

**Authorised Version**  
**Disability Regulations 2018**  
**S.R. No. 74/2018**

**TABLE OF PROVISIONS**

<i>Regulation</i>	<i>Page</i>
<b>Part 1—Preliminary</b>	<b>1</b>
1 Objectives	1
2 Authorising provision	2
3 Commencement	2
4 Revocations	2
5 Definitions	3
6 Exempt service provider	3
7 Prescribed service provider	3
8 Public sector bodies	4
<b>Part 2—Financial matters</b>	<b>6</b>
9 Relevant prescribed amount for residential charge	6
10 Management of money of a resident	6
11 Limit on amount held	6
<b>Part 3—Treatment and fees</b>	<b>7</b>
12 Approval to use restrictive interventions	7
13 Approval to use supervised treatment	7
14 Fees for residents in residential institutions	8
<b>Part 4—Community visitors</b>	<b>9</b>
<b>Division 1—Election of community visitors to the Community Visitors Board</b>	<b>9</b>
15 When elections must be held	9
16 Returning officer to be appointed	9
17 Notice of an election	10
18 Information in notice	10
19 Nomination and polling days	10
20 Method of nominating	10
21 Form of nomination paper	11
22 Withdrawal of nomination	11
<b>Division 2—Conduct of election</b>	<b>12</b>
23 Contested election	12
24 Order of names on ballot paper	12

<i>Regulation</i>	<i>Page</i>
25 Distribution of ballot papers	12
26 Candidate's personal statement	13
27 Method of voting	13
28 Manner of lodging vote	14
29 Receipt of reply paid return envelopes	14
30 Invalid votes	15
31 Method of counting votes and declaration of result	15
32 Recounts	15
33 Disputes	15
34 Notification of the election results	16
35 Custody of election papers	16
<b>Division 3—Casual vacancies</b>	<b>16</b>
36 Method for filling casual vacancies	16
<b>Division 4—Record of visits by community visitors</b>	<b>17</b>
37 Prescribed particulars for record of visits	17
<b>Division 5—Transitional provision</b>	<b>18</b>
38 Transitional provision for the Community Visitors Board	18
<b>Part 5—Disclosure, use and transfer of information</b>	<b>19</b>
39 Disclosure of information for the purposes of the National Disability Insurance Scheme	19
40 Use, disclosure and transfer of information for or with respect to the National Disability Insurance Scheme	19
41 Disclosure of information by the Disability Services Commissioner	19
<b>Schedule 1—Record of visits by community visitors</b>	<b>21</b>
=====	
<b>Endnotes</b>	<b>22</b>

## Authorised Version

STATUTORY RULES 2018

S.R. No. 74/2018

*Disability Act 2006*

### Disability Regulations 2018

The Governor in Council makes the following Regulations:

Dated: 13 June 2018

Responsible Minister:

MARTIN FOLEY

Minister for Housing, Disability and Ageing

ANDREW ROBINSON  
Clerk of the Executive Council

## Part 1—Preliminary

### 1 Objectives

The objectives of these Regulations are to prescribe—

- (a) a regulated service provider as an exempt service provider for the purposes of the definition of *exempt service provider* in section 3(1) of the **Disability Act 2006**; and
- (b) a service provider as a prescribed service provider for the purposes of the definition of *prescribed service provider* in section 3(1) of that Act; and
- (c) statutory authorities and statutory corporations as public sector bodies for the purposes of section 38(6) of that Act; and

- (d) monetary limits for residential charges in relation to the provision of certain disability services under that Act; and
- (e) the details required in an application for approval to use restrictive interventions or supervised treatment under that Act; and
- (f) a form to record visits by community visitors under that Act; and
- (g) the procedure for the election of community visitors to the Community Visitors Board under that Act; and
- (h) the persons with whom the Disability Services Commissioner may share information acquired under that Act; and
- (i) the persons or bodies to whom information may be disclosed under section 39(6) of that Act for the purposes of the NDIS; and
- (j) other matters required to be prescribed under that Act.

## **2 Authorising provision**

These Regulations are made under section 221 of the **Disability Act 2006**.

## **3 Commencement**

These Regulations come into operation on 24 June 2018.

## **4 Revocations**

The following Regulations are **revoked**—

- (a) the Disability Regulations 2007<sup>1</sup>;
- (b) the Disability Amendment Regulations 2009<sup>2</sup>;
- (c) the Disability Further Amendment Regulations 2009<sup>3</sup>.

