's risk management strategy—
- (a) a statement about commitment to the safety and wellbeing of children and the protection of children from harm;
 - (b) a code of conduct for interacting with children;
 - (c) procedures for recruiting, selecting, training and managing persons engaged or proposed to be engaged by the person, as the procedures relate to the safety and wellbeing of children and the protection of children from harm;
 - (d) policies and procedures for handling disclosures or suspicions of harm, including reporting guidelines;
 - (e) a plan for managing breaches of the risk management strategy;
 - (f) policies and procedures for compliance with the Act, chapter 8, including policies and procedures about—
 - (i) implementing and reviewing the risk management strategy; and

- (ii) keeping a written record of matters under the Act, chapter 8 about each person (*engaged person*) engaged by the person, for example—
 - (A) whether or not the person considers the person must apply for a prescribed notice or exemption notice about the engaged person; and
 - (B) whether or not a prescribed notice application or an exemption notice application has been made by the person about the engaged person; and
 - (C) if a positive notice has been issued for the engaged person—the date of expiry of the notice;
 - (g) risk management plans for high risk activities and special events;
 - (h) strategies for communication and support, including—
 - (i) written information for parents and persons engaged by the person that includes details of the person’s risk management strategy or where the strategy can be accessed; and
 - (ii) training materials for persons engaged by the person to—
 - (A) help identify risks of harm and how to handle disclosures or suspicions of harm; and
 - (B) outline the person’s risk management strategy.
- (2) In this section—

risk management strategy means a written strategy required to be developed and implemented under the Act, section 171 or 172.

4 Documents relating to proof of identity—Act, sch 7, definition *proof of identity documents*

- (1) This section prescribes, for the Act, schedule 7, definition *proof of identity documents*, the documents relating to the identity of a person (the *identified person*) that must be sighted by a certifying person.
- (2) The certifying person must sight any of the following for the identified person—
 - (a) 2 primary identification documents;
 - (b) 1 primary identification document and 1 secondary identification document;
 - (c) a document or documents that the chief executive considers provides sufficient evidence to establish the identified person's identity.
- (3) If the certifying person sights documents under subsection (2)(a) or (b), the documents must show, between them, the following—
 - (a) the identified person's full name;
 - (b) the identified person's date of birth;
 - (c) the identified person's signature.
- (4) If the identified person's name in a document sighted under subsection (2) differs from the identified person's current name, the certifying person also must sight—
 - (a) an official document evidencing the identified person's change of name; or
 - (b) a document or documents the chief executive considers provides sufficient evidence of the identified person's change of name.

Examples for subsection (4)(a) of official documents evidencing a change of name—

marriage certificate, deed poll

- (5) In this section—

certifying person means—

 - (a) an employer or proposed employer; or

(b) an education provider; or

(c) a prescribed person.

primary identification document means a document mentioned in schedule 1.

secondary identification document means a document mentioned in schedule 2.

5 Record or disclosure of confidential information—Act, s 385(4)(d)

(1) For the Act, section 385(4)(d), a person may, for a purpose related to the administration of the Act, chapter 8, including as applied by the Act, section 357H, make a record of, or disclose, the following confidential information—

(a) whether there is a prescribed notice application about a person under the Act, section 200 or 212 that has not been withdrawn or decided;

(b) whether there is an exemption notice application about a person under the Act, section 261 or 273 that has not been withdrawn or decided;

(c) whether a person has a valid positive notice or a valid exemption notice.

Example—

A person may disclose information to a parent who is seeking to engage another person running a regulated business about whether that person has a valid positive notice.

(2) In this section—

valid—

(a) for a positive notice—means a current positive notice that has not been suspended; or

(b) for a positive exemption notice—means a current positive exemption notice that has not been suspended.

6 Usual functions of employment—Act, sch 1, s 15

Schedule 3 sets out whether a function of employment is a usual function of employment for the functions and provisions of the Act mentioned in the schedule.

