EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Disability Reform

National Disability Insurance Scheme Commencement Proclamation 2013

Items 3, 4, 7 and 8 of the table in subsection 2(1) of the National Disability Insurance Scheme Act 2013 (the Act) provide that the following Chapters, Divisions and Parts commence on a day to be fixed by Proclamation:

- Chapters 2 and 3;
- Division 1 of Part 1 of Chapter 4;
- Parts 4, 5 and 6 of Chapter 4; and
- Chapter 5.

However, if the above provisions do not commence within six months of the date the Act receives the Royal Assent, then they commence on the first day after the end of that period. The Act received the Royal Assent on 28 March 2013.

This Proclamation fixes 1 July 2013 as the day on which the above Chapters, Divisions and Parts commence.

Chapter 2 sets out the assistance that the National Disability Insurance Scheme Launch Transition Agency (DisabilityCare Australia) can provide to all people with disability and to other individuals and organisations to enable them to support people with disability. Chapter 3 sets out how people with disability will become participants in the launch of the National Disability Insurance Scheme (DisabilityCare), and the subsequent process for developing personal goal-based plans with DisabilityCare Australia and receiving individualised supports, which could include funded supports.

Part 1 of Division 1 of Chapter 4 sets out the notification requirements for participants and prospective participants in DisabilityCare and enables the Chief Executive Officer of DisabilityCare Australia to require a person to provide information or documents to ensure the integrity of DisabilityCare. A person could, for example, be required to provide information or documents relating to whether an ‘NDIS amount’ paid to a participant or another person has been spent in accordance with the participant’s plan.

Part 4 of Chapter 4 deals with who is, or should be, a child’s representative and whether the child needs a representative. Part 5 of Chapter 4 provides for the appointment of nominees to make decisions on behalf of a participant in DisabilityCare. Part 6 of Chapter 4 provides for review of decisions.

Chapter 5 sets out the circumstances in which a person can be required to take action to claim or obtain compensation and when DisabilityCare Australia can initiate or take over a claim. It also provides for the calculation of a recoverable amount so as to enable the recovery of the costs of supports already funded under DisabilityCare prior to a compensation claim being settled or a judgement.
This Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. Item 42 of the table in subsection 44(2) of that Act provides that Proclamations that provide solely for the commencement of Acts or provisions of Acts are not subject to disallowance.

**Consultation**

There has been extensive consultation with people with disability, their families, carers, stakeholder organisations and state and territory governments on the National Disability Insurance Scheme legislation. The National Disability Insurance Scheme Bill was also examined by the Senate Community Affairs Legislation Committee. The date for Proclamation has taken account of comments in the community and stakeholder consultations and the need for a planned and orderly commencement of the new scheme.

**Regulatory Impact Analysis**

The Proclamation is not regulatory in nature, will not impact on business activity and will have no, or minimal, compliance costs or competition impact.