



National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—Australian Capital Territory) Rules 2014

National Disability Insurance Scheme Act 2013 (the Act)

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 (Facilitating the Preparation of Participants' Plans—Australian Capital Territory) Rules 2014

These Rules are made for the purposes of sections 32 and 32A (other than subsection 32A(4)) of the Act.

These Rules are about the circumstances in which the facilitation of the preparation of participants' plans will commence in the Australian Capital Territory.

These Rules commence on 1 July 2014.

Senator the Hon Mitch Fifield
Assistant Minister for Social Services

Dated: 30 June 2014

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Part 1 What these Rules are about

- 1.1 Each participant in the NDIS will have a plan, prepared by and with the participant and approved by the CEO of the Agency. Among other things, a participant's plan sets out the supports that will be funded for the participant.
- 1.2 To enable an orderly implementation of the NDIS, participants in the Australian Capital Territory will be phased into the NDIS. There are two steps involved in accessing supports under the NDIS. The first is to become a participant: the prospective participant makes an access request and the CEO decides that they meet the access criteria. The second is for the participant to have a plan approved by the CEO of the Agency. These Rules relate to the second step, and the order in which the CEO will commence the facilitation of the preparation of plans for different classes of participants.
- 1.3 In the Australian Capital Territory, the CEO will commence the facilitation of preparation of plans in an order that depends on age and participation in school or group home accommodation.
- 1.4 These Rules explain how participants in the Australian Capital Territory will be phased into the NDIS. The Rules set out the process for working out when the CEO must commence facilitating the preparation of the plan of a participant in the Australian Capital Territory. The phasing process is based on an agreement that has been reached between the Government of the Commonwealth and the Government of the Australian Capital Territory (the Intergovernmental Agreement for the National Disability Insurance Scheme (NDIS) Launch, Schedule E – Bilateral Agreement for NDIS Launch between the Commonwealth and Australian Capital Territory) and is intended to give effect to that agreement.
- 1.5 The Act sets out a number of objects and principles for the NDIS, to which these Rules give effect. In giving effect to the objects, regard is to be had to the progressive implementation of the NDIS and the need to ensure the financial sustainability of the NDIS.

Part 2 Preparation of plans for residents of the Australian Capital Territory

- 2.1 Once a person becomes a participant, the CEO can commence facilitating the preparation of a plan for the person. The process for commencing the facilitation of the preparation of plans for participants in the Australian Capital Territory is detailed below.
- 2.2 The table in paragraph 2.6 sets out classes of participants in the Australian Capital Territory and sets out the circumstances in which the CEO is to commence the facilitation of the preparation of those participants' plans. The CEO will deal with each class sequentially; facilitation for a class will be commenced once the CEO has decided that the Agency has the capacity to do so, in light of the number of participants in previous classes whose plans have been dealt with, and the number yet to be dealt with.
- 2.3 The CEO cannot make a decision to commence facilitating the preparation of plans for a class before the date specified in the table for that class. Otherwise, the sequence of classes is not inflexible. The CEO need not be satisfied that all participants in a particular class have had their plans facilitated before moving on to the next class; the Agency might have the capacity to commence the facilitation of plans in Class 2 before having fully completed that task for Class 1. Further, the classes do not close at any point in time. For example, a person in Class 1 who becomes a participant after the Agency has started to facilitate plans for Class 2 participants can still have their plan facilitated while participants in Class 2 are having their plans facilitated.
- 2.4 If a participant who is a resident of the Australian Capital Territory does not fall within one of the classes in the table, the CEO is to commence facilitating the preparation of the participant's plan as soon as reasonably practicable having regard to the CEO's obligations to commence facilitating the preparation of other participants' plans. Such participants are not part of the phasing sequence set out in the table; their plans will be facilitated as soon as reasonably practicable after they become participants. This ensures equity of access to the NDIS for such participants who are not described in the table.

Paragraph 2.4 summarises the effect of subsection 32(3) of the Act.

- 2.5 In urgent circumstances, the CEO can commence the facilitation of the preparation of a participant's plan at a particular time, despite the sequence set out in the table in paragraph 2.6. If the CEO does so, the CEO is able to delay the commencement of the facilitation of other participants' plans, so far as is reasonably necessary, even if that delay would be contrary to that sequence.

Paragraph 2.5 summarises the effect of subsection 32A(3) of the Act.

2.6 The classes of participants, and the circumstances in which the CEO is to commence the facilitation of the preparation of plans for participants in those classes, are as follows:

Class	Participants in the class (who must be residents of the Australian Capital Territory)	Circumstances in which the CEO is to commence the facilitation of the preparation of the participants' plans
Class 1	<ul style="list-style-type: none"> (a) Persons born between 1 July 1949 and 30 June 1950; (b) Persons born on or after 1 July 2012; (c) Persons who completed school between 1 January 2008 and 31 December 2013 and received a Post School Options package funded by the Australian Capital Territory; and (d) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born on or after 1 July 1992. 	As soon as practicable after the participants become participants
Class 2	<ul style="list-style-type: none"> (a) Persons born between 1 July 1950 and 30 June 1951; (b) Persons born between 1 July 2010 and 30 June 2012; (c) Children who have not commenced school, if the CEO does not expect them to commence school in 2015 or 2016; (d) Persons whom the CEO expects to complete secondary school in 2014; and (e) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born between 23 August 1989 and 30 June 1992. 	The CEO decides (on or after 1 October 2014) that the Agency has the capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Class 1 whose plans have been dealt with and the number yet to be dealt with

