



National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment (Miscellaneous Measures) Rules 2020

I, Robert Griew, Acting Commissioner of the NDIS Quality and Safeguards Commission, as delegate of the Minister for the National Disability Insurance Scheme, make the following rules.

Dated 27 November 2020

Robert Griew
Acting Commissioner of the NDIS Quality and Safeguards Commission

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
Part 1—General Amendments		2
<i>National Disability Insurance Scheme (Practice Standards—Worker Screening)</i>		
<i>Rules 2018</i>		2
Part 2—Amendments relating to Western Australia		16
<i>National Disability Insurance Scheme (Practice Standards—Worker Screening)</i>		
<i>Rules 2018</i>		16

1 Name

This instrument is the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment (Miscellaneous Measures) Rules 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 December 2020.	1 December 2020

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *National Disability Insurance Scheme Act 2013*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—General Amendments

National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018

1 Subsections 4(1) and (2)

Repeal the subsections, substitute:

- (1) The NDIS Practice Standards for worker screening set out in Parts 2 and 4 apply to:
 - (a) a person or entity who is applying to become a registered NDIS provider;
and
 - (b) all registered NDIS providers in participating jurisdictions (see section 9).
- (2) Part 3 (which sets out record keeping requirements in relation to worker screening) applies to all registered NDIS providers.
- (3) Part 4 (which provides for transitional and special arrangements) applies in relation to certain providers in a participating jurisdiction if the circumstances set out in Part 4 apply (see sections 14 and 14A and Part 4).

2 Section 5 (paragraph (a) of the note to the heading)

Repeal the paragraph.

3 Section 5 (at the end of the note to the heading)

Add:

; (g) reportable incident.

4 Section 5

Insert:

acceptable NSW check has the meaning given by subsections 23(5), (6) and (7).

acceptable SA check has the meaning given by subsections 24(6), (6A) and (6B).

5 Section 5 (definition of *appropriate contract*)

Repeal the definition, substitute:

appropriate contract has the meaning given by section 5A.

6 Section 5 (definition of *other personnel*)

Repeal the definition, substitute:

personnel means individuals:

- (a) who are not workers or registered NDIS providers; but
- (b) whose services are made available by a personnel provider to perform work:
 - (i) at a registered NDIS provider's premises; or

- (ii) as part of the provision of supports or services to any person with a disability, by, or on behalf of, a registered NDIS provider.

personnel provider means a person or entity that makes the services of personnel available to perform work for, or on behalf of, a registered NDIS provider.

7 Section 5

Insert:

process of obtaining a clearance: see section 15.

8 Section 5 (definition of *subcontractor*)

Repeal the definition.

9 Section 5 (definition of *transitional arrangements*)

Omit “jurisdiction means the interim risk management measures which apply in that jurisdiction pursuant to Part 4”, substitute “participating jurisdiction means the measures which apply in that participating jurisdiction in accordance with sections 14 and 14A and Part 4”.

10 Section 5 (definition of *worker*)

Repeal the definition, substitute:

worker means any of the following:

- (a) an individual employed or otherwise engaged by a registered NDIS provider;
- (b) each of the key personnel of a registered NDIS provider;
- (c) a partner of a partnership that is a registered NDIS provider;
- (d) an individual who is a registered NDIS provider.

11 After section 5

Insert:

5A Definition of *appropriate contract*

- (1) An *appropriate contract* is a legally binding arrangement that:
 - (a) is between a registered NDIS provider and a personnel provider in relation to an individual or individuals who will be personnel; and
 - (b) imposes the obligations set out in subsection (2) on the personnel provider.
- (2) The obligations are as follows:
 - (a) the personnel provider must only make available the services of an individual to engage in a risk assessed role with the registered NDIS provider if:
 - (i) the individual has a clearance or is subject to an exception under Division 4 of Part 2; and
 - (ii) the personnel provider discloses to the registered NDIS provider before the individual is engaged in that role all information relating to the individual’s clearance or the exception the individual is subject to under that Division; and

