

EXPLANATORY STATEMENT

Issued by the authority of the Commissioner of the NDIS Quality and Safeguards Commission

National Disability Insurance Scheme Act 2013

National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018

Purpose

The *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018* (instrument) are made pursuant to sections 73B, 73E, 73H, 73N, 73P, 73Q, 73T, 73ZS and 209 of the *National Disability Insurance Scheme Act 2013* (the Act).

Together with the NDIS Code of Conduct, this instrument will enable people with disability participating in the National Disability Insurance Scheme (NDIS) to be aware of the applicable standards expected of registered NDIS providers.

Section 209 of the Act provides that the Minister may, by legislative instrument, prescribe matters required or permitted by this Act to be prescribed or which are necessary or convenient to be prescribed in order to carry out or give effect to this Act.

Subsection 73B(1) of the Act provides that the NDIS rules may require that specified classes of supports provided under participants' plans are to be provided only by NDIS providers who are registered under section 73E to provide those classes of supports.

Subsection 73E(1)(d) of the Act provides that the Commissioner may register a person as a registered NDIS provider if:

- (a) the Commissioner is satisfied that the applicant is suitable to provide supports or services to people with disability, having regard to any matters prescribed by the NDIS rules for the purposes of this paragraph
- (b) the Commissioner is satisfied that the applicant's key personnel (if any) are suitable to be involved in the provision of supports or services for which the applicant will be registered to provide, having regard to any matters prescribed by the NDIS rules for the purposes of this paragraph
- (c) the applicant satisfies any other requirements prescribed by the NDIS rules for the purposes of this paragraph.

Section 73H of the Act provides that the NDIS rules may determine that each registration, or each registration included in a specified class of registration, is taken to include one or more specified conditions.

Subsection 73N(1) of the Act provides that the Commissioner may, in writing, suspend the registration of a person as a registered NDIS provider for a specified period if:

- (a) the Commissioner is satisfied that the person is no longer suitable to provide the supports or services to people with disability, having regard to any matters prescribed by the National Disability Scheme rules for the purpose of this paragraph
- (b) the Commissioner is no longer satisfied that the key personnel of the person (if any) are suitable to be involved in the provision of supports or services to people with disability, having regard to any matters prescribed by the NDIS rules for the purpose of this paragraph
- (c) a circumstance exists that is a circumstance prescribed by NDIS rules for the purposes of this paragraph.

Subsection 73P(1) of the Act provides that the Commissioner may, in writing, revoke the registration of a person as a registered NDIS provider if:

- (a) the Commissioner is satisfied that the person is no longer suitable to provide supports or services to people with disability, having regard to any matters prescribed by the NDIS rules for the purposes of this paragraph
- (b) the Commissioner is no longer satisfied that the key personnel of the person (if any) are suitable to be involved in the provision of supports or services for which the person is registered to provide, having regard to any matters prescribed by the NDIS rules for the purposes of this paragraph
- (c) a circumstance exists that is a circumstance prescribed by NDIS rules for the purposes of this paragraph.

Section 73Q of the Act provides that a registered NDIS provider must keep records of the kind, for the period and in the form prescribed by the NDIS rules.

Subsection 73T(1) of the Act provides that the NDIS rules may make provision for or in relation to standards concerning the quality of supports or services to be provided by registered NDIS providers. Rules made for this purpose are to be known as the NDIS Practice Standards

Subsection 73ZS(7) of the Act provides that the NDIS rules may make provision for and in relation to the following:

- (a) the correction of entries in the NDIS Provider Register

- (d) the publication of the NDIS Provider Register in whole or part, or of specified information entered on the NDIS Provider Register
- (e) any other matter relating to the administration or operation of the NDIS Provider Register.

Background

The functions of the Commissioner of the NDIS Quality and Safeguards Commission include functions relating to the quality and safety of services and supports in the NDIS to people with disability and registering and overseeing the operations of NDIS providers. Under the new arrangements, the Commissioner will manage the quality assurance and registration of NDIS providers under a nationally rigorous framework including NDIS Practice Standards and the NDIS Code of Conduct.

This instrument deals with the following matters:

- The classes of supports for which an NDIS provider is required to be registered;
- Some of the conditions that NDIS providers must comply with to become and remain registered NDIS providers;
- Suitability requirements for a person or entity to become registered as a registered NDIS provider, including the suitability of the key personnel of an applicant for registration;
- How the NDIS Provider Register will be published and how corrections to the Register may be made; and
- the NDIS Practice Standards that apply to registered NDIS providers.

Requirement to be registered

This instrument specifies certain classes of supports provided to participants in participating jurisdictions under participants' plans, which can only be provided by registered NDIS providers. This is an important safeguard to ensure that for certain high risk supports, such as specialist disability accommodation and developing or implementing behaviour support plans which may include the use of a restrictive practice, a provider must meet the quality and standards required to deliver those supports.

Where registration is mandated, the registration arrangements provide for a rigorous framework for assessing the quality and safety of supports, prior to a provider entering the NDIS market. The requirement to be registered to deliver certain classes of supports is an important safeguard, specifically when providers are providing higher risk supports, as it enables the Commissioner to have extensive oversight of the provider and the supports and services that are being provided.

The current arrangements for registration by the National Disability Insurance Agency (Agency) contained in Part 3 of Chapter 4 of the Act and the NDIS rules for registered providers of supports will continue to operate and appear in the Act over the transition period until each jurisdiction has become a participating jurisdiction.

Condition to notify of material changes

Registered NDIS providers are subject to conditions of registration. For example, providers must notify the Commissioner of a change of circumstances that materially affects the provider's ability, or the ability of any of the provider's key personnel, to provide the supports or services the provider is registered to provide.

