



National Disability Insurance Scheme Amendment (Strengthening Banning Orders) Act 2020

No. 103, 2020

***An Act to amend the *National Disability Insurance
Scheme Act 2013*, and for related purposes***

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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No. 103, 2020

An Act to amend the *National Disability Insurance Scheme Act 2013*, and for related purposes

[Assented to 20 November 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *National Disability Insurance Scheme Amendment
(Strengthening Banning Orders) Act 2020*.

No. 103, 2020

*National Disability Insurance Scheme Amendment (Strengthening
Banning Orders) Act 2020*

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2 Commencement

- (1) Each provision of this Act 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 Act	The day after this Act receives the Royal Assent.	21 November 2020

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

National Disability Insurance Scheme Act 2013

1 Paragraph 55A(2)(e)

Omit “a person employed or otherwise engaged by an NDIS provider”, substitute “other person”.

1A Subsection 73ZN(1)

After “by an NDIS provider”, insert “, or by a person who was an NDIS provider,”.

1B Subparagraph 73ZN(1)(b)(iv)

Before “there is”, insert “in the case of an NDIS provider—”.

2 Subsection 73ZN(2)

After “person who is”, insert “or was”.

3 After subsection 73ZN(2)

Insert:

Banning orders—persons not suitable to be involved in provision of supports or services to people with disability

- (2A) The Commissioner may, by written notice, make an order (a ***banning order***) prohibiting or restricting a person from being involved in the provision of specified supports or specified services to people with disability if:
- (a) the Commissioner reasonably believes that the person is not suitable to be so involved; and
 - (b) the person has not previously been an NDIS provider; and
 - (c) the person has not previously been employed or otherwise engaged by an NDIS provider.

4 After subsection 73ZN(5)

Insert:

- (5A) If a banning order under subsection (2) is made against a person who is employed or otherwise engaged by an NDIS provider, the continuity of the order is not affected by the employment or engagement ceasing.

4A After subsection 73ZS(2)

Insert:

Banning orders

- (2A) The NDIS Provider Register must include each of the following in relation to a person against whom a banning order is in force:
- (a) the name of the person;
 - (b) the person's ABN (if any);
 - (c) information about the banning order;
 - (d) any other matter prescribed by the National Disability Insurance Scheme rules for the purposes of this paragraph.
- (2B) The NDIS Provider Register may include each of the following in relation to a person against whom a banning order was in force:
- (a) the name of the person;
 - (b) the person's ABN (if any);
 - (c) information about the banning order;
 - (d) any other matter prescribed by the National Disability Insurance Scheme rules for the purposes of this paragraph.

4B Paragraphs 73ZS(3)(i), (4)(e) and (5)(d)

Repeal the paragraphs.

5 Paragraph 201A(1)(p)

Omit "73ZS(3)(l), (4)(h) and (5)(f)", substitute "73ZS(2A)(d), (2B)(d), (3)(l), (4)(h) and (5)(f)".

6 Subsection 209(8) (cell at table item 4, column headed "Description", paragraph (r))

Omit "73ZS(3)(l), (4)(h) and (5)(f)", substitute "73ZS(2A)(d), (2B)(d), (3)(l), (4)(h) and (5)(f)".

7 Application provision—information

The amendment of section 55A of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to a banning order made before, on or after the commencement of this item.

8 Application provisions—banning orders

- (1A) The amendment made by item 1A applies in relation to a person who ceased to be an NDIS provider before, on or after the commencement of this item, whether conduct to which paragraph 73ZN(1)(a), (b), (c) or (d) of the *National Disability Insurance Scheme Act 2013* relates occurred before, on or after that commencement.
- (1) The amendment of subsection 73ZN(2) of the *National Disability Insurance Scheme Act 2013* made by this Schedule applies in relation to a person who ceased to be employed or engaged by an NDIS provider before, on or after the commencement of this item, whether conduct to which paragraph 73ZN(2)(a), (b) or (c) of that Act relates occurred before, on or after that commencement.
- (2) Subsection 73ZN(5A) of the *National Disability Insurance Scheme Act 2013*, as inserted by this Schedule, applies in relation to the following:
- (a) a banning order made on or after the commencement of this item;
 - (b) a banning order made before the commencement of this item, where the person against whom the order is made ceases to be employed or otherwise engaged by the NDIS provider on or after that commencement.
- (3) Subsection 73ZS(2A) of the *National Disability Insurance Scheme Act 2013*, as inserted by this Schedule, applies in relation to the following:
- (a) a banning order made on or after the commencement of this item;
 - (b) a banning order made before that commencement and that was in force immediately before that commencement.
- (4) Subsection 73ZS(2B) of the *National Disability Insurance Scheme Act 2013*, as inserted by this Schedule, applies in relation to a banning order that was in force before, on or after the commencement of this item.