- (iii) the personnel provider continues to disclose to the registered NDIS provider all information relating to the individual's clearance or the exception the individual is subject to during the period the individual is engaged in that role;
 - (b) the personnel provider must comply with any reasonable request from the registered NDIS provider:
 - (i) for information relating to whether an individual made available by the personnel provider has a clearance, or is subject to an exception under Division 4 of Part 2; and
 - (ii) for assistance to investigate any complaint made to the registered NDIS provider about the conduct of, or any reportable incident involving, an individual made available by the personnel provider; and
 - (iii) for information relating to whether and how the personnel provider is complying with its obligations under the appropriate contract;
 - (c) the personnel provider must impose the obligations referred to in paragraphs (a) and (b) on any other party with whom the personnel provider enters into an arrangement, which involves or allows for the provision of services by the individual to the registered NDIS provider.
- (3) For the purposes of subparagraph (2)(a)(ii), without limiting that subparagraph, information relating to the individual's clearance includes information about the following:
- (a) the clearance and the day the clearance expires or ceases to be in force;
 - (b) any applications made for an NDIS worker screening check in relation to the individual;
 - (c) any interim bar, suspension or exclusion the individual has been, or is, subject to;
 - (d) the refusal or closure of an application for worker screening clearance;
 - (e) the revocation (however described in the NDIS worker screening law of the relevant participating jurisdiction) of a clearance.
- (4) If a registered NDIS provider and a personnel provider enter into a legally binding arrangement before 1 February 2021, the arrangement is also an **appropriate contract** if it imposes the obligations required by subsection 13(4) of this instrument as in force immediately before the commencement of the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment (Miscellaneous Measures) Rules 2020*.

12 Part 2 (heading)

Repeal the heading, substitute:

Part 2—NDIS Practice Standards relating to worker screening

13 Division 1 of Part 2

Repeal the Division, substitute:

Division 1—Purpose of this Part

8 Purpose of this Part

- (1) This Part is made for the purposes of subsection 73T(1) of the Act.

Note: The NDIS Practice Standards in this instrument are in addition to those contained in the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

- (2) It specifies the standards concerning the screening of individuals who engage in risk assessed roles in the provision of supports or services by registered NDIS providers.

Note 1: Applicants must be assessed by an approved quality auditor as meeting the applicable standards and other requirements prescribed by the NDIS Practice Standards in order to be registered as a registered NDIS provider (see paragraph 73E(1)(c) of the Act).

Note 2: Non-compliance with the NDIS Practice Standards by a registered NDIS provider constitutes a breach of a condition of registration (see paragraph 73F(2)(c) and section 73J of the Act).

Note 3: Part 4 of this instrument contains transitional and special arrangements that apply instead of, or as well as, some of the rules in this Part in certain circumstances: see sections 14 and 14A.

14 Division 2 of Part 2 (heading)

Repeal the heading, substitute:

Division 2—Applicable standards and assessment process

15 Section 9

Repeal the section, substitute:

9 Applicable standards, requirements and assessment processes

- (1) To be registered to provide any class of support, an applicant must be assessed by an approved quality auditor, by verification, as meeting the standards and requirements specified in this Part (and Part 4 (if applicable)) as if any reference in those Parts to “registered NDIS provider” were a reference to “applicant”.
- (2) To remain registered to provide any class of support, a registered NDIS provider must continue to comply with the standards specified in this Part (and Part 4 (if applicable)).

16 Division 3 of Part 2

Repeal the Division, substitute:

Division 3—Risk assessment and management

11 Identification of risk assessed roles

A registered NDIS provider must:

- (a) assess all roles that will be undertaken with the registered NDIS provider in relation to the provision of supports or services to any person with disability by the following persons:

- (i) workers;
- (ii) personnel; and
- (b) identify each role assessed under paragraph (a) that is a risk assessed role.

