

Disability Services and Other Legislation (Fees) Amendment Regulation 2022

Explanatory notes for SL 2022 No. 83

made under the

Disability Services Act 2006 and the

Working With Children (Risk Management and Screening) Act 2000

General Outline

Short title

Disability Services and Other Legislation (Fees) Amendment Regulation 2022

Authorising law

The *Disability Services and Other Legislation (Fees) Amendment Regulation 2022* (Amendment Regulation) is made under section 239 of the *Disability Services Act 2006* (DS Act) and section 401 of the *Working with Children (Risk Management and Screening) Act 2000* (WWC Act).

Policy objectives and the reasons for them

The objective of the Amendment Regulation is to update the disability worker screening fees payable under the *Disability Services Regulation 2017* (DS Regulation), and the working with children check fees payable under the *Working with Children (Risk Management and Screening) Regulation 2020* (WWC Regulation), in accordance with the *Queensland Government Principles for Fees and Charges*.

The DS Act protects and promotes the rights of people with disability, including by ensuring people who pose an unacceptable risk of harm to people with disability cannot carry out particular work with people with disability. The DS Act requires that all persons engaged to carry out particular work with people with disability—either by a registered National Disability Insurance Scheme (NDIS) provider or through a service funded or delivered by the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships—must undergo worker screening and obtain a disability worker screening clearance.

The DS Act provides a prescribed fee is payable for an application made under the Part 5 screening provisions. Application fees are prescribed under Schedule 1 of the DS Regulation.

The WWC Act promotes and protects the rights, interests and wellbeing of children and young people in Queensland, including by ensuring people cannot be engaged in child-related employment

where it would not be in the best interests of children. The WWC Act requires that persons employed in regulated employment or carrying on a particular business must undergo a working with children check and obtain a working with children clearance (i.e. a blue card).

The WWC Act provides that a regulation may prescribe fees payable under the Act. Schedule 2 of the WWC Regulation outlines the fees payable.

The DS Act and the WWC Act provide in similar terms that a person engaged to work with children with disability must obtain both a disability worker screening clearance and a working with children clearance, which may be obtained via a joint application process. Joint application fees are prescribed under Schedule 2 of the WWC Regulation.

The *Queensland Government Principles for Fees and Charges* (Principles) requires agencies to have processes in place to ensure that fees maintain their value over time. Where regular comprehensive reviews are not cost-effective and no specific indexation method has been approved, agencies must apply the Government Indexation Rate (GIR). The Principles reflect recent amendments to the *Acts Interpretation Act 1954*, which require that all fees indexed in accordance with the GIR must be prescribed as a number of fee units (rather than dollars) from 1 July 2022, unless exempted. This streamlines the indexing of fees across Government, by enabling annual indexation of the fee unit by regulation.

In accordance with this requirement under the Principles, the Amendment Regulation converts most screening fees under both the DS Regulation and WWC Regulation into fee units from 1 July 2022. This affects all disability worker screening fees, other than the application and renewal fees for an NDIS worker screening clearance. It also affects all working with children check fees, other than the blue card component of the joint application fee and an administrative fee internal to Government (refer item 2 of Schedule 2 of the WWC Regulation, as inserted by the Amendment Regulation). This maintains the value of these fees over time by ensuring they continue to be indexed in accordance with the GIR.

In accordance with Queensland's obligations under the *Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme*—which include that NDIS worker screening must achieve cost recovery—the application and renewal fees for an NDIS worker screening clearance are increased annually from 1 July in accordance with a specific approved indexation method calculated to achieve cost recovery.

The Amendment Regulation retains these fees as dollar amounts and indexes them in accordance with the approved method, having regard to the costs to the department associated with conducting worker screening (including the checking of criminal history and other information) and issuing physical clearance cards. Ensuring the NDIS worker screening system is operated on a cost recovery basis contributes to preventing avoidable risk of harm to people with disability, and minimising the regulatory burden on disability service providers, by supporting the operation of a timely and quality disability worker screening system.

The Amendment Regulation also includes a small increase to the blue card component of the joint application fee (refer Schedule 2, item 1 of the WWC Regulation as inserted by the Amendment Regulation). This is currently a fixed cost not subject to indexation. This fee is payable by applicants for both a disability worker screening clearance and working with children clearance, in addition to the disability worker screening application fee. This enables successful applicants to obtain a five-year working with children clearance (normally these clearances are only valid for three years)

without also paying the full working with children check fee. The small increase will assist in meeting the cost of managing the interaction between the two screening systems associated with the joint application process.

