



## **National Disability Insurance Scheme (Timeframes for Decision Making) Rules 2013**

made under section 204 of the

*National Disability Insurance Scheme Act 2013* (the Act).

### **Compilation No. 3**

**Compilation date:** 20 April 2016

**Includes amendments up to:** *National Disability Insurance Scheme (Timeframes for Decision Making) Amendment Rules 2016*

The Act establishes the National Disability Insurance Scheme (NDIS).

People who are participants in the NDIS will be assisted to develop a personal, goal-based plan about how they will be provided with general supports and reasonable and necessary supports.

The NDIS will respect the interests of people with disability in exercising choice and control about matters that affect them.

*National Disability Insurance Scheme (Timeframes for Decision Making) Rules 2013*

These Rules are made for the purposes of section 204 of the Act.

These Rules are about the timeframes in which the CEO is required to make certain decisions under the Act.

**This compilation was prepared by the Department of Social Services.**

## About this compilation

### This compilation

This is a compilation of the *National Disability Insurance Scheme (Timeframes for Decision Making) Rules 2013* as in force on 20 April 2016. It includes any commenced amendment affecting the legislation to that date.

This compilation was prepared on 20 April 2016.

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of each amended provision.

### Uncommenced amendments

The effect of uncommenced amendments is not reflected in the text of the compiled law but the text of the amendments is included in the endnotes.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Modifications

If a provision of the compiled law is affected by a modification that is in force, details are included in the endnotes.

### Provisions ceasing to have effect

If a provision of the compiled law has expired or otherwise ceased to have effect in accordance with a provision of the law, details are included in the endnotes.

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## Part 1 What these Rules are about

- 1.1 Before the NDIS is implemented nationally, it is being launched in certain areas of Australia.
- 1.2 These Rules deal with the timeframes in which certain decisions must be made regarding whether a person is eligible to become a participant in the NDIS launch.
- 1.3 The Act sets out a number of objects for the NDIS. An object that is particularly relevant to these Rules is that of facilitating the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability.
- 1.4 In giving effect to the objects of the Act, including the object above, regard is to be had to:
  - (a) the progressive implementation of the NDIS; and
  - (b) the need to ensure the financial sustainability of the NDIS; and
  - (c) the broad context of disability reform provided for in:
    - (i) the National Disability Strategy 2010-2020 as endorsed by COAG on 13 February 2011; and
    - (ii) the *Carer Recognition Act 2010*; and
  - (d) the provision of services by other agencies, Departments or organisations and the need for interaction between the provision of mainstream services and the provision of supports under the NDIS.
- 1.5 The Act also sets out a number of principles for the NDIS. The principles that are particularly relevant to these Rules are the following:
  - (a) people with disability and their families and carers should have certainty that people with disability will receive the care and support they need over their lifetime;
  - (b) people with disability have the same right as other members of Australian society to respect for their worth and dignity and to live free from abuse, neglect and exploitation;
  - (c) people with disability have the same right as other members of Australian society to be able to determine their own best interests, including the right to exercise choice and control, and to engage as equal partners in decisions that will affect their lives, to the full extent of their capacity;
  - (d) people with disability should be supported in all their dealings and communications with the Agency so that their capacity to exercise choice and control is maximised in a way that is appropriate to their circumstances and cultural needs;
  - (e) people with disability should have their privacy and dignity respected;

- (f) people with disability should be supported to receive supports outside the NDIS, and be assisted to coordinate these supports with the supports provided under the NDIS.

1.6 The CEO is to perform functions and exercise powers under the Act in accordance with the principles for the NDIS, having regard to:

- (a) the progressive implementation of the NDIS; and
- (b) the need to ensure the financial sustainability of the NDIS.

## Part 2 Outline of these Rules

- 2.1 A person, or someone who is able to act on their behalf, may make a request under the Act to become a participant in the NDIS launch (an **access request**). Once a person becomes a participant, they can develop a personal goal-based plan which may provide for supports for the participant.
- 2.2 A person becomes a participant in the NDIS launch on the day the CEO of the Agency decides they **meet the access criteria**. The access criteria are set out in Part 1 of Chapter 3 of the Act and the *National Disability Insurance Scheme (Becoming a Participant) Rules 2013*.
- 2.3 **Part 3** of these Rules specifies the timeframes in which the CEO must make certain decisions regarding whether a person meets the access criteria.
- 2.4 The timeframes specified in these Rules only apply for a limited period of time. After that time, the ordinary timeframes specified in the Act will apply.
- 2.5 **Part 4** deals with other matters, including interpretation of these Rules.