## 5 Definitions

In these Regulations—

***Commonwealth disability support pension*** means a pension paid in accordance with Part 2.3 of the Social Security Act 1991 of the Commonwealth;

***Commonwealth rent assistance*** means an amount paid in accordance with Part 3.7 of the Social Security Act 1991 of the Commonwealth to cover the cost of a person's rent;

***NDIS Quality and Safeguards Commission*** means the National Disability Insurance Scheme Quality and Safeguards Commission established under section 181A of the National Disability Insurance Scheme Act 2013 of the Commonwealth;

***the Act*** means the **Disability Act 2006**.

## 6 Exempt service provider

- (1) For the purposes of paragraph (a) of the definition of ***exempt service provider*** in section 3(1) of the Act, the Department of Education and Training, to the extent that it is a regulated service provider, is prescribed as an exempt service provider.
- (2) This regulation applies from 24 June 2018 until 31 December 2019.

## 7 Prescribed service provider

- (1) For the purposes of paragraph (b)(i) of the definition of ***prescribed service provider*** in section 3(1) of the Act, the Department of Education and Training, to the extent that it provides early childhood intervention services, is prescribed as a prescribed service provider.
- (2) This regulation applies from 24 June 2018 until 31 December 2019.

## 8 Public sector bodies

For the purposes of paragraphs (b) and (c) of the definition of *public sector body* in section 38(6) of the Act, the following statutory authorities and statutory corporations are prescribed to be public sector bodies—

- (a) Adult Multicultural Education Services established under Part 3.3 of the **Education and Training Reform Act 2006**;
- (b) Ambulance Victoria (ABN 50 373 327 705);
- (c) Barwon Region Water Corporation (ABN 86 348 316 514);
- (d) Central Gippsland Region Water Corporation (ABN 75 830 750 413);
- (e) Council of Trustees of the National Gallery of Victoria (ABN 77 884 986 472);
- (f) Country Fire Authority (ABN 39 255 319 010);
- (g) Emergency Services Telecommunications Authority (ABN 42 630 709 818);
- (h) Environment Protection Authority (ABN 85 899 617 894);
- (i) Goulburn-Murray Rural Water Corporation (ABN 46 761 336 846);
- (j) Grampians Wimmera Mallee Water Corporation (ABN 35 584 588 263);
- (k) Library Board of Victoria (ABN 73 190 237 854);
- (l) Melbourne and Olympic Parks Trust (ABN 95 023 915 528);
- (m) Melbourne Convention and Exhibition Trust (ABN 17 434 286 169);

- (n) Melbourne Water Corporation  
(ABN 81 945 386 953);
- (o) Metropolitan Fire and Emergency Services Board (ABN 28 598 558 561);
- (p) Museums Board of Victoria  
(ABN 63 640 679 155);
- (q) Office of Public Prosecutions  
(ABN 32 790 228 959);
- (r) Parks Victoria (ABN 95 337 637 697);
- (s) Roads Corporation (ABN 61 760 960 480);
- (t) State Trustees Limited  
(ABN 68 064 593 148);
- (u) The State Sport Centres Trust established under the **State Sport Centres Act 1994**;
- (v) The Victorian Arts Centre Trust established under the **Victorian Arts Centre Act 1979**;
- (w) Transport Accident Commission  
(ABN 22 033 947 623);
- (x) Victoria Legal Aid (ABN 42 335 622 126);
- (y) Victorian WorkCover Authority  
(ABN 90 296 467 627);
- (z) V/Line Corporation continued under the **Transport Integration Act 2010**;
- (za) Zoological Parks and Gardens Board  
(ABN 96 913 959 053).

## **Part 2—Financial matters**

### **9 Relevant prescribed amount for residential charge**

For the purposes of section 72(3) of the Act, the prescribed amount, in relation to a proposed residential charge, is an amount equal to the sum of 75% of the Commonwealth disability support pension and 100% of the Commonwealth rent assistance received annually by the person to whom the proposed residential charge relates.

### **10 Management of money of a resident**

For the purposes of section 93(1) and (2) of the Act, the prescribed amount is \$500.

### **11 Limit on amount held**

For the purposes of section 95(1) of the Act, the prescribed amount is \$5000.



