



National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Rule 2018

made under the

National Disability Insurance Scheme Act 2013

Compilation No. 1

Compilation date: 23 June 2020

Includes amendments up to: F2020L00770

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Rule 2018* that shows the text of the law as amended and in force on 23 June 2020 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

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

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1 - Preliminary

1 Name

This instrument is the *National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Rule 2018*.

3 Authority

This instrument is made under the *National Disability Insurance Scheme Act 2013*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 9 of the Act, including the following:

- (a) Commissioner;
- (b) participant;
- (c) registered NDIS provider.

In this instrument:

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

applicant means a person or entity who has made an application for registration under section 73C of the Act.

enrolled, in relation to a dwelling, means a dwelling enrolled to provide SDA under the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020*.

SDA means specialist disability accommodation.

specialist disability accommodation has the same meaning as in the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020*.

specialist disability accommodation provider means a registered NDIS provider whose registration includes the provision of specialist disability accommodation supports.

supported independent living means assistance with and/or supervising tasks of daily life to develop the skills of individuals to live as autonomously as possible.

Part 2 – Conditions of registration

Division 1 – Introduction

5 Purpose of this Part

- (1) This Part is made for the purpose of section 73H of the Act.
- (2) It sets out the conditions that apply to specialist disability accommodation providers.

Note 1: A registered NDIS provider may be liable to a civil penalty if the provider breaches a condition to which the provider's registration is subject (see section 73J of the Act).

Note 2: The conditions in this Part are in addition to those set out in the Act (see subsection 73F(2) of the Act), those imposed by the Commissioner under subsection 73G(1) of the Act and those imposed under the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

Note 3: The Commissioner may vary the registration of a specialist disability accommodation provider to extend, modify or reduce the supports or services the provider is registered to provide under section 73L of the Act.

Division 2 – Conditions of registration

6 Delivery of SDA only in enrolled dwellings

The registration of a specialist disability accommodation provider is subject to the following conditions:

- (a) the provider does not provide SDA in a dwelling, unless that dwelling is enrolled;
- (b) the provider does not apply to enrol a dwelling unless the dwelling meets the requirements set out in subsection 25(4) of the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2020*;
- (c) the provider ensures that all of the provider's enrolled dwellings continue to meet those requirements.

8 Compliance with Laws

The registration of a specialist disability accommodation provider is subject to the following conditions:

- (a) the specialist disability accommodation provider must ensure that each SDA dwelling provided, and the management of it, complies at all times with:
 - (i) the landlord, tenancy, building, and health and safety laws of the State or Territory and local government area in which the SDA dwelling is located; and
 - (ii) applicable building standards; and
 - (iii) any other applicable laws or standards of the Commonwealth, State or Territory and local government area in which the SDA dwelling is located; and
- (b) the specialist disability accommodation provider must ensure that any persons employed or otherwise engaged by the provider comply at all times with:
 - (i) the landlord, tenancy, building, and health and safety laws of the State or Territory and local government area in which the SDA dwelling is located; and
 - (ii) applicable building standards and codes; and
 - (iii) any other applicable laws or standards of the Commonwealth, State or Territory and local government area in which the SDA dwelling is located.

9 Service agreements

- (1) Subject to subsection (3), the registration of a specialist disability accommodation provider is subject to a condition that the specialist disability accommodation provider must not provide SDA for a participant unless either:

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- (a) a written service agreement has been entered into between the specialist disability accommodation provider and the participant in relation to the provision of the SDA; or
 - (b) the specialist disability accommodation provider:
 - (i) has worked with the participant to establish a written service agreement in relation to the provision of SDA;
 - (ii) has provided a copy of the proposed agreement to the participant; and
 - (iii) provides SDA to the participant in accordance with the terms of the proposed agreement.
- (2) The service agreement must include terms that set out the rights and responsibilities for the specialist disability accommodation provider and the participant.
 - (3) This section does not apply, if the specialist disability accommodation provider is also the participant, receiving SDA from himself or herself.

10 Access for providers of other supports

- (1) The section applies where a specialist disability accommodation provider, provides this support to a participant that also requires supports from other NDIS providers.
- (2) The registration of a specialist disability accommodation provider is subject to the following conditions:
 - (a) where possible, that provider must have documented arrangements with each participant, and each participant's other NDIS providers who deliver supported independent living in an SDA dwelling; and
 - (b) that the specialist disability accommodation provider ensures that access to an SDA dwelling is provided to providers of other supports to participants residing in each SDA dwelling that they provide.
- (3) If documented arrangements are put in place pursuant to paragraph (2)(a), the arrangements must:
 - (a) establish parameters that facilitate a collaborative working arrangement between the participant and all of the participants' NDIS providers to ensure smooth delivery of services; and
 - (b) set out the rights and responsibilities of the specialist disability accommodation provider, the participant's other NDIS providers and the participant.

11 Number of residents

The registration of a specialist disability accommodation provider is subject to the following conditions:

- (a) a specialist disability accommodation provider must ensure that no more residents are housed in an SDA dwelling than the number for which the dwelling is enrolled; and

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- (b) in the case of dwellings that are enrolled to house more than five long-term residents on the basis that the provider is a participant providing SDA to themselves, the specialist disability accommodation provider must not house any resident in the dwelling other than the participant's spouse or de facto partner and children.

Part 3—Application and transitional provisions

Division 1—Application and transitional provisions relating to the National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Amendment Rules 2020

12 Amendments made by the *National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Amendment Rules 2020*

The amendments made by Schedule 1 to the *National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Amendment Rules 2020* apply in relation to the registration of a specialist disability accommodation provider whether the registration occurred before, on or after the commencement of this section.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Rule 2018	18 May 2018 (F2018L00627)	1 July 2018 (s 2(1) item 1)	
National Disability Insurance Scheme (Specialist Disability Accommodation Conditions) Amendment Rules 2020	22 June 2020 (F2020L00770)	23 June 2020 (s 2(1) item 1(b))	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2	rep LA s 48D
s 4	am F2020L00770
Part 2	
Division 1	
s 5	rep F2020L00770
Division 2	
s 6	rs F2020L00770
Part 3	
Part 3	rs F2020L00770
Division 1	
s 12	rs F2020L00770
s 13	rep F2020L00770
s 14	rep F2020L00770
s 15	rep F2020L00770
s 16	rep F2020L00770
s 17	rep F2020L00770
s 18	rep F2020L00770
s 19	rep F2020L00770
s 20	rep F2020L00770
Part 4	rep F2020L00770
s 21	rep F2020L00770
s 22	rep F2020L00770
s 23	rep F2020L00770
s 24	rep F2020L00770
s 25	rep F2020L00770
Part 5	rep F2020L00770
s 26	rep F2020L00770
s 27	rep F2020L00770