Becoming registered – suitability

In most cases, providers must demonstrate compliance through an independent quality assurance or quality evaluation process. The Commissioner is obliged to determine suitability of applicants (and their key personnel). In determining whether the applicant is suitable to provide supports or services to people with disability, the Commissioner must have regard to relevant matters such as:

- previous registration as an NDIS provider or as a registered provider of supports,
- any banning orders in relation to the applicant, whether the applicant has been convicted of any indictable offences, if the applicant has been insolvent or under administration,
- whether the applicant has been the subject of adverse findings or enforcement action,
- whether the applicant has been the subject of any findings or judgment in relation to fraud, misrepresentation or dishonesty in any administrative, civil or criminal proceedings, or is currently party to any proceedings that may result in the applicant being the subject of such findings or judgment,
- whether the applicant has ever been disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*,
- any other matter the Commissioner considers relevant.

NDIS Provider Register

The NDIS Quality and Safeguards Commissioner must establish an NDIS provider Register, under Section 73ZS of the Act. The NDIS Provider Register will provide information to participants and their families in relation to the classes of support a provider is registered for. In addition, information about compliance with the NDIS Practice Standards, or other compliance and enforcement information, will be available to inform participants as active consumers in the NDIS market.

NDIS Practice Standards

Registration requirements will include a risk-based proportionate assessment of an application to deliver categories of supports and services against the NDIS Practice Standards.

All NDIS providers applying to become registered will be required to participate in a verification or certification audit process.

All registered NDIS providers and applicants for registration as a registered NDIS provider, that are delivering (or propose to deliver) higher-risk, more complex supports will be required to gain third party quality assurance certification against the

relevant practice standards. These requirements are set out in the NDIS Practice Standards with core practice standards and specific practice standards. The verification audit method will apply for lower-risk, less-complex supports and services.

The NDIS Practice Standard under Schedule 2 is intended to apply where providers are supporting participants with the types of supports as described and these are specified in the participant's plan. These supports are delivered by support workers, rather than the health practitioner support, noting that health practitioner support may be part of a participant's interaction with mainstream health systems.

Schedule 2 is intended to apply to providers only where they deliver or intend to deliver against the specific sections in Schedule 2: Module 1 High intensity daily personal activities. For example, providers delivering or intending to deliver only under Section 6. Urinary Catheter Management will only be assessed against this section.

Section 4 of the Acts Interpretation Act 1901 (AI Act), concerns the exercise of power between the passing and commencement of an Act. It applies if, at a time (the start time), an Act will confer a power to make an appointment or to make an instrument of legislative or administrative character, and either (a) the Act will commence at the start time, or (b) the Act will be amended by another Act that commences at the start time: subsection 4(1). Subsection 4(2) of the AI Act permits, in limited circumstances, the power to be exercised before the commencement of the Act. These circumstances include, bringing the appointment or instrument into effect, bringing the Act concerned into operation, making the Act concerned or the other Act as amended fully effective at or after the start time of the Act concerned. Subsection 4(3), of the AI Act authorises anything to be done before the start time for the purpose of enabling the exercise of the power, or of bringing the appointment or instrument into effect, as if the relevant commencement had occurred. Paragraph 13(1)(a) of the Legislation Act 2013 provides that the AI Act applies to any instrument so made as if it were an Act and as if each provision of the instrument were a section of an Act. The instrument of appointment of the Commissioner of the NDIS Quality and Safeguards Commission and the Minister's delegation instrument operate subject to section 4 of the AI Act.

Commencement

This instrument commences on 1 July 2018 (immediately after the instrument of appointment of the Commissioner of the NDIS Quality and Safeguards Commission and the delegation instrument to the Commissioner commence).

Consultation

Subsection 209(8) of the Act prescribes the NDIS rules to be 'category D' rules. Subsection 209(7) requires the Minister to consult with each host jurisdiction in relation to the making of all category D rules.

In compliance with this requirement, the Commonwealth has undertaken extensive consultation with all States and Territories in relation to the design and content of the instrument. This consultation was ongoing throughout the development and drafting

process and included numerous opportunities to provide written feedback and submissions, as well as direct face to face consultations.

Extensive consultation was also undertaken with the National Disability Insurance Agency.

The Commonwealth has also undertaken a targeted consultation process with a range of peak bodies representing people with disability and carers, providers of services for people with disability and workers providing supports or services to people with disability. The peak bodies were provided with an opportunity to review an advanced draft of the instrument and provide submissions to the Department. The feedback was considered and where appropriate incorporated into the rules and/or associated guidance.

Regulation Impact Statement (RIS)

A RIS is not required for this instrument (OBPR ID 16842).

Explanation of the provisions

Preamble

The preamble provides some context to the instrument by outlining the purpose of the National Disability Insurance Scheme (NDIS) and how the instrument is intended to fit into that context and purpose. The Preamble sets out the overall policy objectives underlying the instrument. The content of the preamble is based in part on the NDIS Quality and Safeguarding Framework, available on the Department of Social Services website at <https://www.dss.gov.au/disability-and-carers/programs-services/for-people-with-disability/ndis-quality-and-safeguarding-framework>.

The preamble also restates the relevant function and power of the NDIS Quality and Safeguards Commission (Commission) has in relation to NDIS provider registration and the NDIS Practice Standards.

Part 1 – Preliminary

Section 1 – Name

Section 1 provides that the instrument is titled the *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*.

Section 2 – Commencement

Section 2 provides that the instrument commences on 1 July 2018.

Section 3 – Authority

Section 3 provides that this instrument is made under the *National Disability Insurance Scheme Act 2013*.

Section 4 – Definitions

Section 4 provides the definitions for terms used in the instrument.

A legislative note provides a signpost definition for:

- “approved quality auditor”;
- “key personnel”;
- “NDIS Practice Standards”;
- “registered NDIS provider”;
- “registered provider of supports”; and
- “restrictive practice”.

Section 4 also provides that in the instrument, a reference to the following terms, have the following meanings:

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

applicable standards means the NDIS Practice Standards that apply to a specified class of supports under Part 6.

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

certification has the meaning given by section 5.