6A Delayed application of particular provisions in ch 8 of the Act to new employees—Act, s 401

- (1) For section 401(4)(a) of the Act, during the transition period the delayed sections of the Act do not apply to the employment of a person (the *new employee*) who, because of section 6C(1), on the commencement is employed by an NDIS non-government service provider in regulated employment.
- (2) The *transition period* is the period ending on—
 - (a) if within 4 months after the commencement an application about the new employee has been made under section 199 of the Act and the chief executive becomes aware the new employee was convicted of a serious offence—the day the chief executive issues a written notice to the NDIS non-government service provider stating—
 - (i) the transition period has ended; and
 - (ii) the provider is not allowed to employ the new employee in regulated employment before the application is decided; or
 - (b) if paragraph (a) does not apply and within 4 months after the commencement a prescribed notice application or exemption notice application is made about the new employee—the day the application is decided, withdrawn or deemed to be withdrawn under the Act; or
 - (c) if paragraphs (a) and (b) do not apply—the day that is 4 months after the commencement.
- (3) However, if subsection (2)(b) applies and the application is not decided, withdrawn or deemed 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 employee stating—
 - (a) the transition period has ended; and
 - (b) the provider is not allowed to employ the new employee in regulated employment before the prescribed notice application is decided.
- (5) In this section—

delayed sections of the Act means sections 188, 193, 251 and 255 of the Act.

6B Delayed application of particular provisions in ch 8 of the Act to particular new NDIS non-government service providers—Act, s 401

- (1) For section 401(4)(a) of the Act, during the transition period the delayed sections of the Act do not apply to a new NDIS non-government service provider that—
 - (a) provides services within a class of supports—
 - (i) mentioned in the NDIS (Registration) Rules, section 20(3); and
 - (ii) that were not mentioned in the *Disability Services Regulation 2017*, schedule 1, as in force immediately before the commencement of the *Disability Services and Other Legislation (NDIS) Amendment Act 2019*; and
 - (b) carries on a regulated business.
- (2) The *transition period* is the period ending on—
 - (a) if within 4 months after the commencement the new NDIS non-government service provider makes an application under section 211 of the Act and the chief executive becomes aware the provider was convicted of a serious offence—the day the chief executive issues a written notice to the provider stating—
 - (i) the transition period has ended; and

-
- (ii) the provider is not allowed to carry on a regulated business before the application is decided; or
 - (b) if paragraph (a) does not apply and within 4 months after the commencement the provider makes a prescribed notice application or exemption notice application—the day the application is decided, withdrawn or deemed to be withdrawn under the Act; or
 - (c) if paragraphs (a) and (b) do not apply—the day that is 4 months after the commencement.
- (3) However, if subsection (2)(b) applies and the application is not decided, withdrawn or deemed to be withdrawn before the final day, the transition period ends on the final day.
- (4) In this section—

delayed sections of the Act means sections 197 and 259 of the Act.

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

6C When employment by NDIS non-government service provider is regulated employment—Act, sch 1, s 6

- (1) For schedule 1, section 6(4)(a) of the Act, the employment of a person by an NDIS non-government service provider is regulated employment if—
- (a) the person is key personnel of the provider; or
 - (b) the person is employed in a role for which the normal duties are likely to require more than incidental contact with a child receiving disability services at a child-related service outlet of the provider; or
 - (c) the person is employed in a role for which the normal duties include the direct delivery of supports or services—
 - (i) to a child receiving disability services at a child-related service outlet of the provider; 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.

7 Fees

The fees payable under the Act are stated in schedule 4.

8 Repeal

The Commission for Children and Young People and Child Guardian Regulation 2001, SL No. 35 is repealed.

Schedule 1 Primary identification documents

section 4(5), definition *primary identification document*

- a birth certificate
- an Australian passport that is current or has been expired for less than 2 years
- a current overseas passport
- a citizenship certificate or notice of citizenship
- a current document evidencing permanent residency status
- a current driver licence containing the person's photograph
- a current proof of age card

Schedule 2 Secondary identification documents

section 4(5), definition *secondary identification document*

- a current identification card issued by the Commonwealth or a State as evidence of the person's entitlement to a financial benefit

Examples—

- Commonwealth seniors health card
- health care card
- medicare card
- pensioner concession card
- repatriation health card
- a current gaming machine licence issued under the *Gaming Machine Act 1991*
- a current licence issued under the *Security Providers Act 1993* to carry out the functions of a bodyguard, crowd controller, private investigator, security adviser, security equipment installer or security officer
- a current licence issued under the *Weapons Act 1990*
- a current positive exemption notice
- a current positive notice blue card
- a current student identification card containing the person's photograph and signature that is issued by an educational institution
- a current account card, or current credit card, issued by a financial institution, that contains the person's name and signature
- a passbook issued by a financial institution that shows the passbook's last entry to be less than 6 months before the passbook is sighted
- a recent account statement issued by a financial institution

- a recent notice of assessment issued under the *Income Tax Assessment Act 1997* (Cwlth)

Schedule 3 Usual functions of employment

section 6

1 Child accommodation services

For the Act, schedule 1, section 9, a function of employment is not a usual function of employment if—

- (a) the employment is organised by a school or a recognised body; and
- (b) the employee performs the function—
 - (i) as a volunteer; and
 - (ii) not more than twice in the same year; and
 - (iii) for a period that is, or for periods that are each, 10 days or less.