Note: A registered NDIS provider who is an individual is a worker: see the definition of *worker* in section 5.

12 Risk management plan

- (1) A registered NDIS provider must develop and maintain a written risk management plan for protecting people with disability while any workers or personnel are:
 - (a) engaged in a risk assessed role with the registered NDIS provider; and
 - (b) in the process of obtaining a clearance.

Note: A registered NDIS provider who is an individual is a worker: see the definition of *worker* in section 5.

- (2) The risk management plan must:
 - (a) identify and describe each risk to a person with disability for whom the registered NDIS provider provides supports or services; and
 - (b) explain how each risk will be managed.
- (3) A registered NDIS provider must review the risk management plan if:
 - (a) the Commissioner requires the registered NDIS provider to do so; or
 - (b) there is a reportable incident involving a worker or any personnel.
- (4) A registered NDIS provider must implement the risk management plan, unless otherwise agreed by the Commissioner.

17 Division 4 of Part 2 (heading)

Repeal the heading, substitute:

Division 4—Worker screening clearance

18 Sections 13 and 14

Repeal the sections, substitute:

13 Risk assessed roles restricted to workers or personnel with clearance

Subject to the exceptions contained in this Division, a registered NDIS provider that provides supports or services to a person with disability in a participating jurisdiction:

- (a) must only allow a worker to engage in a risk assessed role, if the worker has a clearance; and
- (b) must only allow an individual who is personnel to engage in a risk assessed role, if the registered NDIS provider has:
 - (i) identified to the relevant personnel provider each risk assessed role that the individual will engage in; and
 - (ii) entered into an appropriate contract with the personnel provider for the individual; and
 - (iii) taken reasonable steps to satisfy itself that the individual has a clearance; and

- (c) if the registered NDIS provider is an individual—must only engage in a risk assessed role if the registered NDIS provider has a clearance.

14 Exceptions in relation to clearance

- (1) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) all of the following apply:
 - (i) the person is in the process of obtaining a clearance;
 - (ii) the person is appropriately supervised by a person with a clearance;
 - (iii) the registered NDIS provider is implementing a risk management plan developed and maintained in accordance with Division 3;
 - (iv) the law of the participating jurisdiction in which the person provides supports or services to a person with disability allows the person to engage in a risk assessed role while that person is in the process of obtaining a clearance; or
 - (b) all of the following apply:
 - (i) the registered NDIS provider is complying with the transitional arrangements set out in Part 4 that apply in relation to the person in the participating jurisdiction in which supports or services are provided to a person with disability;
 - (ii) the person has not been issued with an interim bar that is in force and is not subject to an exclusion in relation to an application for an NDIS worker screening check;
 - (iii) the person is not subject to a suspension that is in force in relation to a clearance and has not had a clearance cancelled; or
 - (c) the person is:
 - (i) a secondary school student on a formal work experience placement with the registered NDIS provider; and
 - (ii) directly supervised by a worker of the provider who has a clearance.
- (2) A registered NDIS provider who is an individual may engage in a risk assessed role when the registered NDIS provider does not have a clearance at a time when:
 - (a) all of the following apply:
 - (i) the registered NDIS provider is in the process of obtaining a clearance;
 - (ii) the registered NDIS provider is appropriately supervised by a person with a clearance;
 - (iii) the registered NDIS provider is implementing a risk management plan developed and maintained in accordance with Division 3;
 - (iv) the law of the participating jurisdiction in which the person provides services to a person with disability allows the registered NDIS provider to engage in a risk assessed role while the registered NDIS provider is in the process of obtaining a clearance; or
 - (b) all of the following apply:
 - (i) the registered NDIS provider is complying with the transitional arrangements set out in Part 4 that apply in relation to the person in the participating jurisdiction in which supports or services are provided to a person with disability;

- (ii) the registered NDIS provider has not been issued with an interim bar that is in force and is not subject to an exclusion in relation to an application for an NDIS worker screening check;
- (iii) the registered NDIS provider is not subject to a suspension that is in force in relation to a clearance and has not had a clearance cancelled.