National Disability Insurance Scheme (Quality Indicators) Guidelines has the meaning given by subsection 24(2).

regulated restrictive practice means a restrictive practice that is or involves any of the following:

- (a) seclusion, which is the solitary confinement of a person with disability in a room or a physical space at any hour of the day or night where voluntary exit is prevented, or not facilitated, or it is implied that voluntary exit is not permitted;
- (b) chemical restraint, which is the use of a chemical substance for the primary purpose of influencing a person's behaviour but does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment of, a diagnosed mental disorder, a physical illness or a physical condition;
- (c) mechanical restraint, which is the use of a device to prevent, restrict, or subdue a person's movement for the primary purpose of influencing a person's behaviour but does not include the use of devices for therapeutic or non-behavioural purposes;
- (d) physical restraint, which is the use of physical force to prevent, restrict or subdue movement of a person's body, or part of the person's body, for the primary purpose of influencing the person's behaviour but does not include the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm or injury, consistent with what could reasonably be considered the exercise of care towards a person;
- (e) environmental restraints, which restrict a person's free access to all parts of the person's environment, including items and activities.

verification means an assessment by an approved quality auditor of an applicant, or of a registered NDIS provider, against an applicable standard by conducting a desk audit of the applicant or provider, including reviewing the applicant's or provider's relevant documentation, in relation to the standard.

worker means a person employed or otherwise engaged by a registered NDIS provider.

Section 5 – meaning of *certification*

Section 5 provides the meaning of the term *certification* a term used in this instrument.

Subsection (1) provides that **certification** is an assessment by an approved quality auditor of an applicant, or of a registered NDIS provider, against an applicable standard by conducting:

- (a) a desk audit of the applicant or provider, including reviewing the applicant's or provider's relevant documentation, in relation to the standard; and

- (b) an inspection of the sites, facilities, equipment and services used, or proposed to be used, in the delivery of supports or services by the applicant or provider in relation to the standard; and
- (c) interviews with relevant persons, including key personnel of the applicant or provider and persons receiving, or to receive, supports or services from the applicant or provider in relation to the standard.

Subsection (2) provides that the assessment may be conducted by sampling that is appropriate for the size of the provider or applicant and for the classes of supports or services provided or to be provided.

Subsection (3) provides that despite subsection (1), the Commissioner may, in writing, authorise an approved quality auditor to assess an applicant or a registered NDIS provider against an applicable standard by conducting a review of the outcomes and evidence from a comparable quality audit process undertaken in relation to the applicant or provider, if the Commissioner considers it is appropriate to do so.

Subsection (4) provides that if the Commissioner gives an authorisation under subsection (3), the applicant or provider is taken, for the purposes of this instrument, to be assessed using certification.

Part 2 – When an NDIS Provider must be registered

Section 6 – Purpose of this Part

Section 6 provides that Part 2 of the instrument is made for the purposes of section 73B(1) of the Act. Part 2 of the instrument sets out the classes of supports for which an NDIS provider must be registered to provide. NDIS providers of certain classes of supports under participant's plans must be registered under section 73 of the Act to provide those classes of supports.

Legislative note 1 provides a cross reference to subsection 73B(2) of the Act, which provides if an NDIS provider provides a class of support set out in this Part but is not registered to provide that class of support, the provider may be liable to a civil penalty.

Legislative note 2 provides a cross reference to subsection 33(6) of the Act, which provides that a person must be registered under section 73E of the Act to provide supports to a participant in a participating jurisdiction and that participants funding for supports is managed by the Agency. This registration requirement is in addition to the circumstance of registration provided in this Part.

Section 7 – Classes of supports for which NDIS providers must be registered

Section 7 sets out the classes of supports for which NDIS providers must be registered. Classes of supports for which NDIS providers must be registered for include:

- specialist disability accommodation

- where during the provision of supports, there is, or is likely to be, an interim or ongoing need to use a regulated restrictive practice in relation to the participant (noting this could occur in combination with any registration class);
- specialist behaviour support services to a participant, if as a part of this service the person will:
 - undertake a behaviour support assessment (including a functional behavioural assessment) of the participant; or
 - develop a behaviour support plan for the participant.

Subsection (4) provides an exemption to the requirement for NDIS providers to be registered, under subsections (1), (2) and (3) of this instrument. This exemption applies to a person that is an approved provider for the purposes of the *Aged Care Act 1997* and provided the relevant participant receiving supports from that approved provider is also approved as a recipient of residential care under Part 2.3 of the *Aged Care Act*. Approved providers are subject to quality and safeguards regulation under the *Aged Care Act 1997*. This is a transitional arrangement, which expires on 30 June 2020.

Part 3 – Becoming a registered NDIS provider

Section 8 – Purpose of this Part

Section 8 provides for the purpose of this Part of the instrument. Part 3 of the instrument sets out the requirements that an applicant must meet in order to be registered as a registered NDIS provider.

The legislative note in this section provides clarification that the requirements in this Part are in addition to the requirements set out in section 73E of the Act.

Section 9 – Suitability of applicant

Section 9 sets out the matters the Commissioner must have regard to when determining the suitability of an applicant to become a registered NDIS provider.

Subsection (1) provides that this section is made for the purposes of paragraph 73E(1)(d) of the Act. Paragraph 73E(1)(d) of the Act provides that the Commissioner may register a person as a registered NDIS provider if he or she is satisfied that the applicant is suitable to provide supports or services to people with disability, having regard to matters prescribed by NDIS rules.

Subsection (2) sets out the matters the Commissioner must have regard to when determining whether the Commissioner is satisfied that the applicant is suitable to provide supports or services to people with disability. The matters the Commissioner must have regard to when assessing the suitability of the applicant include:

Paragraph (2)(a) provides that the Commissioner must have regard to whether the applicant has previously been registered as a registered NDIS provider. This will allow the Commissioner to take into account an applicant's previous behaviour and performance as an NDIS provider.

Paragraph (2)(b) provides that the Commissioner must have regard to whether a banning order has ever been in force in relation to the applicant. This refers only to banning orders made under section 73ZN of the Act.

Paragraph (2)(c) provides that the Commissioner must have regard to whether the applicant has been convicted of an indictable offence against a law of the Commonwealth or of a State or Territory.

