

Disability Services Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 66

made under the

Disability Services Act 2006

General Outline

Short title

Disability Services Amendment Regulation (No. 1) 2015

Authorising law

Sections 52(2)(d) and (3)(b), 82(5)(c), 92(2), 99(4)(c), 199, 215 and 239 of the *Disability Services Act 2006*.

Policy objectives and the reasons for them

The proposed *Disability Services Amendment Regulation (No. 1) 2015* (the amendment regulation) serves three purposes. It:

- provides for the particulars of reporting requirements on the use of restrictive practices by relevant service providers
- indexes criminal history screening fees prescribed in the *Disability Services Regulation 2006*, in accordance with the *Queensland Government Principles for Fees and Charges*
- makes consequential amendments to update section references following a renumbering of the *Disability Services Act 2006* in July 2014.

Particulars of restrictive practices reporting requirements

The policy objective of this amendment regulation is to give effect to section 199 of the *Disability Services Act 2006* which requires funded service providers to give information to the Chief Executive of the department about the use of restrictive practices, in the way and at the time prescribed under a regulation.

Essentially the purpose of this data collection is to allow systematic monitoring of the use of restrictive practices by direct and funded disability services, to develop evidence based practice to inform policies and practice improvements, with the objective of reducing the use of restrictive practices for adults.

Indexation of fees

The *Disability Services Act 2006* requires a prescribed fee to accompany applications made under its criminal history screening provisions (yellow card regime). Fees set out in the *Disability Services Regulation 2006* are charged under this regime to help recover costs associated with conducting criminal history searches and issuing notices.

The *Queensland Government Principles for Fees and Charges* requires agencies to have processes in place to ensure that a fee maintains its value over time. Where regular comprehensive review is not cost effective or no specific indexation method has been approved by the Cabinet Budget Review Committee, agencies are required to apply the current Government indexation policy as advised by Queensland Treasury.

The rate of indexation advised by Queensland Treasury for increases in government fees and charges for 2015–16 is 3.5 per cent. The amendment regulation proposes to index the prescribed fees in accordance with this rate from 1 July 2015.

Consequential amendments

A number of section references of the *Disability Services Act 2006* in the *Disability Services Regulation 2006* require updating following a renumbering of the Act in July 2014.

Achievement of policy objectives

Restrictive practice reporting requirement amendment

The amendment regulation achieves the policy objective by inserting new sections 8A and 8B into the *Disability Services Regulation 2006* to prescribe the following:

- How a service provider will report—1. after every restrictive practice approval or change in approval, this will be via an approved notification form; and 2. for the instances of use of restrictive practices at the individual client level reporting will be via an electronic system approved by the chief executive.
- When a service provider must report—1. after every restrictive practice approval or change in approval: within 14 days of receiving the approval; and 2. for the instances of use of restrictive practices at the individual level: monthly reporting on the second Friday of each calendar month or when requested by the Chief Executive (or authorised delegate—in writing).
- Information about the use of the restrictive practice (general) including for example: client details; relevant service provider details; and approved restrictive practice, such as who approved the practice, frequency of use and any injuries.

Indexation of fees

The amendment regulation achieves the policy objective by increasing criminal history screening fees prescribed under the *Disability Services Regulation 2006* by 3.5 per cent from 1 July 2015 in accordance with the *Queensland Government Principles for Fees and Charges*.

Consequential amendments

The amendment regulation achieves the policy objective by updating the section references of the *Disability Services Act 2006* in the *Disability Services Regulation 2006* following a renumbering of the Act in July 2014.

Consistency with policy objectives of authorising law

The amendments give effect to the intention of section 199 of the *Disability Services Act 2006* and to correct reference errors in the regulation.

The amendment regulation is consistent with the objectives of the *Disability Services Act 2006* in relation to the charging of fees for criminal history screening.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Benefits and costs of implementation

The costs associated with the implementation of these amendments will be met within existing resources.

The reporting system has been designed to be as easy to use as possible, so that the costs to service providers should be minimal.

Consistency with fundamental legislative principles

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

Consultation

Consultation has been undertaken with the Department of the Premier and Cabinet, Queensland Treasury, and the Office of the Queensland Parliamentary Counsel. There is support for the amendment regulation.

The Office of Best Practice Regulation, Queensland Competition Authority has been consulted and has confirmed that the amendment regulation is excluded from the Regulatory Impact Statement system.

The Department of Communities, Child Safety and Disability Services has also conducted consultation with the Restrictive Practices Implementation Working Group (comprised of key government stakeholders, peak service providers and advocates) in relation to the proposed reporting system. A communication strategy is also being prepared to inform the sector on the reporting requirements and system when it is in force.

Regarding the indexation of fees, no consultation was undertaken outside government as the indexation of government fees and charges is in accordance with the *Queensland Government Principles for Fees and Charges*.