Class	Participants in the class (who must be residents of the Australian Capital Territory)	Circumstances in which the CEO is to commence the facilitation of the preparation of the participants' plans
Class 3	<ul style="list-style-type: none"> (a) Persons born between 1 July 1951 and 30 June 1954; (b) Persons enrolled in any of school years 7 to 12 in 2015; and (c) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born between 24 October 1983 and 22 August 1989. 	The CEO decides (on or after 1 January 2015) that the Agency has the capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1 and 2 whose plans have been dealt with and the number yet to be dealt with
Class 4	<ul style="list-style-type: none"> (a) Persons born between 1 July 1954 and 30 June 1955; (b) Children enrolled in kindergarten, or any of school years 1 to 6, in 2015; and (c) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born between 29 October 1981 and 23 October 1983. 	The CEO decides (on or after 1 April 2015) that the Agency has the capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2 and 3 whose plans have been dealt with and the number yet to be dealt with
Class 5	<ul style="list-style-type: none"> (a) Persons born between 1 July 1955 and 30 June 1958; and (b) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born between 3 November 1978 and 28 October 1981. 	The CEO decides (on or after 1 July 2015) that the Agency has the capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3 and 4 whose plans have been dealt with and the number yet to be dealt with

Class	Participants in the class (who must be residents of the Australian Capital Territory)	Circumstances in which the CEO is to commence the facilitation of the preparation of the participants' plans
Class 6	<p>(a) Persons born between 1 July 1958 and 30 June 1965;</p> <p>(b) Children aged under 15 years who are not participants in Class 1, 2, 3, 4 or 5; and</p> <p>(c) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born between 19 May 1974 and 2 November 1978.</p>	The CEO decides (on or after 1 October 2015) that the Agency has the capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4 and 5 whose plans have been dealt with and the number yet to be dealt with
Class 7	<p>(a) Persons born between 1 July 1965 and 30 June 1974; and</p> <p>(b) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born between 24 February 1974 and 18 May 1974.</p>	The CEO decides (on or after 1 January 2016) that the Agency has the capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4, 5 and 6 whose plans have been dealt with and the number yet to be dealt with
Class 8	<p>(a) Persons born between 1 July 1974 and 30 June 1987; and</p> <p>(b) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born between 14 June 1967 and 23 February 1974.</p>	The CEO decides (on or after 1 April 2016) that the Agency has the capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4, 5, 6 and 7 whose plans have been dealt with and the number yet to be dealt with
Class 9	<p>(a) Persons born on or after 1 July 1987; and</p> <p>(b) Residents of a Group Home where the youngest resident of the Group Home on 1 July 2014 was born between 18 August 1956 and 13 June 1967.</p>	The CEO decides (on or after 1 July 2016) that the Agency has the capacity to commence the facilitation of the preparation of the participants' plans, in light of the number of participants in Classes 1, 2, 3, 4, 5, 6, 7 and 8 whose plans have been dealt with and the number yet to be dealt with

- 2.7 To avoid doubt, a person may be in more than one class. In practice, this means that they will be treated as being in the first of those classes. For example, a participant who is a member of Class 1 and Class 2 will be phased in as a member of Class 1.
- 2.8 The exception to the rule in paragraph 2.7 is that residents of a Group Home can only be in Class 1(d), 2(e), 3(c), 4(c), 5(b), 6(c), 7(b), 8(b) or 9(b).
- 2.9 The following additional rules apply for participants in the Australian Capital Territory:
- (a) If the CEO commences facilitation of the preparation of a plan for a resident of a Group Home, the CEO must also commence the facilitation of the preparation of plans for all other participants residing at that Group Home.
 - (b) If the CEO commences facilitation of the preparation of a plan for a person residing in a household where other people residing in that household are also participants, the CEO must also, despite paragraph 2.6, commence the facilitation of the preparation of plans for all other participants in that household. For example, the CEO must do so even if the other participants are in a class in paragraph 2.6 that has not yet commenced.

Consultation

- 2.10 If the CEO is considering making a decision referred to in the third column of the table in paragraph 2.6 after the date mentioned in that column, the CEO must, as early as possible:
- (a) seek the views of the Government of the Australian Capital Territory and of the Commonwealth Department that administers the Act about the proposed decision (including their views about the effect that making the decision would have on arrangements agreed between the Commonwealth and the Australian Capital Territory for the funding of the NDIS); and
 - (b) use his or her best endeavours to reach an agreement with those entities about the proposed decision.

Part 3 Other matters

Citation

- 3.1 These Rules may be cited as the *National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—Australian Capital Territory) Rules 2014*.

Interpretation

- 3.2 These Rules include text that summarises provisions of the Act. The boxed notes identify such text, which does not form an operative part of these Rules.
- 3.3 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 3.4.
- 3.4 In these Rules:

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

Agency—see section 9 of the Act.

CEO—see section 9 of the Act.

child—see section 9 of the Act.

Group Home means residential accommodation, where one or more occupants receive a total of more than 110 hours of support per week funded by the Australian Capital Territory.

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

participant—see section 9 of the Act.