Paragraph (2)(d) provides that the Commissioner must have regard to whether the applicant is or has been an insolvent under administration.

Paragraph (2)(e) provides that the Commissioner must have regard to whether the applicant has been the subject of adverse findings or enforcement action by a Department of, or an authority or other body established for a public purpose by, the Commonwealth, a State or a Territory, including one with responsibilities relating to the quality or regulation of services provided to people with disability, older people or children.

Paragraph (2)(f) provides that the Commissioner must have regard to whether the applicant has been the subject of adverse findings or enforcement action by any of the following:

- the Australian Securities and Investment Commission;
- the Australian Charities and Not-for-profits Commission;
- the Australian Competition and Consumer Commission;
- the Australian Prudential Regulation Authority;
- the Australian Crime Commission;
- AUSTRAC;
- a body of a State or Territory that is equivalent to a body mentioned in the above subparagraphs (i) to (vi);
- a work health and safety authority of a State or Territory.

Paragraph (2)(g) provides that the Commissioner must have regard to whether the applicant has been the subject of any findings or judgment in relation to fraud, misrepresentation or dishonesty in any administrative, civil or criminal proceedings, or is currently party to any proceedings that may result in the applicant being the subject of such findings or judgment.

Paragraph (2)(h) provides that the Commissioner must have regard to whether the applicant has ever been disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*.

Paragraph (2)(i) provides that the Commissioner must have regard to whether any other matters the Commissioner considers relevant. For example, the Commissioner may consider the outcome of a worker screening check or any limitations on practice or findings made by the Australian Health Practitioner Regulation Agency or other professional association.

Requiring the Commissioner to have regard to these matters supports the objective of ensuring that only entities that are likely to provide safe and quality supports and services should be able to become registered NDIS providers. It is important the

Commissioner has regard to matters that may indicate that a provider is susceptible to having financial or governance problems. If a provider were to cease operation suddenly as a result of such difficulties, it may leave numerous people with disability without adequate supports or services.

Subsection (3) provides that paragraph (2)(c) does not affect the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them). This subsection does not alter or affect the operation of Part VIIC of the Crimes Act, including any exceptions prescribed in regulations made under the Crimes Act. For example, if the Crimes Act includes an exception to the provisions that prevent disclosure of spent, quashed and pardoned conviction for persons who work or seek to work with people with disability in the NDIS, then subsection (3) does not affect the ordinary operation of such an exception.

Section 10 – Suitability of key personnel

Section 10 sets out the matters the Commissioner must have regard to when determining the suitability of an applicant's key personnel in relation to the suitability of that applicant to become a registered NDIS provider.

Subsection (1) provides that this section is made for the purposes of paragraph 73E(1)(e) of the Act. Paragraph 73E(1)(e) of the Act provides that, the Commissioner may register a person as a registered NDIS provider if he or she is satisfied that the applicant's key personnel (if any) are suitable to be involved in the provision of supports or services for which the applicant will be registered to provide, having regard to the matters prescribed by the NDIS rules.

Subsection (2) sets out the matters the Commissioner must have regard to when determining whether the Commissioner is satisfied that the applicant's key personnel are suitable to be involved in the provision of supports or services for which the applicant will be registered to provide. The matters the Commissioner must have regard to when assessing the suitability of the applicant include:

Paragraph (2)(a) provides that the Commissioner must have regard to whether a banning order has been in force in relation to the member. This refers only to banning orders made under section 73ZN of the Act.

Paragraph (2)(b) provides that the Commissioner must have regard to whether the member has been convicted of an indictable offence against a law of the Commonwealth or of a State or Territory.

Paragraph (2)(c) provides that the Commissioner must have regard to whether the member is or has been an insolvent under administration.

Paragraph (2)(d) provides that the Commissioner must have regard to whether the member is or has been the subject of adverse findings or enforcement action by a Department or, or an authority or other body established for a public purpose by, the Commonwealth, a State or a Territory, including one with responsibilities relating to

the quality or regulation of services provided to people with disability, older people and children.

Paragraph (2)(e) provides that the Commissioner must have regard to whether the member has been the subject of adverse findings or enforcement action following an investigation by any of the following:

- the Australian Securities and Investment Commission;
- the Australian Charities and Not-for-profits Commission;
- the Australian Competition and Consumer Commission;
- the Australian Prudential Regulation Authority;
- the Australian Crime Commission;
- AUSTRAC;
- a body of a State or Territory that is equivalent to a body mentioned in any of subparagraphs (i) to (vi);
- a work health and safety authority of a State or Territory

Paragraph (2)(f) provides that the Commissioner must have regard to whether the member has been the subject of any findings or judgment in relation to fraud, misrepresentation or dishonesty in any administrative, civil or criminal proceedings, or is currently party to any proceedings that may result in the member being the subject of such findings or judgment.

Paragraph (2)(g) provides that the Commissioner must have regard to whether the member has ever been disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*.

Paragraph (2)(h) provides that the Commissioner must have regard to any other matter the Commissioner considers relevant. For example, the Commissioner may consider the outcome of a worker screening check or any limitations on practice or findings made by the Australian Health Practitioner Regulation Agency or other professional association.

Requiring the Commissioner to have regard to these matters supports the objective of ensuring that entities are run by key personnel that are likely to ensure that the entity provides safe and quality supports and services. It is important the Commissioner has regard to matters that may indicate that a provider is susceptible to having financial or governance problems due to the history of its key personnel. If a provider were to cease operation suddenly as a result of such difficulties, it may leave numerous people with disability without adequate supports or services.

Subsection (3) provides that paragraph (2)(b) does not affect the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them). This subsection does not alter or affect the operation of Part VIIC of the Crimes Act, including any exceptions prescribed in regulations made under the Crimes Act. For example, if the Crimes Act includes an exception to the provisions that prevent disclosure of spent, quashed and pardoned conviction for persons who work or seek to work with people with disability in the NDIS, then subsection (3) does not affect the ordinary operation of such an exception.

Section 11 – Applicant must have an ABN

Section 11 sets out the requirement for an applicant to have an ABN.