Achievement of policy objectives

The Amendment Regulation indexes NDIS worker screening application fees in line with the cost recovery method, as outlined in Table 1; increases the fees associated with the blue card component of the joint application process as outlined in Table 2; and transitions fees subject to the Government indexation policy to fee units as outlined in Tables 3 and 4.

In addition, the Amendment Regulation retains the fee relating to the chief executive (working with children) giving information to the college of teachers under section 15D of the *Education (Queensland College of Teachers) Act 2005* as a dollar value.

The adjusted fees for 2022–23 and the conversion to fee units will apply from 1 July 2022.

Table 1—Fees to be updated to align with NDIS cost recovery model under the DS Regulation

Item of Schedule 1	Current 2021-22 Fee	New Fee as at commencement of Amendment Regulation
Item 1(c) – Fee for an NDIS clearance	\$120.00	\$129.00
Item 2(a) – Fee for a person who holds an NDIS clearance who is engaged to carry out disability work other than as a volunteer	\$120.00	\$129.00
Item 2(b) – Fee for an NDIS sole trader who carries out disability work for financial reward	\$120.00	\$129.00

Table 2—Fees to be updated under the WWC Regulation

Item of Schedule 2 (as amended by Amendment Regulation)	Current 2021-22 Fee	New Fee as at commencement of Amendment Regulation
Item 1(a) – Fee if the application is made as part of a joint application	\$10.00	\$15.00
Item 1(b) – Fee if the application is made by the holder of a disability clearance	\$10.00	\$15.00
Item 1(c) – Fee if an application is made by a person who has made a disability worker screening application that has not been decided	\$10.00	\$15.00

Table 3—Fees converted to fee units under the DS Regulation

Item of Schedule 1	Current 2021-22 Fee	Fee Unit as at commencement of Amendment Regulation
Item 3(c) – Fee for a State clearance	\$97.60	97.60 fee units
Item 4(a) – Fee for a person who holds a State clearance who is engaged to carry out disability work other than as a volunteer	\$97.60	97.60 fee units
Item 4(b) – Fee for a State sole trader who carries out disability work for financial reward	\$97.60	97.60 fee units
Item 5 – Fee for application for a replacement clearance card	\$14.75	14.75 fee units
Item 6(a) – Application to cancel an NDIS exclusion	\$119.00	119.00 fee units
Item 6(b) – Application to cancel a State exclusion	\$97.60	97.60 fee units

Table 4—Fees converted to fee units under the WWC Regulation

Item of Schedule 2 (as amended by Amendment Regulation)	Current 2021-22 Fee	Replace with Fee Unit as at commencement of Amendment Regulation
Item 3 – Eligibility application	\$95.55	95.55 fee units
Item 4 – Working with children check (general) application other than for an application mentioned in item 1 of Schedule 2	\$95.55	95.55 fee units
Item 5 – Application to cancel negative notice	\$95.55	95.55 fee units
Item 6 – Replacement working with children card	\$14.45	14.45 fee units

With respect to the fees which are being converted to fee units, Part 12B of the *Acts Interpretation Act 1954* (AI Act) provides that the dollar value of a fee is worked out by multiplying the prescribed value of a fee unit by the number of fee units provided for in a regulation and rounding the result to the nearest cent. An alternative rounding method may be provided for under an Act or regulation.

In accordance with the Principles, Queensland Treasury has approved the use of an alternative rounding method for all fees expressed in fee units under the DS Regulation and WWC Regulation. This alternative rounding method is outlined in new section 17A of the DS Regulation and new section 7A of the WWC Regulation.

Consistency with policy objective of authorising law

The Amendment Regulation is consistent with the objectives of the Act and the WWC Act, and ensures the proper and effective implementation of the screening frameworks under the DS Act and WWC Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

There is no alternative way of achieving the policy objectives. The Amendment Regulation implements measures to support the proper and effective implementation of the worker screening framework under the DS Act and the WWC Act, and is in accordance with the Principles.

Benefits and costs of implementation

The Amendment Regulation assists the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships and the Department of Justice and Attorney-General to continue to administer timely and quality screening systems, while maintaining a proportionate and sustainable fee structure.

There are no additional significant implementation costs to government in indexing the fees.

Applications for volunteers will continue to be processed free of charge, under both screening systems.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

As it applies indexation rates in accordance with established Government policy set out under the Principles, the Amendment Regulation has not been the subject of external consultation.

As the Amendment Regulation is unlikely to result in significant adverse impacts, it does not require further regulatory impact analysis under the *Queensland Government Guide to Better Regulation*.