19 Section 14A (heading)

Repeal the heading, substitute:

14A Circumstances in which exception does not apply in “no card, no start” participating jurisdictions

20 Subsection 14A(1)

Repeal the subsection, substitute:

- (1) Paragraphs 14(1)(a) and 14(2)(a) do not apply to a person if:
 - (a) the person has submitted an application for a clearance to an NDIS worker screening unit; and
 - (b) the law of the participating jurisdiction in which the application is submitted prohibits a person from engaging in a risk assessed role while the person is in the process of obtaining a clearance; and
 - (c) the person does not have an acceptable check that applies in that participating jurisdiction; and
 - (d) a decision has not been made on the application.

21 Paragraph 14A(2)(a)

Omit “a check described in subsection 23(6), (7) or (8)”, substitute “an acceptable NSW check”.

22 Paragraph 14A(2)(b)

Omit “a check described in subsection 24(6), (6A) or (6B)”, substitute “an acceptable SA check”.

23 Subsection 15(1)

Omit “Subject to (2), a person”, substitute “Subject to subsection (2), a person”.

24 Subsection 15(1)

Omit “process of obtaining a clearance”, substitute “*process of obtaining a clearance*”.

25 Subsection 15(2)

Omit “process of obtaining a clearance”, substitute “*process of obtaining a clearance*”.

26 Paragraphs 15(3)(a) and (aa)

Repeal the paragraphs (including the note), substitute:

- (a) that unit has issued a notice in writing to the person confirming that the application has been made; and
- (aa) a registered NDIS provider has confirmed to that unit that:

- (i) the person is, or intends to be, a worker; or
- (ii) if the registered NDIS provider is an individual—the person is the registered NDIS provider; and

27 At the end of subsection 15(3)

Add:

Note: Section 2B of the *Acts Interpretation Act 1901* provides that “writing” includes any mode of representing or reproducing words, figures, drawing or symbols in a visible form. As a result, electronic communications, such as an email or an SMS message, are capable of constituting a notice in writing.

28 Section 16

Repeal the section, substitute:

16 Purpose of this Part

- (1) This Part is made for the purposes of section 73Q of the Act.
- (2) It prescribes requirements in relation to records that a registered NDIS provider must keep in relation to the screening of individuals who engage in risk assessed roles with registered NDIS providers.

Note: Compliance with section 73Q and this Part is a condition of registration (see paragraph 73F(2)(d) of the Act), breach of which is a civil penalty provision (see section 73J of the Act).

29 Subsection 17(1)

Repeal the subsection, substitute:

- (1) A registered NDIS provider must keep a written list of all roles with the registered NDIS provider which are risk assessed roles that are engaged in by a person.

Note: Each risk assessed role with the registered NDIS provider must be included in the record, irrespective of whether the person who engages in the role is a worker, is personnel or is a registered NDIS provider who is an individual.

30 Subsection 17(3)

Omit “this instrument”, substitute “this section”.

31 Subsections 18(1) to (3)

Repeal the subsections, substitute:

- (1) A registered NDIS provider must keep a written list of:
 - (a) each worker who engages in a risk assessed role; and
 - (b) the information mentioned in subsection (3) in relation to each worker.
- (2) The registered NDIS provider must keep the written list up-to-date.
- (3) For the purposes of paragraph (1)(b), the written list must include the following information:
 - (a) the worker’s full name, date of birth and address;
 - (b) the risk assessed role or roles in which the worker engages;

