



# **National Disability Insurance Scheme Amendment (Worker Screening Database) Act 2019**

**No. 82, 2019**

**An Act to amend the *National Disability Insurance  
Scheme Act 2013*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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**No. 82, 2019**

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**An Act to amend the *National Disability Insurance Scheme Act 2013*, and for related purposes**

*[Assented to 2 October 2019]*

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *National Disability Insurance Scheme Amendment (Worker Screening Database) Act 2019*.

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*No. 82, 2019      National Disability Insurance Scheme Amendment (Worker Screening Database) Act 2019      1*

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## 2 Commencement

- (1) Each provision of this Act 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 Act | The day after this Act receives the Royal Assent. | 3 October 2019 |

Note: This table relates only to the provisions of this Act as originally enacted.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

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

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Amendments

### *National Disability Insurance Scheme Act 2013*

#### **1 Section 8**

Omit:

- |   |
|---|
| (d) providing leadership in relation to behaviour supports. |
|---|

substitute:

- |   |
|---|
| (d) providing leadership in relation to behaviour supports;<br>and<br>(e) establishing, operating and maintaining the NDIS<br>worker screening database (Chapter 6B). |
|---|

#### **2 Section 9**

Insert:

*disclose*, in relation to information in the NDIS worker screening database, includes provide electronic access to the information.

*NDIS worker screening check* means an assessment, under an NDIS worker screening law, of whether a person who works, or seeks to work, with people with disability poses a risk to such people.

*NDIS worker screening database* means the database established under section 181Y.

*NDIS worker screening law* means a law of a State or Territory determined in an instrument under subsection 10B(1).

#### **3 After section 10A**

Insert:

##### **10B Definition of *NDIS worker screening law***

- (1) The Minister may, by legislative instrument, determine a law of a State or Territory for the purposes of the definition of **NDIS**

***worker screening law*** in section 9, with the agreement of that State or Territory.

Note: Section 42 (disallowance) of the *Legislation Act 2003* does not apply to the instrument (see subsection 44(1) of that Act).

- (2) Before determining a law of a State or Territory, the Minister must be satisfied that the law establishes a scheme for the screening of workers for purposes including the National Disability Insurance Scheme.

#### 4 After Chapter 6A

Insert:

### **Chapter 6B—NDIS worker screening database**

#### **181X Simplified outline of this Chapter**

- The Commissioner must establish, operate and maintain the NDIS worker screening database.
- The database will keep a record of decisions made in relation to persons who have made an application for an assessment of whether they, in working, or seeking to work, with people with disability pose a risk to such people.
- One of the purposes of the database is to share information in the database with persons or bodies (including employers and potential employers) for the purposes of the National Disability Insurance Scheme.

#### **181Y NDIS worker screening database**

- (1) The Commissioner must establish, operate and maintain a database for the purposes of this Act, to be known as the NDIS worker screening database.



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Note: As subsection (1) confers a function on the Commissioner, section 55A allows the Commissioner to gather information for inclusion in the database.

- (2) The NDIS worker screening database must be kept in electronic form.

*Purposes of the database*

- (3) The purposes of the NDIS worker screening database are the following:
- (a) to maintain, for the purposes of the National Disability Insurance Scheme, an up-to-date record of persons who, under decisions made under NDIS worker screening laws, have been found, in working, or seeking to work, with people with disability not to pose a risk, or to pose a risk, to such people;
  - (b) in relation to persons covered by paragraph (a)—to maintain an up-to-date record of other decisions that relate to the decisions covered by that paragraph;
  - (c) to share information in the database with persons or bodies (including employers and potential employers) for the purposes of the National Disability Insurance Scheme;
  - (d) any other purpose determined in an instrument under subsection (8).
- (4) Paragraphs (3)(a) to (c) do not limit paragraph (3)(d).

*Information in the database*

- (5) The NDIS worker screening database may include the following information for the purposes of subsection (3):
- (a) information relating to persons (each of whom is a **screening applicant**) who have made applications (each of which is a **screening application**) for an NDIS worker screening check and information relating to those applications;
  - (b) information relating to each screening applicant in respect of whom a screening application is no longer being considered and the reasons for this;
  - (c) information relating to each screening applicant in respect of whom a decision (a **clearance decision**) (however described)

is in force, under an NDIS worker screening law, to the effect that the person, in working, or seeking to work, with people with disability does not pose a risk to such people and information relating to the decision;

- (d) information relating to any decisions made under an NDIS worker screening law, in relation to each screening applicant, while the screening applicant's application is pending;
  - (e) information relating to each screening applicant in respect of whom a decision (an ***exclusion decision***) (however described) is in force, under an NDIS worker screening law, to the effect that the person, in working, or seeking to work, with people with disability does pose a risk to such people and information relating to the decision;
  - (f) if a clearance decision or an exclusion decision specifies the period for which the decision is in force—information setting out that period;
  - (g) information relating to each person in respect of whom a decision (however described), under an NDIS worker screening law, suspending a clearance decision has been made and information relating to the suspension;
  - (h) information relating to each person in respect of whom a decision (however described), under an NDIS worker screening law, revoking a clearance decision or an exclusion decision has been made and information relating to the revocation;
  - (i) information relating to employers or potential employers of persons who have made screening applications;
  - (j) any other information determined in an instrument under subsection (8).
- (6) Paragraphs (5)(a) to (i) do not limit paragraph (5)(j).

*Database may include personal information*

- (7) The information included under paragraphs (5)(a) to (j) may include personal information (within the meaning of the *Privacy Act 1988*).

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*Legislative instrument*

- (8) The Minister may, by legislative instrument, do either or both of the following:
- (a) determine a purpose for the purposes of paragraph (3)(d);
  - (b) determine information for the purposes of paragraph (5)(j).

*Database not a legislative instrument*

- (9) The NDIS worker screening database is not a legislative instrument.

**5 After subsection 201A(1)**

Insert:

- (1A) The Minister may, in writing, delegate to the Commissioner the Minister's power under subsection 181Y(8).

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*[Minister's second reading speech made in—  
Senate on 4 July 2019  
House of Representatives on 19 September 2019]*

(87/19)

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