## Part 3 Timeframes for making decisions

- 3.1 This Part operates in relation to an access request:
- (a) that is made by a prospective participant who is residing in an NDIS area; and
  - (b) that is made within 12 months after the first day on which a person who resides in that NDIS area would have met the additional residence requirements prescribed for paragraph 23(1)(c) of the Act.
- 3.2 It is expected that:
- (a) where the access request was made by a person whose need for assistance is urgent, the CEO will take an action under paragraph 3.3 within 21 days after receiving the request; and
  - (b) in other circumstances, the CEO will endeavour to take such an action within 21 days after receiving the request, and this will normally be achieved.
- 3.3 The CEO must do one of the following **within 42 days** after receiving the request:
- (a) decide whether or not the person meets the access criteria; or
  - (b) make one or more requests under subsection 26(1) of the Act—that the person provide information, or undergo an assessment or examination and provide a report of the person who conducts the assessment or examination.
- Paragraph 3.3 is made for the purposes of subsection 204(1) of the Act. If an access request is made more than 12 months after the relevant day mentioned in paragraph 3.1, the timeframe of 21 days specified in section 20 of the Act will apply.*
- 3.4 It is expected that:
- (a) where the access request was made by a person whose need for assistance is urgent, the CEO will take an action under paragraph 3.5 within 14 days after receiving the information and reports; and
  - (b) in other circumstances the CEO will endeavour to take such an action within 14 days after receiving the information and reports, and this will normally be achieved.
- 3.5 If the CEO makes one or more requests under subsection 26(1) of the Act and any requested information and requested reports are received by the CEO within 28 days after the CEO's request or such longer period as is specified in the CEO's request, the CEO must do one of the following **within 28 days** after the last information or report is received:
- (a) decide whether or not the person meets the access criteria; or

- (b) make a further request under subsection 26(1) of the Act.

*Paragraph 3.5 is made for the purposes of subsection 204(1) of the Act. If an access request is made more than 12 months after the relevant day mentioned in paragraph 3.1, the timeframe of 14 days specified in subsection 26(2) of the Act will apply.*



## Part 4 Other matters

### **Citation**

- 4.1 These Rules may be cited as the *National Disability Insurance Scheme (Timeframes for Decision Making) Rules 2013*.

### **Interpretation**

- 4.2 Terms and expressions that are used in the Act have the same meaning in these Rules unless these Rules display a contrary intention—see the *Acts Interpretation Act 1901* and the *Legislative Instruments Act 2003*, which include definitions and rules of interpretation that apply to all Commonwealth legislation. For convenience, the more important definitions from the Act are identified or reproduced in paragraph 4.3.

- 4.3 **NDIS areas** has the meaning given in the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*.

**Act** means the *National Disability Insurance Scheme Act 2013*.

**Agency**—see section 9 of the Act.

**CEO**—see section 9 of the Act.

**NDIS** means the National Disability Insurance Scheme (see section 9 of the Act).

**NDIS rules** means the National Disability Insurance Scheme rules (see section 9 of the Act).

**participant**—see section 9 of the Act.

## Notes

### **Note to the National Disability Insurance Scheme (Timeframes for Decision Making) Rules 2013**

The *National Disability Insurance Scheme (Timeframes for Decision Making) Rules 2013* in force under section 204 of the *National Disability Insurance Scheme Act 2013* as shown in this compilation are amended as indicated in the Tables below.

### **Table of Instruments**

<b>Title</b>	<b>Registration number</b>	<b>Date of registration</b>	<b>Date of commencement</b>	<b>Application, saving or transitional provisions</b>
<i>National Disability Insurance Scheme (Timeframes for Decision Making) Rules 2013</i>	F2013L01067	19 June 2013	1 July 2013	
<i>National Disability Insurance Scheme (Timeframes for Decision Making) Amendment Rules 2014</i>	F2014L00901	30 June 2014	1 July 2014	
<i>National Disability Insurance Scheme (Timeframes for Decision Making) Amendment Rules 2015</i>	F2015L01240	10 August 2015	11 August 2015	
<i>National Disability Insurance Scheme (Timeframes for Decision Making) Amendment Rules 2016</i>	F2016L00545	19 April 2016	20 April 2016	

## Table of Amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

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<b>Provision affected</b>	<b>How affected</b>
Paragraph 3.1	rs; F2015L01240; rs; F2016L00545
Subparagraph 3.1(b)	am; F2014L00901
Paragraph 4.3	am; F2014L00901; rs; F2015L01240; rs; F2016L00545

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