- (c) if a registered NDIS provider may allow the worker to engage in a risk assessed role without a clearance:
 - (i) the exception under section 14 that applies in relation to the worker; and
 - (ii) the start and end date of the period in which the exception under section 14 applies; and
 - (iii) if the exception under section 14 requires the worker to be supervised—the name of the person who supervises the worker during this period;
- (d) if a registered NDIS provider may only allow the worker to engage in a risk assessed role with a clearance:
 - (i) the worker’s NDIS worker screening check application number; and
 - (ii) the worker’s NDIS worker screening check number; and
 - (iii) the worker’s NDIS worker screening check outcome and any expiry date for that outcome; and
 - (iv) whether the worker’s clearance is subject to a decision to suspend or revoke a clearance, or any other decision which has the effect that the registered NDIS provider may not allow the worker to engage in a risk assessed role; and
 - (v) the nature of any decision mentioned in subparagraph (iv).

32 Paragraph 18(4)(d)

Omit “(a), (b), or (c)”, substitute “paragraph (a), (b) or (c)”.

33 Paragraph 18(5)(b)

Omit “(a)”, substitute “paragraph (a)”.

34 Section 19 (heading)

Repeal the heading, substitute:

19 Kinds of records which must be kept—personnel

35 Section 19

Omit “(1)”.

36 Paragraph 19(1)(b)

Repeal the paragraph, substitute:

- (b) any record relating to the administration of the appropriate contract, including the enforcement of any obligation mentioned in subsection 5A(2);

37 Paragraph 19(1)(d)

Omit “paragraph 13(3)(c)”, substitute “subparagraph 13(b)(iii)”.

38 Part 4 (heading)

Repeal the heading, substitute:

Part 4—NDIS Practice Standards relating to transitional and special arrangements for worker screening

39 Section 22

Repeal the section, substitute:

22 Purpose of this Part

- (1) This Part is made for the purposes of subsection 73T(1) of the Act and sections 14 and 14A of this instrument.
- (2) It specifies the standards concerning the screening of workers and personnel when transitional arrangements apply in relation to a participating jurisdiction.
- (3) It also gives effect to the staged implementation of the national policy for NDIS worker screening, described in Part 12 (Transfer) of the Agreement.

40 Paragraph 23(3)(a)

After “acceptable NSW check”, insert “at that time”.

41 Paragraph 23(3)(b)

Repeal the paragraph.

42 Subsections 23(4) to (8)

Repeal the subsections, substitute:

- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) at that time, the person is:
 - (i) a secondary school student on a formal work experience placement with the registered NDIS provider; and
 - (ii) directly supervised by a person who has an acceptable NSW check at that time; and
 - (b) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (11) has not yet come into effect.
- (5) A person has an *acceptable NSW check* at a time if:
 - (a) at that time, the person is not engaging in child-related work in the risk assessed role; and
 - (b) a criminal record check in relation to the person was obtained:
 - (i) no more than 4 years before that time; and
 - (ii) on or before 30 June 2018; and
 - (c) that criminal record check showed that the person had no conviction for a prescribed criminal offence; and
 - (d) the person has not subsequently been subject to a criminal record check that showed that the person had a conviction for a prescribed criminal offence.
- (6) A person has an *acceptable NSW check* at a time if:

- (a) at that time, the person is not engaging in child-related work in the risk assessed role; and
 - (b) a criminal record check in relation to the person was obtained:
 - (i) no more than 2 years before that time; and
 - (ii) during the transition period; and
 - (c) that criminal record check showed that the person had no conviction for a prescribed criminal offence; and
 - (d) the person has not subsequently been subject to a criminal record check that showed that the person had a conviction for a prescribed criminal offence.
- (7) A person has an **acceptable NSW check** at a time if:
- (a) at that time, the person is engaging in child-related work in the risk assessed role; and
 - (b) at that time, a working with children check clearance (within the meaning of the *Child Protection (Working With Children) Act 2012* (NSW) as in force from time to time) issued to the person is in force; and
 - (c) that clearance was issued to the person on a day that is no later than the last day of the transition period.

43 Subsection 23(11)

Omit “subsection 14(b) of this instrument”, substitute “paragraph 14(1)(b) or (2)(b)”.