## **Part 3—Treatment and fees**

### **12 Approval to use restrictive interventions**

For the purposes of section 135(2)(a) of the Act, the prescribed details are—

- (a) the address and contact details for every premises where the disability service provider proposes to use restrictive interventions; and
- (b) if the disability service provider proposes to have more than one Authorised Program Officer, the name and qualifications of each holder of that position at each premises referred to in paragraph (a); and
- (c) the reasons why the disability service provider considers it necessary to use restrictive interventions at each particular premises referred to in paragraph (a); and
- (d) the capacity and ability of the disability service provider to comply with the requirements contained in Part 7 of the Act.

### **13 Approval to use supervised treatment**

For the purposes of section 186(2)(a) of the Act, the prescribed details are—

- (a) the address and contact details for every premises where the disability service provider proposes to use supervised treatment; and
- (b) if the disability service provider proposes to have more than one Authorised Program Officer, the name and qualifications of each holder of that position at each premises referred to in paragraph (a); and

- (c) the reasons why the disability service provider considers it necessary to use supervised treatment at each particular premises referred to in paragraph (a); and
- (d) the capacity and ability of the disability service provider to comply with the requirements contained in Division 5 of Part 8 of the Act.

#### **14 Fees for residents in residential institutions**

For the purposes of section 221(1)(e) of the Act, the charge for the provision of accommodation, care or services in respect of a resident in a residential institution (other than a community residential unit) is an amount that is levied monthly and is calculated as follows—

- (a) the charge is set every 6 months; and
- (b) the charge is equivalent to 57.1% of the sum of the Commonwealth disability support pension and Commonwealth rent assistance received by the resident in respect of each corresponding month.

## **Part 4—Community visitors**

### **Division 1—Election of community visitors to the Community Visitors Board**

#### **15 When elections must be held**

- (1) For the purposes of section 32(2)(b) of the Act, elections must be—
  - (a) held before 30 June in each year; and
  - (b) conducted in accordance with this Division and Division 2.
- (2) The office of one community visitor elected to the Community Visitors Board falls vacant each year.
- (3) A community visitor elected to the Community Visitors Board holds office from 1 July of the year that the community visitor was elected for a period of 2 years unless—
  - (a) the community visitor resigns as a board member before the end of that period; or
  - (b) the office of the community visitor becomes vacant before the end of that period.

#### **16 Returning officer to be appointed**

- (1) The Public Advocate must appoint a returning officer to conduct elections of members to the Community Visitors Board.
- (2) The returning officer has the following functions—
  - (a) to ensure that a list of names and addresses of community visitors is kept and maintained;
  - (b) to fix the dates for nomination day and polling day;

- (c) to determine questions relating to the validity or regularity of votes.

### **17 Notice of an election**

- (1) The returning officer must give notice of an election in accordance with subregulation (2) on or before 1 April in each year.
- (2) Notice of the election must be given by sending a copy of the notice to the postal address of each community visitor on the list of community visitors provided to the returning officer by the Public Advocate.

### **18 Information in notice**

The notice of an election must specify the following—

- (a) the nomination day, being the day on or before which nomination of candidates for election must be lodged;
- (b) the place where nominations must be lodged;
- (c) the polling day.

### **19 Nomination and polling days**

- (1) The nomination day must be on or before 1 May in each year.
- (2) The polling day must be—
  - (a) on or before 1 June in each year; and
  - (b) at least 21 days after the nomination day.

### **20 Method of nominating**

- (1) A community visitor who intends to be a candidate at an election must lodge a nomination paper with the returning officer not later than 12 noon on the nomination day.

- (2) A nomination paper may be lodged—
  - (a) in person; or
  - (b) by sending the paper by post; or
  - (c) by electronically transmitting a copy of the paper.
- (3) The returning officer must give a receipt for a nomination to any candidate—
  - (a) whose nomination paper is lodged no later than 12 noon on the nomination day; and
  - (b) who requests a receipt.

#### **21 Form of nomination paper**

A nomination paper must—

- (a) be in writing; and
- (b) state that the community visitor is nominating as a candidate for election to the Community Visitors Board; and
- (c) contain the full name and address of the candidate; and
- (d) contain the signature of the candidate and the date of the signing of that nomination paper.

#### **22 Withdrawal of nomination**

- (1) A community visitor who has nominated as a candidate for an election may withdraw from the election by giving notice of withdrawal in writing to the returning officer not later than 12 noon on nomination day by a method referred to in regulation 20(2).
- (2) The returning officer must not include on any ballot paper for the election the name of a community visitor who has withdrawn under subregulation (1).

