

# Worker Screening Regulations 2020

S.R. No.

## 1 Objective

The objectives of these Regulations are to—

- (a) prescribe fees for applications under the **Worker Screening Act 2020** and make provision for their waiver, reduction or refund; and
- (b) provide for offences relating to a failure by an applicant for a screening check or a holder of a clearance to notify the Secretary of a change in the applicant's or holder's personal particulars; and
- (c) prescribe laws of another State or a Territory that provide for screening of persons who are to be employed or engaged in risk assessed roles for the purposes of the **Worker Screening Act 2020**; and
- (e) prescribe disciplinary or regulatory entities for the purposes of certain sections of the **Worker Screening Act 2020**; and
- (f) prescribe relevant disciplinary or regulatory findings for the purposes of certain sections of the **Worker Screening Act 2020**; and
- (g) prescribe persons for the purposes of section 146(b) of the **Worker Screening Act 2020**.

## 2 Authorising provision

These Regulations are made under section 150 of the **Worker Screening Act 2020**.

## 3 Commencement

These Regulations come into operation on 1 February 2021.

## 4 Revocation

The following Regulations are **revoked**—

- (a) the Working with Children Regulations 2016<sup>1</sup>;
- (b) the Working with Children Amendment (Reportable Conduct) Regulations 2017<sup>2</sup>.

## 5 Definitions

In these Regulations—

***Commission for Children and Young People*** means the Commission for Children and Young People established under section 6 of the **Commission for Children and Young People Act 2012**;

***personal particulars*** means—

- (a) a person's full name and any other name by which the person is or has been known; and
- (b) a person's date of birth; and
- (c) a person's residential address; and
- (d) a person's electronic address; and
- (e) any telephone number provided as a person's telephone number in relation to that person's application for a screening check or that person's clearance;

***Suitability Panel*** means the Suitability Panel established under Part 3.4 of the **Children, Youth and Families Act 2005**;

***the Act*** means the **Worker Screening Act 2020**;

***Victorian Institute of Teaching*** means the Victorian Institute of Teaching continued under Part 2.6 of the **Education and Training Reform Act 2006**.

## 6 Application fees

The prescribed fee for an application referred to in column 2 of the Table is the corresponding fee set out in column 3 of the Table.

**TABLE**

<i>No.</i>	<i>Type of application</i>	<i>Fee</i>
1	An application for an NDIS check under section 15 of the Act	8.06 fee units
2	An application for a WWC check under section 54 of the Act for child-related work that is for profit or gain (other than an application described in item 3)	8.06 fee units
3	An application for a WWC check under section 54 of the Act for child-related work that is for profit or gain applied for in accordance with section 74 of the Act	6.1 fee units
4	An application for the replacement of a WWC clearance document for child-related work that is for profit or gain	0.5 fee unit

## 7 Secretary may reduce, waive or refund payment of fees

The Secretary may, before or after any application referred to in the Table in regulation 6 is made—

- (a) reduce or waive the corresponding fee set out in that Table; or
- (b) refund payment of the corresponding fee set out in that Table either in whole or in part.

### **8 Disciplinary or regulatory entities**

- (1) The following are prescribed to be disciplinary or regulatory entities for the purposes of sections 15(2)(b) and (c), 18(2)(a), 21(3)(f), 40(1)(a), 97(2)(b)(ii), and 104(b) of the Act—
  - (a) the Commission for Children and Young People;
  - (b) the Suitability Panel;
  - (c) the Victorian Institute of Teaching;
  - (d) the NDIS Commissioner.
- (2) The following are prescribed to be disciplinary or regulatory entities for the purposes of sections 54(2)(b) and (c), 58(2)(a), and 81(1)(a) and 109(b) of the Act—
  - (a) the Commission for Children and Young People;
  - (b) the Suitability Panel;
  - (c) the Victorian Institute of Teaching.