Subparagraph (1) provides that this section is made for the purposes of paragraph 73E(1)(f) of the Act. Paragraph 73E(1)(f) of the Act provides that the Commissioner may register a person as a registered NDIS provider if they satisfy requirements prescribed by the NDIS rules.

Subparagraph (2) provides that the applicant must have an ABN (within the meaning of the *A New Tax System (Australian Business Number) Act 1999*). This is to align with best practice payment arrangements of the Agency.

Part 4 – Responsibilities of registered NDIS providers

Section 12 – Purpose of this Part

Section 12 provides that Part 4 is made for the purposes of section 73H of the Act. Part 4 of the instrument sets out the conditions to which each registration, or each registration included in a specified class of registration, is subject.

Legislative note 1 provides a cross reference to section 73J of the Act, which provides that a registered NDIS provider may be liable to civil penalty if the provider breaches a condition to which the provider's registration is subject. A registered NDIS provider may also be open to other compliance and enforcement action under Division 8 of Part 3A of the Act.

Legislative note 2 clarifies that the conditions in this Part are in addition to those set out in the Act under subsection 73F(2) of the Act and those imposed by the Commissioner under subsection 73G(1) of the Act.

Section 13 – Notifying material changes to the Commissioner

Section 13 sets out the requirement on the registration of each registered NDIS provider to notify the Commission of material changes.

Subsection (1) provides that the registration of each registered NDIS provider is subject to the condition that the provider must notify the Commissioner of a change of circumstances that materially affects the provider's ability, or the ability of any of the provider's key personnel, to provide the supports or services the provider is registered to provide.

Subsection (2) provides that the change as set out in subsection (1) must be notified to the Commissioner:

- in the form approved by the Commissioner; and
- within 28 days after the change occurs.

Subsection (3) provides that without limiting subsection (1), the following are taken to be changes of circumstances that would materially affect a provider's ability, or the ability of any of the provider's key personnel, to provide the supports or services the provider is registered to provide:

- the occurrence of an event that significantly affects the provider’s ability to comply with the provider’s conditions of registration;
- a change that adversely affects access to supports and services by persons with disability currently receiving those supports or services from the provider;
- an adverse change in the provider’s financial capacity to provide the supports and services the provider is registered to provide;
- a significant change in the organisation or governance arrangements of the provider.

This requirement to notify is to ensure that the Commissioner is given an opportunity to consider if he/she remains satisfied that the provider and the provider’s key personnel are suitable to be registered NDIS providers. A material change of circumstances may indicate that there is a risk that participants may be harmed by adverse changes and so the Commissioner should be made aware of such changes.

Part 5 – Register of NDIS providers

Division 1 – Introduction

Section 14 – Purpose of this Part

Section 14 provides that Part 5 of the instrument is made for the purposes of subsection 73ZS(7) of the Act. Part 5 of the instrument makes provision for and in relation to the correction and publication of the NDIS Provider Register.

Division 2 – Correction of entries

Section 15 – Corrections on the Commissioner’s initiative

Section 15 sets out the ability for the Commissioner to make corrections in the NDIS Provider Register.

Subsection (1) sets out this section applies if:

- the Commissioner becomes aware of a matter; and
- based on the matter, the Commissioner considers that an entry in the NDIS Provider Register in relation to an NDIS provider or former NDIS provider requires a correction.

Subsection (2) provides that the Commissioner must give a written notice to the provider:

- (a) setting out the details of the matter and the proposed correction; and
- (b) inviting the provider to give written comments on the matter and the proposed correction within the specified in the notice.

Subsection (3) provides that the period specified for the purposes of paragraph (2)(b) must not end earlier than 28 days after the day on which the notice is given.

Subsection (4) provides that as soon as practicable after the earlier of:

- (a) when the Commissioner receives comments from the provider; or
 - (b) the end of the period specified for the purposes of paragraph (2)(b);
- the Commissioner must:

- (c) make the proposed correction; or
- (d) make a different correction requested by the provider; or
- (e) decide not to make a correction.

Subsection (5) provides that the Commissioner must give the provider written notice of a correction or decision made under subsection (4).

Section 16 – Requests for corrections

Section 16 sets out the ability for a NDIS provider or former NDIS provider to request a correction be made to the NDIS Provider Register.

Subsection (1) sets out that an NDIS provider or former NDIS provider may request that the Commissioner make a correction to the NDIS Provider Register in relation to the provider.

Subsection (2) provides that a request under subsection (1):

- (a) must be in a form approved by the Commissioner; and
- (b) must be accompanied by any information or documents required by the form.

Subsection (3) provides that if a request is made under subsection (1), the Commissioner may, by written notice, require the provider to give the Commissioner such further information or documents in relation to the request as the Commissioner reasonably requires.

The legislative note in this section provides a cross reference to section 197B of the Act, which provides that the Commissioner is not required to make a correction or decision on the request if subsection (2) or (3) of this section are not complied with.

Subsection (4) provides that if the Commissioner receives a request, the Commission must:

- (a) make the correction to the NDIS Provider Register; or
- (b) decide to not make the correction to the NDIS Provider Register.

Subsection (5) provides that the Commission must notify the provider of a correction or decision made under subsection (4).

Division 3 – Publication of the NDIS Provider Register

Section 17 – NDIS Provider Register generally to be published in full

Section 17 sets out that subject to section 18, the whole of the NDIS Provider Register may be published on the Commission's website. The primary purpose of publishing the NDIS Provider Register is to support the ability of people with disability to exercise choice and control in choosing their providers. Further, the NDIS Provider Register is an important part of the Commissioner's compliance and enforcement toolkit, enabling the Commissioner to publicly identify providers who may be providing unsafe supports or services.

Section 18 – Certain parts of the NDIS Provider Register not to be published

Section 18 provides for parts of the NDIS Provider Register which are not to be published.

A part of the NDIS Provider Register must not be published if:

- the Commissioner considers that the publication of the part would be contrary to the public interest; or
- the Commissioner considers that the publication of the part would be contrary to the interests of one or more persons with disability receiving supports or services.