## **Division 2—Conduct of election**

### **23 Contested election**

- (1) If more than one nomination is received, the returning officer must conduct an election.
- (2) The returning officer must prepare ballot papers, postal ballot envelopes, and reply paid return envelopes for the election.
- (3) A ballot paper must contain—
  - (a) the full name of each candidate who has nominated for election to the Community Visitors Board and who has not withdrawn under regulation 22; and
  - (b) written advice regarding the method of voting set out in regulation 27.

### **24 Order of names on ballot paper**

- (1) The returning officer must determine by lot the order in which the names of the candidates are to appear on the ballot paper.
- (2) The order of names of the candidates must be determined in the presence of—
  - (a) at least one other person; and
  - (b) any candidate who wishes to be present or the candidate's representative.

### **25 Distribution of ballot papers**

At least 14 days before the polling day, the returning officer must send to the postal address of each community visitor a postal ballot envelope containing the following—

- (a) voting instructions;
- (b) a ballot paper;
- (c) a ballot paper envelope;

- (d) a reply paid return envelope addressed to the returning officer;
- (e) each candidate's personal statement or advice that the candidate has not lodged a personal statement.

## **26 Candidate's personal statement**

- (1) A candidate may lodge a personal statement with the returning officer for inclusion in the postal ballot envelope.
- (2) A candidate's personal statement must be—
  - (a) no longer than 150 words; and
  - (b) signed by the candidate; and
  - (c) lodged with the returning officer no later than 12 noon on the third day after nomination day.
- (3) A candidate's personal statement may be lodged—
  - (a) in person; or
  - (b) by sending the statement by post; or
  - (c) by electronically transmitting a copy of the statement.
- (4) A candidate must not refer in the candidate's personal statement to another candidate standing for election without the written consent of that other candidate.

## **27 Method of voting**

To record a valid vote, a community visitor must insert the number "1" on the ballot paper opposite the name of the candidate who is the community visitor's choice for the member of the Community Visitors Board.

## **28 Manner of lodging vote**

After marking the ballot paper, the elector must—

- (a) place the ballot paper in the ballot paper envelope and seal the envelope; and
- (b) sign the elector's name on that envelope and include the date of the signing of that envelope; and
- (c) place the ballot paper envelope in the reply paid return envelope and seal that envelope; and
- (d) post or deliver the reply paid return envelope to reach the returning officer before 4 p.m. on polling day.

## **29 Receipt of reply paid return envelopes**

In the presence of a person nominated by the Public Advocate and as soon as practicable after the close of the election, the returning officer must—

- (a) remove the ballot paper envelope from each reply paid return envelope received before 4 p.m. on polling day; and
- (b) record receipt of the ballot paper envelope on the list of community visitors; and
- (c) separate the signed ballot paper envelopes from the unsigned ballot paper envelopes; and
- (d) disallow the unsigned ballot paper envelopes; and
- (e) remove and separate the ballot papers from the signed ballot paper envelopes; and
- (f) count the votes recorded on the ballot papers removed from the signed ballot paper envelopes.



### **30 Invalid votes**

A vote must not be counted if it is marked on a ballot paper that—

- (a) is not enclosed in a ballot paper envelope signed by a community visitor; or
- (b) is received from a person whose name is not on the list of community visitors provided to the returning officer by the Public Advocate; or
- (c) does not have a number "1" placed opposite one of the candidates' names in accordance with regulation 27.

### **31 Method of counting votes and declaration of result**

- (1) The returning officer must declare as elected to the Community Visitors Board the candidate who received the most votes.
- (2) In the event of a tie of votes between candidates, the returning officer must separately place the names of those candidates in a container and arrange for another person to draw out the name of one of those candidates as the elected candidate.

### **32 Recounts**

- (1) The returning officer may recount the votes at any time before the declaration of the election—
  - (a) on the written request of any candidate stating the reasons for the request; or
  - (b) on the returning officer's own motion.
- (2) The returning officer must advise all candidates if a recount is to be conducted.

### **33 Disputes**

The Public Advocate must determine any question arising as to the validity or regularity of any vote.

### **34 Notification of the election results**

- (1) As soon as practicable after declaring the results of the election, the returning officer must notify the results of the election to the Public Advocate and to each candidate.
- (2) The Public Advocate must inform each community visitor in writing of the results of the election within 14 days after the day on which the results of that election are declared.