44 Subsection 23(12)

Repeal the subsection, substitute:

Definitions

(12) In this section:

child-related work has the same meaning as in the *Child Protection (Working With Children) Act 2012* (NSW) as in force from time to time.

criminal record check means a check of the same kind as that required for the purposes of section 32 of the *Disability Inclusion Act 2014* (NSW) as in force from time to time.

prescribed criminal offence has the same meaning as in the *Disability Inclusion Act 2014* (NSW) as in force from time to time.

transition period means the period:

- (a) starting on 1 July 2018; and
- (b) ending on the earlier of:
 - (i) 31 January 2021; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in New South Wales.

45 Subsection 24(6)

Omit “acceptable SA check”, substitute “**acceptable SA check**”.

46 Paragraph 24(6)(c)

Omit “in relation”, substitute “in relation to”.

47 Subsection 24(6A)

Omit “acceptable SA check”, substitute “*acceptable SA check*”.

48 Subparagraph 24(6A)(b)(i)

Omit “subparagraph (b)(i)”, substitute “subparagraph (a)(i)”.

49 Subsection 24(6B)

Omit “acceptable SA check”, substitute “*acceptable SA check*”.

50 Subsection 24(9)

Omit “subsection 14(b) of this instrument”, substitute “paragraph 14(1)(b) or (2)(b)”.

51 Subsection 24(10) (definition of *acceptable SA check*)

Repeal the definition.

52 Subparagraph 25(5)(d)(iii)

Omit “(within the meaning of section 15 of this instrument)”.

53 Subsection 25(7)

Omit “14(b) of this instrument”, substitute “14(1)(b) or (2)(b)”.

54 Subsection 26(7)

Omit “14(b) of this instrument”, substitute “14(1)(b) or (2)(b)”.

55 Subsection 27(8)

Omit “14(b) of this instrument”, substitute “14(1)(b) or (2)(b)”.

56 Subsection 28(8)

Omit “14(b) of this instrument”, substitute “14(1)(b) or (2)(b)”.

57 Subsection 29(8)

Omit “14(b) of this instrument”, substitute “14(1)(b) or (2)(b)”.

58 Subsection 29(9) (subparagraph (b)(i) of the definition of *transition period*)

Repeal the subparagraph, substitute:

(i) 30 June 2021; and

59 Section 30 (heading)

Repeal the heading, substitute:

30 Notice that NDIS worker screening unit is operational in a participating jurisdiction

60 Amendments of listed provisions—participating jurisdiction

The provisions listed in the following table are amended as set out in the table.

Amendments of listed provisions—participating jurisdiction			
Item	Provision	Omit	Substitute
1	Section 5 (definition of <i>clearance</i>)	jurisdiction	participating jurisdiction
2	Section 5 (definition of <i>exclusion</i>)	jurisdiction	participating jurisdiction
3	Section 5 (definition of <i>interim bar</i>)	jurisdiction (wherever occurring)	participating jurisdiction
4	Section 5 (note 2 to the definition of <i>interim bar</i>)	jurisdiction's	participating jurisdiction's
5	Section 5 (definition of <i>suspension</i>)	jurisdiction	participating jurisdiction
6	Section 5 (definition of <i>withdrawn</i>)	jurisdiction	participating jurisdiction
7	Section 5 (note to the definition of <i>withdrawn</i>)	jurisdictions	participating jurisdictions
8	Subsection 14A(2)	jurisdiction	participating jurisdiction
9	Paragraph 15(2)(b) (note)	jurisdiction	participating jurisdiction
10	Subsection 15(4)	jurisdiction	participating jurisdiction

61 Amendments of listed provisions—personnel

The provisions listed in the following table are amended as set out in the table.