This provision is to enable some information not to be published, for example, where the business address of a provider is also a residential address; or where the publication of an enforceable undertaking or other similar information would identify the person with disability.

Part 6 – NDIS Practice Standards

Division 1 – NDIS Practice Standards

Section 19 – Purpose of this Division

Section 19 provides that Part 6 of the instrument is made for the purposes of section 73T of the Act. Part 6 of the instrument specifies the standards concerning the quality of supports and services to be provided by registered NDIS providers.

The legislative note to subsection (1) provides a cross-reference to 73T of the Act which provides that Rules made for the purposes of that section are the **NDIS Practice Standards** (see section 9 of the Act).

Legislative note 1 provides a cross-reference to paragraph 73E(1)(c) of the Act which provides that applicants must be assessed by an approved quality auditor as meeting the applicable standards and other requirements prescribed by the NDIS Practice Standards in order to be registered as a registered NDIS provider.

Legislative note 2 provides a cross-reference to paragraph 73F(2)(c) and section 73J of the Act which provide that non-compliance with the NDIS Practice Standards by a registered NDIS provider constitutes a breach of a condition of registration.

Legislative note 3 provides a cross-reference to Division 2 of this Part which contains special rules that apply instead of, or as well as, some of the rules in this Division in certain circumstances.

Section 20 – NDIS Practice Standards – class of supports, applicable standards and assessment process

Section 20 identifies the applicable standards and the assessment method relevant to be registered, or remain registered, to provide each class of supports.

Subsection (1) provides that to be registered to provide a class of supports specified in column 1 of an item in the table in subsection (3), an applicant must:

- be assessed by an approved quality auditor as meeting the standards specified in column 2 of that item, using the method specified in column 3 of that item; and
- if the supports are to be provided in circumstances described in subsection 7(2) – be assessed by an approved quality auditor as meeting the standards specified in Schedule 4, using certification.

The legislative note at subsection (1) provides that the circumstances described in subsection 7(2) involve the use, or possible use, of a regulated restrictive practice in providing the supports.

Subsection (2) provides to remain registered to provide class of supports specified in column 1 of an item in the table in subsection (3), a registered NDIS provider must comply with the standards specified in:

- column 2 of that item; and
- if the supports are provided in circumstances described in subsection 7(2) – Schedule 4.

The legislative note at subsection (1) provides that the circumstances described in subsection 7(2) involve the use, or possible use, of a regulated restrictive practice in providing the supports.

Subsection (3) gives effect to the table that identifies the applicable standards and the assessment method that is relevant to be registered, or remain registered, to provide each class of supports set out in the table.

Subsection (4) provides that despite column 2 of item 18 of the table in subsection (3), an individual or a partnership that applies to provide early intervention supports for early childhood is required to be assessed by an approved quality auditor as meeting the standards specified in:

- clause 7 of Schedule 1; and
- Schedule 5.

Subsection (5) provides that despite column 2 of item 18 of the table in subsection (3), to remain registered to provide early intervention supports for early childhood, an individual or partnership is required to comply with the standards specified in:

- Clause 7 of Schedule 1; and
- Schedule 5.

Section 21 – NDIS Practice Standards – requirements for providers that are bodies corporate

Section 21 sets out the requirements for providers that are bodies corporate.

Subsection (1) provides that to be registered as a registered NDIS provider to provide any class of supports, an applicant that is a body corporate must, be assessed by an approved quality auditor as meeting the standards specified in Schedule 1, using certification.

Subsection (2) provides that to remain registered as a registered NDIS provider to provide any class of supports, a provider that is a body corporate must comply with the standards specified in Schedule 1.

Subsection (3) provides that this section applies to a body corporate in addition to section 20.

Section 22 – NDIS Practice Standards – requirements for government providers

Section 22 sets out the requirements for providers that are government providers.

Subsection (1) provides that to be registered as a registered NDIS provider to provide any class of supports, an applicant covered by subsection (3) must be assessed by an approved quality auditor, as meeting the standards specified in Schedule 1, using certification.

Subsection (2) provides that to remain registered as a registered NDIS provider to provide any class of supports, a provider covered by subsection (3) must comply with the standards specified in Schedule 1.

Subsection (3) sets out the applicants covered by this section. The providers covered are:

- the Commonwealth;
- an authority of the Commonwealth;
- a State or Territory;
- an authority of a State or Territory;
- a local government authority.

Subsection (4) clarifies that this section applies to an applicant or provider in addition to section 20.

Section 23 – Assessment by certification meets requirement to be assessed by verification

Section 23 clarifies that for the purposes of this instrument, if compliance with an applicable standard must be assessed using verification, the requirement is met if compliance with the standard is assessed using certification.

Section 24 – National Disability Insurance Scheme (Quality Indicators) Guidelines

Section 24 provides for the National Disability Insurance Scheme (Quality Indicators) Guidelines.

Subsection (1) provides that the Commissioner may, by notifiable instrument, make guidelines setting out indicators and other matters to be taken into account when assessing compliance with the NDIS Practice Standards.

Subsection (2) provides that the guidelines mentioned in subsection (1) are the **National Disability Insurance Scheme (Quality Indicators) Guidelines**.

Division 2 – Transitional arrangements relating to the NDIS Practice Standards

Section 25 – Purpose of this Division

Section 25 provides that Division 2 of the instrument is made for the purposes of section 73T of the Act. Division 2 of this Part of the instrument modifies the application of the NDIS Practice Standards in Division 1 of this Part.

Subsection (2) provides that Division 2 modifies the application of the NDIS Practice Standards in Division 1 of this Part for a limited period in relation to providers who:

- transition from being registered providers of supports under Part 3 of Chapter 4 of the Act to being registered providers under Part 3A of Chapter 4 of the Act.

The legislative note provides a cross-reference to the *National Disability Insurance Scheme (Quality and Safeguards Commission and Other Measures) Transitional Rules 2018*. By virtue of these rules, the providers mentioned in subsection(2) are known as **transitioned providers**, and the transition takes place when the host jurisdiction in which the provider is providing supports or services becomes a participating jurisdiction.