### **35 Custody of election papers**

The returning officer must ensure the safe custody of all materials used in an election for 30 days from the day on which the results of that election are declared.

## **Division 3—Casual vacancies**

### **36 Method for filling casual vacancies**

- (1) Subject to subregulation (5), if a vacancy arises in the office of an elected member of the Community Visitors Board other than by expiry of the member's office, the Public Advocate must appoint a returning officer to conduct an election for a community visitor to fill the casual vacancy for the remainder of the current office.
- (2) Subject to subregulation (6), the returning officer must comply with the requirements of Divisions 1 and 2 to the extent that they are applicable to the filling of a casual vacancy.
- (3) The returning officer must—
  - (a) record the name of the candidate elected to the Community Visitors Board; and
  - (b) advise the Public Advocate and each of the candidates of the candidate elected to the Community Visitors Board.

- (4) A candidate is elected to the Community Visitors Board if—
- (a) the candidate is a sole nominee; or
  - (b) if more than one nomination is received, the candidate received more votes than any other candidate at the election conducted to fill the vacancy; or
  - (c) in the case of a tie, the candidate's name is drawn in accordance with regulation 31(2).
- (5) If a casual vacancy occurs less than 2 months before the office of an elected member of the Community Visitors Board expires, the Public Advocate is not required to comply with subregulation (1) and the office may remain vacant until a community visitor is elected under Division 2.
- (6) The returning officer is not required to comply with any requirements as to time in Divisions 1 and 2 if—
- (a) a casual vacancy in the office of an elected member of the Community Visitors Board occurs less than 4 months before the office was due to expire; and
  - (b) the returning officer is satisfied that it is necessary to dispense with those requirements in order to conduct the election to fill the casual vacancy as expeditiously as is practicable and appropriate in the circumstances.

## **Division 4—Record of visits by community visitors**

### **37 Prescribed particulars for record of visits**

For the purposes of section 132 of the Act, the prescribed form is the form set out in Schedule 1.

## **Division 5—Transitional provision**

### **38 Transitional provision for the Community Visitors Board**

Despite the revocation of the Disability Regulations 2007 by regulation 4(a), a community visitor holding office as a member of the Community Visitors Board immediately before 24 June 2018 continues as a member of the Board for the period ending 2 years after the community visitor was elected.

## **Part 5—Disclosure, use and transfer of information**

### **39 Disclosure of information for the purposes of the National Disability Insurance Scheme**

For the purposes of section 39(4)(m) of the Act, the NDIS Quality and Safeguards Commission is a prescribed body.

### **40 Use, disclosure and transfer of information for or with respect to the National Disability Insurance Scheme**

For the purposes of section 39(6) of the Act, the following persons or bodies are prescribed—

- (a) the NDIS Quality and Safeguards Commission;
- (b) a disability service provider that has entered into a contract or deed with the State for the provision of disability services that were previously provided by or on behalf of the State; and
- (c) a person or body that has entered into a contract or deed with the State for the provision of early childhood intervention services that were previously provided by or on behalf of the State.

### **41 Disclosure of information by the Disability Services Commissioner**

For the purposes of section 132ZB(m) of the Act, the following persons are prescribed—

- (a) a disability service provider;
- (b) a regulated service provider;
- (c) the Secretary to the Department of Education and Training;

- (d) the Registrar of Births, Deaths and Marriages;
- (e) the Transport Accident Commission;
- (f) the NDIA;
- (g) the NDIS Quality and Safeguards Commission;
- (h) the Commonwealth Ombudsman established under section 4 of the Ombudsman Act 1976 of the Commonwealth.

## **Schedule 1—Record of visits by community visitors**

### **Disability Act 2006**

#### Section 132

#### Disability Regulations 2018

Regulation 37

Reference No.:

Name of disability service provider providing residential services:

Name and address of facility:

Arrival time:

Departure time:

Date:

Names of community visitors: [*print names*]

1. Issues from previous visit/s:

Resolved

Unresolved

If unresolved, give brief details and status:

2. Observations:

3. Issues and matters for attention:

Written response required

Signature of community visitor(s):

Date signed:

Signature of staff member present:

Name:

Date signed:

---

---

## **Endnotes**

<sup>1</sup> Reg. 4(a): S.R. No. 60/2007 as amended by S.R. Nos 26/2009 and 76/2009.

<sup>2</sup> Reg. 4(b): S.R. No. 26/2009.

<sup>3</sup> Reg. 4(c): S.R. No. 76/2009.