2 Performing functions at an event or as a guest

For the Act, schedule 1, part 1, other than section 9, a function of employment is not a usual function of employment if it is performed—

- (a) as a volunteer; and
- (b) not more than twice in the same year; and
- (c) for a period that is, or for periods that are each, 10 days or less; and
- (d) by the employee—
 - (i) at an event attended by more than 100 people that is organised at a State or national level in relation to a sporting, cultural or skill based activity by a school or a recognised body if the recognised body is—
 - (A) operating at a State or national level in Australia; or

(B) representing at a State or national level associations, clubs or other organisations, including, for example, an organisation that is a peak body for other clubs in an area; or

Examples for subparagraph (i)—

- Australian sporting championships organised by a national sporting organisation
- a national gathering of members of State based organisations for cultural or sporting development

(ii) as a guest of a school or a recognised body for the purpose of observing, or supplying information or entertainment to, 10 or more people; and

Examples for subparagraph (ii)—

- a teacher from another country observing students as a guest of a school
- a worker telling students about the worker's occupation

(e) in a situation in which the employee is unlikely to be physically present with a child without another person who is an adult also being present.

Schedule 4 Fees

section 7

	\$
1 Application for an eligibility declaration (Act, s 178(3)(c))	92.30
2 Prescribed notice application relating to regulated employment (Act, s 200(1)(e))—	
(a) if the application is about a person proposing to be, or continue being, employed in regulated employment as a volunteer	nil
(b) otherwise	92.30
3 Prescribed notice application relating to a regulated business (Act, s 212(1)(c))—	
(a) if the application is about a person proposing to carry on, or continue carrying on, a regulated business, other than for financial reward	nil
(b) otherwise	92.30
4 Application for cancellation of a negative notice (Act, s 236(4)(c))	92.30
5 Application for replacement of a current positive notice, positive notice blue card or positive exemption notice (Act, s 347(2))	13.95
6 Fee for the chief executive giving information under the <i>Education (Queensland College of Teachers) Act 2005</i> , s 15D (Act, s 401(3))	11.55

Schedule 5 Dictionary

section 2

birth certificate—

- (a) includes a current birth card issued by the New South Wales Registry of Births Deaths and Marriages; and
- (b) does not include a commemorative birth certificate within the meaning of the *Births, Deaths and Marriages Registration Act 2003*, section 44(19).

citizenship certificate means a certificate, declaration or other instrument of a person's nationality issued under the *Australian Citizenship Act 2007* (Cwlth) or the repealed *Australian Citizenship Act 1948* (Cwlth).

current, for a document, means that at the time the document is sighted, the document has not expired or been cancelled.

document evidencing permanent residency status means a document issued by the department in which the *Migration Act 1958* (Cwlth) is administered as evidence of the person's status as a permanent resident of Australia.

driver licence means—

- (a) a driver licence under the *Transport Operations (Road Use Management) Act 1995*; or
- (b) a learner licence under the *Transport Operations (Road Use Management) Act 1995*.

educational institution means—

- (a) an education provider; or
- (b) a school; or
- (c) an entity established or recognised, for educational purposes, under an Act or law of the Commonwealth or another State.

final day means the day that is 1 year from the day sections 6A and 6B commenced.

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

NDIS commissioner means the Commissioner of the NDIS commission appointed under the NDIS Act, section 181L.

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

new NDIS non-government service provider see section 401(5) of the Act.

notice of citizenship means a notice given under the *Australian Citizenship Act 2007* (Cwlth), section 37 stating that a person is an Australian citizen at a particular time.

proof of age card means a card issued by any of the following that includes proof of a person's age—

- (a) the department in which the *Photo Identification Card Act 2008* is administered;

Example for paragraph (a)—
photo identification card

- (b) the department in which the *Transport Operations (Road Use Management) Act 1995* is administered;

Examples for paragraph (b)—
18+ card, driver licence

- (c) an entity of the government of another State performing functions similar to a department mentioned in paragraph (a) or (b);

- (d) an entity of the government of a foreign country.

recent, for a document, means the issuing date of the document is not earlier than 6 months before the document is sighted.

recognised body means a corporation, an incorporated association or a charity registered under the *Collections Act 1966*.