Section 26 – Transitional arrangements for certain providers requiring certification

Section 26 sets out the transitional arrangements for certain providers requiring certification.

Subsection (1) provides that this section applies to a person or entity (the **provider**) if:

- at a particular time (the **transition time**), the provider is approved under section 70 of the Act to provide one or more of the following classes of supports to a participant:
 - assistance to access and maintain employment or higher education;
 - high intensity daily personal activities;
 - assistance in coordinating or managing life stages, transitions and supports;
 - assistance with daily personal activities
 - specialist positive behaviour support
 - assistance with daily life tasks in a group or shared living arrangement;
 - development of daily living and life skills;
 - participation in community, social and civic activities;
 - specialised support coordination;
 - specialised supported employment;
 - group and centre-based activities; and
- at the transition time, the host jurisdiction in which the participant lives becomes a participating jurisdiction.

Legislative note 1 provides a cross-reference to sections 10 and 10A of the Act, which provide for the meaning of **host jurisdiction** and **participating jurisdiction**.

Legislative note 2 provides a cross-reference to the *National Disability Insurance Scheme (Quality and Safeguards Commission and Other Measures) Transitional*

Rules 2018. These rules provide that the provider described in this section will be deemed to be a registered NDIS provider.

Subsection (2) provides that despite sections 20, 21 and 22, to remain registered to provide the class of supports during the transition period for the provider, the provider comply with the standards specified in clauses 2 to 7, 14, 15, 20 and 24 of Schedule 1.

Subsection (3) provides that for the purposes of subsection (2), the transition period for the provider:

- starts at the transition time; and
- ends at the earliest of the following:
 - if the Commissioner gives a written notice to the provider that this subsection no longer applies to the provider—the day specified in the notice (which must be at least 14 days after the notice is given);
 - if the provider makes an application under section 73C of the Act and the Commissioner makes a decision under section 73E of the Act to register, or not to register, the provider as a registered NDIS provider—the day after the day the decision is made;
 - if the registration of the provider is revoked under section 73P of the Act—at the start of the day the revocation takes effect;
 - unless section 73K of the Act applies—the expiry of the period specified for the purposes of paragraph 73E(5)(e) of the Act.

Section 27 – Transitional arrangements for providers providing specialist disability accommodation and one or more other classes of supports

Section 27 sets out the transitional arrangements for providers providing specialist disability accommodation and one or more other classes of supports.

Subsection (1) provides that this section applies to a person or entity (the **provider**) if:

- at a particular time (the **transition time**), the provider is approved under section 70 of the Act to provide:
 - specialist disability accommodation to a participant; and
 - one or more other classes of supports; and
- at the transition time, the host jurisdiction in which the participant lives becomes a participating jurisdiction.

Legislative note 1 provides a cross-reference to sections 10 and 10A of the Act, which provide for the meaning of **host jurisdiction** and **participating jurisdiction**.

Legislative note 2 provides a cross-reference to the *National Disability Insurance Scheme (Quality and Safeguards Commission and Other Measures) Transitional Rules 2018*. These rules provide that the provider described in this section will be deemed to be a registered NDIS provider.

Subsection (2) provides that despite sections 20, 21 and 22, to remain registered to provide those supports during the transition period for the provider, the provider comply with the standards specified in clauses 2 to 7, 14, 15, 20 and 24 of Schedule 1 and Schedule 7.

Subsection (3) provides that for the purposes of subsection (2), the transition period for the provider:

- starts at the transition time; and
- ends at the earliest of the following:
 - if the Commissioner gives a written notice to the provider that this subsection no longer applies to the provider—the day specified in the notice (which must be at least 14 days after the notice is given);
 - if the provider makes an application under section 73C of the Act and the Commissioner makes a decision under section 73E of the Act to register, or not to register, the provider as a registered NDIS provider—the day after the day the decision is made;
 - if the registration of the provider is revoked under section 73P of the Act—at the start of the day the revocation takes effect;
 - unless section 73K of the Act applies—the expiry of the period specified for the purposes of paragraph 73E(5)(e) of the Act.

Section 28 – Transitional arrangements for providers of early intervention supports for early childhood

Section 28 sets out the transitional arrangements for providers of early intervention supports for early childhood.

Subsection (1) provides that this section applies to a person or entity (the **provider**) if:

- at a particular time (the **transition time**), the provider is approved under section 70 of the Act to provide early intervention supports for early childhood to a participant; and
- at the transition time, the host jurisdiction in which the participant lives becomes a participating jurisdiction.

Legislative note 1 provides a cross-reference to sections 10 and 10A of the Act, which provide for the meaning of host jurisdiction and participating jurisdiction.

Legislative note 2 provides a cross-reference to the *National Disability Insurance Scheme (Quality and Safeguards Commission and Other Measures) Transitional Rules 2018*. These rules provide that the provider described in this section will be deemed to be a registered NDIS provider.

Subsection (2) provides that despite sections 20, 21 and 22, to remain registered to provide the supports during the transition period for the provider, the provider comply with the standards specified in:

- if the provider is an individual or a partnership – clause 7 of Schedule 1; or
- clauses 2 to 7, 14, 15, 20 and 24 of Schedule 1.

Subsection (3) provides that for the purposes of subsection (2), the transition period for the provider:

- starts at the transition time; and
- ends at the earliest of the following:
 - if the Commissioner gives a written notice to the provider that this subsection no longer applies to the provider—the day specified in the notice (which must be at least 14 days after the notice is given);

- if the provider makes an application under section 73C of the Act and the Commissioner makes a decision under section 73E of the Act to register, or not to register, the provider as a registered NDIS provider—the day after the day the decision is made;
- if the registration of the provider is revoked under section 73P of the Act—at the start of the day the revocation takes effect;
- unless section 73K of the Act applies—the expiry of the period specified for the purposes of paragraph 73E(5)(e) of the Act.

