

# Disability Services (Fees) Amendment Regulation 2025

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, the Honourable Deb Frecklington MP, Attorney-General and Minister for Justice and Minister for Integrity, provide this human rights certificate with respect to the *Disability Services (Fees) Amendment Regulation 2025* (Amendment Regulation) made under section 239 of the *Disability Services Act 2006*.

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

The Amendment Regulation updates the fees payable under the *Disability Services Regulation 2017* (Disability Services Regulation), in accordance with the Queensland Government Principles for Fees and Charges (the Principles).

The *Disability Services Act 2006* (the Act) protects and promotes the rights of people with disability. It includes provisions about who can carry out particular work with people with disability. In particular, the 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 Families, Seniors, Disability Services and Child Safety, must undergo worker screening and obtain an appropriate worker screening clearance.

The Act provides that a prescribed fee is payable for an application for a worker screening check. The Amendment Regulation increases the application fees prescribed under Schedule 1 of the Disability Services Regulation for NDIS worker screening checks, from 1 July 2025.

### Human Rights Issues

#### Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 HR Act)

I have considered each of the rights protected by Part 2 of the HR Act. In my opinion, I consider the following human right to be relevant to the Amendment Regulation:

- right to property (section 24 of the HR Act).

## **Consideration of reasonable limitations on human rights (section 13 HR Act)**

I consider the Amendment Regulation engages the right to property as outlined below.

### **(a) The nature of the right**

The right to property protects an individual's right to own property alone or in association with others and requires that individuals are not arbitrarily deprived of their property. The ability to own and protect property historically underpins many of the structures essential to maintain a free and democratic society based on human dignity, equality and freedom.

The right includes the protection from the deprivation of property. The term 'deprived' is not defined by the HR Act, however, deprivation is considered to include the substantial restriction on a person's use or enjoyment of their property, to the extent that it substantially deprives the property owner of the ability to use his or her property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it, or deriving profits from it). Property is likely to include all personal property interests, including money.

The fees increase engages the right to property in that it requires the payment of a fee for a person to apply for a worker screening check, which is necessary for employment.

### **(b) The nature of the purpose of the limitation, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom**

Any limitation on the right to property is for the purposes of ensuring the NDIS worker screening unit remains appropriately resourced to deliver efficient services to persons who have applied for a worker screening clearance. The modest fees increase does raise the cost for persons engaged to work with people with disability for financial reward, potentially impacting the ability to apply for a worker screening clearance and participate in employment. However, it is consistent with a free and democratic society based on human dignity, equality and freedom as it contributes to the sustainable operation of a robust worker screening system which protects and promotes the rights of people with disability.

### **(c) The relationship between the limitation and its purpose, including whether the limitation helps to achieve the purpose**

The Amendment Regulation may limit the right to property by increasing NDIS worker screening application fees. This satisfies Queensland's obligation under the *Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme* (Intergovernmental Agreement) that NDIS worker screening fees must achieve cost recovery. The indexation method reflects the increased operational workload associated with processing applications at the sustained high rate experienced since introduction of nationally consistent NDIS worker screening in February 2021.

The value of the application fee is based on cost modelling undertaken to determine an appropriate fee structure to support cost recovery of NDIS worker screening clearance processes. The fees increase directly contributes to achieving the purpose of supporting the timely and quality operation of the NDIS worker screening system, ensuring the system's fee structure accurately reflects operational costs and fees maintain their value over time.

(d) Whether there are any less restrictive and reasonably available ways to achieve the purpose

The fees increase represents the least restrictive and only reasonably available way to achieve the purpose of cost recovery. Indexing the fees other than in accordance with the specific indexation method would introduce inconsistency between their value and the cost of operating the NDIS worker screening system. It would also be inconsistent with Queensland's obligations under the Intergovernmental Agreement and could adversely impact the sustainable and effective operation of the NDIS worker screening system in Queensland.

The Amendment Regulation also retains the existing position of not charging a fee for persons engaged in a voluntary capacity under the NDIS worker screening system.

(e) The balance between the importance of the purpose of the limitation and the importance of preserving the human right, taking into account the nature and extent of the limitation

On balance, ensuring the fees support the effective provision of disability worker screening services in a fiscally responsible way outweighs the limitations on the right to property.

## Conclusion

I consider that the Amendment Regulation is compatible with the HR Act because it limits a human right only to the extent that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

**DEB FRECKLINGTON MP**  
Attorney-General and Minister for Justice  
Minister for Integrity