**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 20161;

(b) the Working with Children Amendment (Reportable Conduct) Regulations 20172.

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**

|  |  |  |
| --- | --- | --- |
| *No.* | *Type of application* | *Fee* |
| 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 theAct—

(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.

1. 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.

1. 1 penalty unit.

\_\_\_\_\_\_\_\_\_

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

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**).

1. Table of Amendments

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

1. 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.