Amendments of listed provisions—personnel			
Item	Provision	Omit	Substitute
1	Section 5 (definition of <i>closed</i>)	the worker or other personnel	the worker or personnel to whom the check relates
2	Paragraph 19(1)(c)	a member of other personnel	an individual who is personnel
3	Paragraph 19(1)(e)	any member of other personnel	any individual who is personnel

62 Amendments of listed provisions—references to State or Territory legislation

The provisions listed in the following table are amended as set out in the table.

Amendments of listed provisions—references to State or Territory legislation			
Item	Provision	Omit	Substitute
1	Subparagraph 25(5)(d)(i)	<i>Working with Children Act 2005</i> (Vic.)	<i>Working with Children Act 2005</i> (Vic.) as in force from time to time

Amendments of listed provisions—references to State or Territory legislation			
Item	Provision	Omit	Substitute
2	Subparagraph 26(3)(b)(i)	<i>Disability Services Act 2006 (Qld)</i>	<i>Disability Services Act 2006 (Qld)</i> , as in force from time to time,
3	Subparagraph 26(3)(b)(ii)	<i>Working with Children (Risk Management and Screening) Act 2000 (Qld)</i>	<i>Working with Children (Risk Management and Screening) Act 2000 (Qld)</i> , as in force from time to time,
4	Subparagraph 26(3)(b)(iii)	<i>Health Practitioner Regulation National Law 2009 (Qld)</i>	<i>Health Practitioner Regulation National Law 2009 (Qld)</i> as in force from time to time
5	Subsection 26(8) (definitions of regulated business and regulated employment)	<i>Working with Children (Risk Management and Screening) Act 2000 (Qld)</i>	<i>Working with Children (Risk Management and Screening) Act 2000 (Qld)</i> as in force from time to time
6	Paragraphs 27(3)(b) and (6)(a)	<i>Registration to Work with Vulnerable People Act 2013 (Tas.)</i>	<i>Registration to Work with Vulnerable People Act 2013 (Tas.)</i> , as in force from time to time
7	Paragraphs 28(3)(b) and (6)(a)	<i>Working with Vulnerable People (Background Checking) Act 2011 (ACT)</i>	<i>Working with Vulnerable People (Background Checking) Act 2011 (ACT)</i> , as in force from time to time
8	Paragraph 29(3)(b)	<i>Care and Protection of Children Act 2007 (NT)</i>	<i>Care and Protection of Children Act 2007 (NT)</i> (as in force from time to time)
9	Paragraph 29(6)(a)	<i>Care and Protection of Children Act 2007 (NT)</i>	<i>Care and Protection of Children Act 2007 (NT)</i> , as in force from time to time

Part 2—Amendments relating to Western Australia

National Disability Insurance Scheme (Practice Standards—Worker Screening) Rules 2018

63 Section 5

Insert:

acceptable WA check has the meaning given by subsections 29A(5) and (6).

64 At the end of subsection 14A(2)

Add:

; or (h) if the person is providing services to a participant in Western Australia—the person has an acceptable WA check.

65 After section 29

Insert:

29A Application—special arrangements for Western Australia

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in Western Australia.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in Western Australia if that registered NDIS provider complies with this section.

Transitional arrangements

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) the person has an acceptable WA check at that time; and
 - (b) a notice (if any) issued to the registered NDIS provider by the Commissioner pursuant to subsection (7) has not yet come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) at that time, the person is a secondary school student on a formal work experience placement with the registered NDIS provider; and
 - (b) the person is directly supervised by a person who has an acceptable WA check at that time; and
 - (c) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.
- (5) A person has an *acceptable WA check* at a time (the *relevant time*) before 1 February 2023, if:
 - (a) at the relevant time, the person is engaged by the registered NDIS provider; and

