



National Disability Insurance Scheme (Approved Quality Auditors Scheme) Amendment (Residential Aged Care Provider Audits) Guidelines 2023

I, Sian Leathem, Acting Commissioner of the NDIS Quality and Safeguards Commission, make the following amendment guidelines.

Dated 4 April 2023

Sian Leathem
Acting Commissioner of the NDIS Quality and Safeguards Commission

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1 Name

This instrument is the *National Disability Insurance Scheme (Approved Quality Auditors Scheme) Amendment (Residential Aged Care Provider Audits) Guidelines 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 181D(2) of the *National Disability Insurance Scheme Act 2013*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

National Disability Insurance Scheme (Approved Quality Auditors Scheme) Guidelines 2018

1 Section 4

Insert:

Modified NDIS RAC audit – see section 5A.

Modified NDIS RAC audit pathway– see section 5A.

Residential aged care – see section 5A.

Residential aged care provider (or RAC provider) - see section 5A.

Residential aged care service – see section 5A.

2 After section 5

Insert:

5A Definitions for audits of residential aged care providers

In this instrument:

Modified NDIS RAC audit means an audit approved by the Commissioner to enable an approved quality auditor to give effect to an authorisation given to the approved quality auditor under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* in respect of an eligible RAC provider.

Note 1: For *eligible RAC provider*, see section 5B.

Note 2: The Commissioner’s approved modified NDIS RAC audit in relation to an eligible RAC provider is set out in the document “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” as existing from time to time and published on the Commission website.

Note 3: In a modified NDIS RAC audit, the approved quality auditor uses information and evidence obtained from compliance obligations of a RAC provider arising under the *Aged Care Quality and Safety Commission Act 2018* and related legislation.

Modified NDIS RAC audit pathway means the Commissioner’s approved audit pathway and processes which are to be followed when a RAC provider applies to the Commissioner for registration or renewal of registration as a registered NDIS provider.

Note 1: The modified NDIS RAC audit pathway incorporates audit processes set out in this instrument in the manner the Commissioner has considered appropriate to give effect to an authorisation issued under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

Note 2: The Commissioner’s approved modified NDIS RAC audit pathway is set out in the “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.

Note 3: The approved modified NDIS RAC audit pathway is subject to any condition placed on the registration of the RAC provider by the Commissioner or direction given to the

approved quality auditor as a result of an authorisation under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* in relation to a specific RAC provider.

Residential aged care provider (or RAC provider) means an approved provider, as defined in the *Aged Care Quality and Safety Commission Act 2018*, of a residential aged care service to one or more participant(s).

Residential aged care service or Residential aged care has the same meaning as *residential care service* as defined in Schedule 1 to the *Aged Care Act 1997*.

5B Eligible RAC provider

- (1) A RAC provider is an **eligible RAC provider** if they are:
 - (a) a transitioned RAC provider within the meaning of subsection 12(4) of the *National Disability Insurance Scheme (Quality and Safeguards Commission and Other Measures) Transitional Rules 2018*; or
 - (b) a person or entity:
 - (i) that is an approved provider (within the meaning of the *Aged Care Quality and Safety Commission Act 2018*); and
 - (ii) is providing residential care on a permanent basis to a participant; and
 - (iii) the participant is approved as a recipient of residential care under Part 2.3 of the *Aged Care Act 1997*; and
 - (iv) is a NDIS provider providing assistance with daily life tasks in a group or shared living arrangement under participants' plans.

Note: Assistance with daily life tasks in a group or shared living arrangement is the class of support referred to in item 15 of the table in subsection 20(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

5C Authorisation for a modified NDIS RAC audit

- (1) The Commissioner has determined that the existing aged care audit process against the Aged Care Standards undertaken under the *Aged Care Quality and Safety Commission Act 2018* is a comparable quality audit process for the purpose of subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.
- (2) An approved quality auditor may request information from an eligible RAC provider, in accordance with the modified NDIS RAC audit pathway, for the purposes of assessing whether to make an application to the Commissioner for an authorisation under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.
- (3) The Commissioner will determine whether an eligible RAC provider may be audited by an approved quality auditor using a modified NDIS RAC audit as follows:
 - (a) on the Commissioner's own motion in conjunction with issuing an authorisation under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*; or
 - (b) following receipt by the Commission of an application by an approved quality auditor in accordance with the modified NDIS RAC audit pathway.

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- (4) The Commissioner will make the determination referred to in (3) on a case by case basis.

Note 1: The Commissioner’s approved modified NDIS RAC audit pathway is set out in the “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.

Note 2: For clarity, a person or entity that is an approved provider under the *Aged Care Quality and Safety Commission Act 2018* and who seeks registration under Part 3A of the NDIS Act as a registered NDIS provider but who is not determined under this section to be audited using a modified NDIS RAC audit is to be audited by an approved quality auditor using the applicable audit process set out in Part 2 of this instrument.

3 Section 8

At the end of section 8, insert:

Note: If the NDIS provider seeking audit services from an approved quality auditor is a RAC provider, the approved quality auditor must have regard to the matters set out in the Commissioner’s approved “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.

4 Section 10

After subsection 10(5) (including the Note), insert:

- (6) Where the Commissioner has issued authorisation under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* in relation to a particular eligible RAC provider, the approved quality auditor is to undertake a modified NDIS RAC audit as set out in the modified NDIS RAC audit pathway.

5 Section 11

At the end of section 11, insert:

Note: When undertaking a modified NDIS RAC audit following the issuing by the Commissioner of an authorisation under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, in determining the audit team the approved quality auditor must have regard to the audit team requirements set out in the Commissioner’s approved “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.

6 Section 14

At the end of section 14, insert:

Note: For eligible RAC providers for whom the Commissioner has issued an authorisation under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, the approved quality auditor is to undertake a modified NDIS RAC audit having regards to the matters applicable to a stage one audit set out in the Commissioner’s approved “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.

7 Section 15

After subsection 15(1), insert:

Note: For eligible RAC providers for whom the Commissioner has issued an authorisation under subsection 5(3) of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, the approved quality auditor is to undertake a modified NDIS RAC audit having regards to the matters applicable to a

stage two audit set out in the Commissioner’s approved “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.

After subsection 15(6), insert:

Note: For eligible RAC providers for whom the Commissioner has issued an authorisation under subsection 5(3) of the of the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*, the approved quality auditor is to undertake a modified NDIS RAC audit having regards to the matters dealing with sampling set out in the Commissioner’s approved “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.

8 Section 16

At the end of section 16, insert:

Note: On completing a modified NDIS RAC audit the approved quality auditor is to complete an audit report and submit it to the Commission having regards to the matters dealing with audit reports set out in the Commissioner’s approved “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.

9 Annex B

After the title “Annex B – Audit methodology and sampling (normative)”, insert:

Note: During a modified NDIS RAC audit, sampling is to be undertaken in accordance with this annex and having regard to the matters dealing with sampling set out in the Commissioner’s approved “Modified NDIS audit pathway for residential aged care providers supporting NDIS participants” document as existing from time to time and published on the Commission website.