### **9 Relevant disciplinary or regulatory findings**

- (1) The following are prescribed to be relevant disciplinary or regulatory findings for the

purposes of sections 27(1)(e), 34(2)(e), 37(2)(e), 38(1)(b) and 45(1)(e) of the Act—

- (a) a determination by a panel under section 2.6.46(2) of the **Education and Training Reform Act 2006** to do one or more of the following—
  - (i) impose conditions, limitations or restrictions on the registration of the teacher;
  - (ii) suspend the registration of the teacher for the period and subject to the conditions, limitations and restrictions, if any, specified in the determination;
  - (iii) cancel the registration of the teacher;
- (b) a decision by the Victorian Institute of Teaching made under Division 8A of Part 2.6 of the **Education and Training Reform Act 2006** to suspend any or all registrations held by a person under that Part;
- (c) a finding by the Suitability Panel under section 106 of the **Children, Youth and Families Act 2005** that a person should be disqualified from registration under Part 3.4 of that Act;
- (d) a finding that a person has committed reportable conduct that is the subject of a notification by the Commission for Children and Young People under section 16ZD(1) of the **Child Wellbeing and Safety Act 2005**;

- (e) an order made by the NDIS Commissioner under section 73ZN of the NDIS Act prohibiting or restricting specified activities by an NDIS provider or a person who is employed or otherwise engaged by an NDIS provider.
- (2) The following are prescribed to be relevant disciplinary or regulatory findings for the purposes of sections 64(1)(a), 72(2)(e), 77(2)(f), 78(1)(b) and 86(1)(a) of the Act—
  - (a) a determination by a panel under section 2.6.46(2) of the **Education and Training Reform Act 2006** to do one or more of the following—
    - (i) impose conditions, limitations or restrictions on the registration of the teacher;
    - (ii) suspend the registration of the teacher for the period and subject to the conditions, limitations and restrictions, if any, specified in the determination;
    - (iii) cancel the registration of the teacher;
  - (b) a decision by the Victorian Institute of Teaching made under Division 8A of Part 2.6 of the **Education and Training Reform Act 2006** to suspend any or all registrations held by a person under that Part;
  - (c) a finding by the Suitability Panel under section 106 of the **Children, Youth and Families Act 2005** that a person should be

disqualified from registration under Part 3.4 of that Act;

- (d) a finding that a person has committed reportable conduct that is the subject of a notification by the Commission for Children and Young People under section 16ZD(1) of the **Child Wellbeing and Safety Act 2005**.

#### **10 NDIS worker screening laws**

- (1) For the purposes of the Act, the following are prescribed to be corresponding NDIS worker screening laws—
  - (a) the National Disability Insurance Scheme (Worker Checks) Act 2018 of New South Wales;
  - (b) the Disability Inclusion Act 2018 of South Australia;
  - (c) the Registration to Work with Vulnerable People Act 2013 of Tasmania;
  - (d) the Working with Vulnerable People (Background Checking) Act 2011 of the Australian Capital Territory;
  - (e) the National Disability Insurance Scheme (Worker Clearance) Act 2020 of the Northern Territory.

#### **11 Prescribed persons**

For the purposes of section 146(b) of the Act, a prescribed person is a person who is a police officer within the meaning of the **Victoria Police Act 2013** and who has taken or made and

subscribed the oath or affirmation of office referred to in section 50(1) of that Act (other than a police officer who is suspended from duty under that Act).

## **12 Notification of change to personal particulars**

- (1) A person who has made an application for a screening check and the application is still pending must notify the Secretary of any change to the applicant's personal particulars within 21 days of becoming aware of the change.

Penalty: 1 penalty unit.

- (2) A person who holds a clearance must notify the Secretary of any change to the person's personal particulars within 21 days of becoming aware of the change.

Penalty: 1 penalty unit.

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## **ENDNOTES**

- 1 Reg. 4(a): S.R. No. 9/2016 as amended by S.R. No. 59/2017.
- 2 Reg. 4(b): S.R. No. 59/2017.

## **1. General Information**

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See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Worker Screening Regulations 2020, S.R. No. x/x were made on day/month/year by the Governor in Council under section 150 of the **Worker Screening Act 2020**, No. xx/xx and came into operation on 1 February 2021: regulation 3.

The Worker Screening Regulations 2020 will sunset 10 years after the day of making on 1 February 2031 (see section 5 of the **Subordinate Legislation Act 1994**).

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**2. Table of Amendments**

There are no amendments made to the Worker Screening Regulations 2020 by statutory rules, subordinate instruments and Acts.

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### 3. Explanatory Details

#### Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

In accordance with section 11 of the **Monetary Units Act 2004**, the value of a penalty unit for the financial year commencing 1 July 2012 is \$140.84.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.

#### Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2012 is \$12.53. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.