



National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—Victoria) Rules 2016

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—Victoria) Rules 2016

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 State of Victoria.

These Rules revoke the *National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—Victoria) Rules 2013*.

These Rules commence the day after this instrument is registered.

The Hon. Christian Porter MP
Minister for Social Services

Dated: 5 May 2016

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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 transition, participants 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 whether 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 groups, or "classes", of participants.
- 1.3 These Rules explain how participants in Victoria 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 Victoria.
- 1.4 The phasing schedule is intended to give effect to agreements that have been reached between the Government of the Commonwealth and the Government of Victoria.
- 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 Victoria

- 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 Victoria is detailed below.
- 2.2 The table in paragraph 2.6 sets out eleven classes of Victoria participants 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 an NDIS area in Victoria 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, including where there is an unmet need for the participant.

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 the preparation 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 eleven 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	Circumstances in which the CEO is to commence the facilitation of the preparation of the participants' plans
Class 1	Participants who the CEO determines: <ul style="list-style-type: none"> a) to have the most urgent need for supports and who are on the Victorian Disability Support Register administered under the Disability Act (Vic) 2006, or b) are on the Early Childhood Intervention Services waitlist. 	Between 1 July 2016 and 30 June 2018.
Class 2	Participants who reside in the North Eastern Melbourne and Barwon districts of Victoria, as those areas are defined in Schedule A to this Instrument.	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.
Class 3	Participants who reside in the Central Highlands district of Victoria, as that area is defined in Schedule A to this Instrument.	The CEO decides (on or after 1 January 2017) 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 the above classes whose plans have been dealt with and the number yet to be dealt with.
Class 4	Participants who reside in the Loddon district of Victoria, as that area is defined in Schedule A to this Instrument.	The CEO decides (on or after 1 May 2017) 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 the above classes whose plans have been dealt with and the number yet to be dealt with.

Class	Participants in the class	Circumstances in which the CEO is to commence the facilitation of the preparation of the participants' plans
Class 5	Participants who reside in the Inner Gippsland, Ovens Murray and Western District districts of Victoria, as those areas are defined in Schedule A to this Instrument.	The CEO decides (on or after 1 October 2017) 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 the above classes whose plans have been dealt with and the number yet to be dealt with.
Class 6	Participants who reside in the Inner Eastern Melbourne and Outer Eastern Melbourne districts of Victoria, as those areas are defined in Schedule A to this Instrument.	The CEO decides (on or after 1 November 2017) 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 the above classes whose plans have been dealt with and the number yet to be dealt with.
Class 7	Participants who reside in the Hume Moreland district of Victoria, as that area is defined in Schedule A to this Instrument.	The CEO decides (on or after 1 March 2018) 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 the above classes whose plans have been dealt with and the number yet to be dealt with.
Class 8	Participants who reside in the Bayside Peninsula district of Victoria, as that area is defined in Schedule A to this Instrument.	The CEO decides (on or after 1 April 2018) 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 the above classes whose plans have been dealt with and the number yet to be dealt with.

Class	Participants in the class	Circumstances in which the CEO is to commence the facilitation of the preparation of the participants' plans
Class 9	Participants who reside in the Southern Melbourne district of Victoria, as that area is defined in Schedule A to this Instrument.	The CEO decides (on or after 1 September 2018) 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 the above classes whose plans have been dealt with and the number yet to be dealt with.
Class 10	Participants who reside in the Brimbank Melton and Western Melbourne districts of Victoria, as those areas are defined in Schedule A to this Instrument.	The CEO decides (on or after 1 October 2018) 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 the above classes whose plans have been dealt with and the number yet to be dealt with.
Class 11	Participants who reside in the Goulburn, Mallee and Outer Gippsland districts of Victoria, as those areas are defined in Schedule A to this Instrument.	The CEO decides (on or after 1 January 2019) 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 the above classes 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.

Subclasses

2.8 Classes 2 to 11 are further divided into three subclasses as set out below.

Subclass	Participants in the class	Circumstances in which the CEO is to commence the facilitation of the preparation of the participants' plans
Subclass A	<p>Participants who are receiving disability services funded or administered by Victoria on the date the CEO commences facilitating the preparation of plans for the relevant class of participants, and who:</p> <ul style="list-style-type: none"> a) receive supported accommodation services under the <i>Disability Act 2006</i> (Vic); b) receive individual Support Packages under the <i>Disability Act 2006</i> (Victoria) with the exception of those who both receive an Individual Support Package and are also on the Disability Support Register with non-priority status; or c) are residents of residential institutions funded or administered under the Disability Act 2006 (Vic) by Victoria. 	<p>Within 12 months from the date the CEO commences facilitating the preparation of plans for the relevant class of participants in accordance with paragraph 2.7.</p>
Subclass B	<p>Remaining eligible participants receiving services funded or administered by Victoria on the date the CEO commences facilitating the preparation of plans for the relevant class of participants, and who:</p> <ul style="list-style-type: none"> a) are currently accessing Early Childhood Intervention Services, School Attendant Care and Disability Student Transport; or b) have accessed other disability services in the previous 12 months; or c) have accessed Mental Health Community Support or Home and Community Care (HACC) services in the previous 12 months; <p>This also includes participants receiving an Individual Support Package under the <i>Disability Act 2006</i> (Vic) and who are also on the Disability Support Register with non-priority status.</p>	<p>Within 12 months from the date the CEO commences facilitating the preparation of plans for the relevant class of participants in accordance with paragraph 2.7.</p>