- (b) the person had been engaged by the registered NDIS provider on a day (the **engagement day**) before 1 December 2020 and has been continuously engaged with that provider since the engagement day; and
 - (c) a national police check in relation to the person had been obtained from a checking agency no more than 3 years before both:
 - (i) the relevant time; and
 - (ii) 1 February 2021; and
 - (d) the national police check showed that the person had no conviction for a relevant offence; and
 - (e) at the relevant time, the registered NDIS provider is not aware of the person being subsequently convicted of a relevant offence; and
 - (f) if the risk assessed role involves the person engaging in child-related work—on a day that is no later than the last day of the transition period:
 - (i) the person had been issued with an assessment notice, or a further assessment notice, and at the relevant time that assessment notice is in effect and has not expired or been cancelled; or
 - (ii) the person had made an application for an assessment notice, or a further assessment notice, and at the relevant time the person has been issued with an assessment notice in relation to that application and that assessment notice is in effect and has not expired or been cancelled; or
 - (iii) the person had made an application for an assessment notice, or a further assessment notice, and at the relevant time that application has not been decided or withdrawn and the person has not been issued with an interim negative notice in relation to that application.
- (6) A person has an **acceptable WA check** at a time (the **relevant time**) before 1 February 2023, if:
- (a) at the relevant time, the person is engaged by the registered NDIS provider; and
 - (b) the person had begun the engagement with the registered NDIS provider on or after 1 December 2020 and before 1 February 2021; and
 - (c) a national police check in relation to the person had been obtained from a checking agency no more than 12 months before both:
 - (i) the relevant time; and
 - (ii) the day the person began that engagement; and
 - (d) the national police check showed that the person had no conviction for a relevant offence; and
 - (e) at the relevant time, the registered NDIS provider is not aware of the person being subsequently convicted of a relevant offence; and
 - (f) if the risk assessed role involves the person engaging in child-related work—on a day that is no later than the last day of the transition period:
 - (i) the person had been issued with an assessment notice, or a further assessment notice, and at the relevant time that assessment notice is in effect and has not expired or been cancelled; or
 - (ii) the person had made an application for an assessment notice, or a further assessment notice, and at the relevant time the person has been issued with an assessment notice in relation to that application and that assessment notice is in effect and has not expired or been cancelled; or

- (iii) the person had made an application for an assessment notice, or a further assessment notice, and at the relevant time that application has not been decided or withdrawn and the person has not been issued with an interim negative notice in relation to that application.

Notice

- (7) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(1)(b) or (2)(b) no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Definitions

- (8) In this section:

assessment notice has the same meaning as in the *Working with Children (Criminal Record Checking) Act 2004* (WA), as in force from time to time.

checking agency means a State or Territory police service, or an agency accredited by the Australian Criminal Intelligence Commission in relation to the provision of a national police check.

child-related work has the same meaning as in the *Working with Children (Criminal Record Checking) Act 2004* (WA), as in force from time to time.

further assessment notice has the same meaning as in the *Working with Children (Criminal Record Checking) Act 2004* (WA), as in force from time to time.

interim negative notice has the same meaning as in the *Working with Children (Criminal Record Checking) Act 2004* (WA), as in force from time to time.

relevant offence: an offence committed by a person is a **relevant offence** if:

- (a) the person was at least 18 years old when the offence was committed; and
- (b) the offence involved, or related to, any of the following:
 - (i) an offence under section 192 of the *Children and Community Services Act 2004* (WA), as in force from time to time;
 - (ii) an offence under section 181, 186, 187, 279 or 283, subsection 306(4), section 320 or 322, subsection 329(2), (3), (4), (5) or (6) or section 330 of *The Criminal Code* (WA), as in force from time to time;
 - (iii) an offence under section 16, 17 or 18 of the *Prostitution Act 2000* (WA), as in force from time to time;
 - (iv) an offence under a law of another participating jurisdiction that is equivalent to an offence mentioned in subparagraph (i), (ii) or (iii);
 - (v) a class 1 offence or a class 2 offence within the meaning given by the *National Disability Insurance Scheme (Worker Screening) Act 2020* (WA), as in force from time to time.

transition period means the period:

- (a) starting on 1 December 2020; and
- (b) ending on the earlier of:
 - (i) 31 January 2023; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in Western Australia.