Subclass	Participants in the class	Circumstances in which the CEO is to commence the facilitation of the preparation of the participants' plans
Subclass C	All other persons within the main class.	The CEO decides 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 Subclasses A and B whose plans have been dealt with and the number yet to be dealt with.

2.9 For each subclass, the CEO is to commence facilitating the preparation of plans for participants in the subclass when the CEO decides that it is appropriate to do so, having regard to the progress of the preparation of plans for participants in the relevant main class.

2.10 In making a decision under paragraph 2.9, or considering whether to make such a decision, the CEO must have regard to the following principles:

- (a) that the commencement of the facilitation of the preparation of plans for persons on the Victorian Disability Support Register or the Early Childhood Intervention Service waitlist, who have not yet had plans approved, should be prioritised;
- (b) that the commencement of the facilitation of the preparation of plans for persons who have individual funding arrangements for disability services with the State of Victoria should be prioritised;
- (c) that the facilitation of the preparation of plans for supported accommodation residents should be done in a way that:
 - (i) takes into account the intensive planning and support required for that facilitation; and
 - (ii) enables, where practicable, participants who reside in the same home or facility to have their plans facilitated contemporaneously;
- (c) that where practicable, participants receiving services from the same provider should have their plans facilitated contemporaneously;
- (d) that the Agency should retain the capacity to facilitate the preparation of plans of participants who do not receive Commonwealth disability services or Victoria disability services.

2.11 Paragraph 2.10 does not limit the matters that the CEO may take into account in making a decision.

Consultation

2.12 In making a decision under paragraph 2.9, or considering whether to make such a decision, the CEO must also, where practicable, seek the views of the Government of Victoria and have regard to those views (if any).

Part 3 Other matters

Citation

- 3.1 These Rules may be cited as the *National Disability Insurance Scheme (Facilitating the Preparation of Participants' Plans—Victoria) Rules 2016*.

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.

NDIS area has the same meaning as in the *National Disability Insurance Scheme (Becoming a Participant) Rules 2016*.

participant—see section 9 of the Act.

Schedule A

District	Districts are comprised of the following municipal districts of Victoria as at 1 January 2016
Barwon	Colac-Otway Shire City of Greater Geelong Surf Coast Shire Borough of Queenscliffe
North Eastern Melbourne	City of Banyule City of Darebin Nillumbik Shire City of Whittlesea City of Yarra
Central Highlands	Rural City of Ararat City of Ballarat Golden Plains Shire Hepburn Shire Moorabool Shire Pyrenees Shire
Loddon	Campaspe Shire Central Goldfields Shire City of Greater Bendigo Loddon Shire Macedon Ranges Shire Mount Alexander Shire
Inner Gippsland	Bass Coast Shire Baw Baw Shire City of Latrobe South Gippsland Shire
Ovens Murray	Alpine Shire Rural City of Benalla Indigo Shire Mansfield Shire Towong Shire Rural City of Wangaratta City of Wodonga
Western District	Corangamite Shire Glenelg Shire Hindmarsh Shire Rural City of Horsham Moyne Shire Northern Grampians Shire Southern Grampians Shire City of Warrnambool West Wimmera Shire Yarriambiack Shire
Inner Eastern Melbourne	City of Boroondara City of Manningham City of Monash City of Whitehorse

District	Districts are comprised of the following municipal districts of Victoria as at 1 January 2016
Outer Eastern Melbourne	City of Knox City of Maroondah Yarra Ranges Shire
Hume Moreland	City of Hume City of Moreland
Bayside Peninsula	City of Bayside City of Frankston City of Glen Eira City of Kingston Mornington Peninsula Shire City of Port Phillip City of Stonnington
Southern Melbourne	Cardinia Shire City of Casey City of Greater Dandenong
Brimbank Melton	City of Brimbank City of Melton
Western Melbourne	City of Hobsons Bay City of Maribyrnong City of Melbourne City of Moonee Valley City of Wyndham
Goulburn	City of Greater Shepparton Mitchell Shire Moirā Shire Murrindindi Shire Strathbogie Shire
Mallee	Buloke Shire Gannawarra Shire Rural City of Mildura Rural City of Swan Hill
Outer Gippsland	East Gippsland Shire Wellington Shire