Section 29 – Transitional arrangements for providers requiring verification

Section 29 sets out the transitional arrangements for providers requiring verification.

Subsection (1) provides that this section applies to a person or entity (the **provider**) if:

- at a particular time (the **transition time**), the provider is approved under section 70 of the Act to provide one or more of the following classes of supports to a participant:
 - accommodation/tenancy assistance;
 - assistive products for personal care and safety;
 - personal mobility equipment;
 - assistance with travel/transport arrangements;
 - vehicle modifications;
 - home modifications;
 - assistive equipment for recreation;
 - vision equipment;
 - community nursing care;
 - innovative community participation;
 - specialised hearing services;
 - household tasks;
 - interpreting and translating;
 - hearing equipment;
 - assistive products for household tasks;
 - communication and information equipment;
 - exercise physiology and personal training;
 - management of funding for supports in participant's plans;
 - therapeutic supports;
 - specialised driver training;
 - assistance animals;
 - hearing services;
 - customised prosthetics; and
- at the transition time, the host jurisdiction in which the participant lives becomes a participating jurisdiction.

Legislative note 1 provides a cross-reference to sections 10 and 10A of the Act, which provide for the meaning of host jurisdiction and participating jurisdiction.

Legislative note 2 provides a cross-reference to the *National Disability Insurance Scheme (Quality and Safeguards Commission and Other Measures) Transitional Rules 2018*. These rules provide that the provider described in this section will be deemed to be a registered NDIS provider.

Subsection (2) provides that sections 20, 21 and 22 do not apply to the provider during the transition period in relation to the provision of the class of supports.

Subsection (3) provides that for the purposes of subsection (2), the transition period for the provider:

- starts at the transition time; and
- ends at the earliest of the following:
 - if the Commissioner gives a written notice to the provider that this subsection no longer applies to the provider—the day specified in the notice (which must be at least 14 days after the notice is given);
 - if the provider makes an application under section 73C of the Act and the Commissioner makes a decision under section 73E of the Act to register, or not to register, the provider as a registered NDIS provider—the day after the day the decision is made;
 - if the registration of the provider is revoked under section 73P of the Act—at the start of the day the revocation takes effect;
 - unless section 73K of the Act applies—the expiry of the period specified for the purposes of paragraph 73E(5)(e) of the Act.

Schedule 1 – Core module

The legislative note at the beginning of this Schedule provides a cross reference to the relevant sections in the instrument to this module.

Part 1 – Preliminary

Section 1 – Application of standards to applicants, providers, participants and others

This section sets out to whom the standards in this Schedule apply.

Subsection (1) clarifies that this Schedule applies to a person or entity who is applying to become a registered NDIS provider in the same way as it applies to a provider.

The legislative note in this section provides a cross-reference to the sections in the instrument that set out the applicants and providers that must comply with the NDIS Practice Standards specified in this Schedule.

Subsection (2) clarifies that this Schedule applies to those persons set out in this subsection in the same way as it applies to a participant. The relevant persons are:

- a prospective participant;
- a person with disability receiving supports or services from a provider under the arrangements set out in Chapter 2 of the Act;
- a person with disability receiving supports or services from a person included in a class of persons prescribed for the purposes of subparagraph (b)(ii) of the definition of **NDIS provider** in section 9 of the Act.

Part 2 – Rights of participants and responsibilities of providers

Section 2 – Standards relating to the rights of participants and the responsibilities of providers

Section 2 sets out the matters specified in this Part of the Schedule. Part 2 specifies the NDIS Practice Standards relating to the rights of participants and responsibilities of providers who deliver supports and services to them.

Section 3 – Person-centred support

Section 3 sets out the Standard in relation to person-centred support:

- Each participant can access supports that promote, uphold and respect their legal and human rights.
- Each participant is enabled to exercise informed choice and control.
- The provision of supports promotes, upholds and respects individual rights to freedom of expression, self-determination and decision-making.

Section 4 – Individual values and beliefs

Section 4 sets out the Standard in relation to individual values and beliefs:

- Each participant can access supports that respect their culture, diversity, values and beliefs.

Section 5 – Privacy and dignity

Section 5 sets out the Standard in relation to privacy and dignity:

- Each participant can access supports that respect and protect their dignity and right to privacy.

Section 6 – Independence and informed choice

Section 6 sets out the Standard in relation to independence and informed choice:

- Each participant can access supports free from violence, abuse, neglect, exploitation or discrimination.

Section 7 – Freedom from violence, abuse and neglect, exploitation or discrimination

Section 7 sets out the Standard in relation to freedom from violence, abuse and neglect, exploitation or discrimination:

- Each participant can access supports free from violence, abuse, neglect, exploitation or discrimination.

Part 3 – Provider governance and operational management

Section 8 – Standards relating to provider governance and operational management

Section 8 sets out the matters specified in this Part of the Schedule. Part 3 specifies the NDIS Practice Standards relating to the governance and operational management arrangements for registered NDIS providers.

Section 9 – Governance and operational management

Section 9 sets out the Standard in relation to governance and operational management:

- Each participant's support is overseen by robust governance and operational management systems relevant and proportionate to the size and scale of the provider and the scope and complexity of the supports being delivered.

Section 10 – Risk management

Section 10 sets out the Standard in relation to risk management:

- Risks to participants, workers and the provider are identified and managed.

Section 11 – Quality management

Section 11 sets out the Standard in relation to quality management:

- Each participant benefits from a quality management system that is relevant and proportionate to the size and scale of the provider and that promotes continuous improvement of support delivery.

Section 12 – Information management

Section 12 sets out the Standard in relation to information management:

- Management of each participant's information ensures that it is identifiable, accurately recorded, current and confidential.
- Each participant's information is easily accessible to the participant and appropriately utilised by relevant workers.

Section 13 – Complaints management and resolution

Section 13 sets out the Standard in relation to complaints management and resolution:

- Each participant has knowledge of and access to the provider's complaints management and resolution system,
- Complaints are welcomed, acknowledged, respected and well managed.

Section 14 – Incident management

Section 14 sets out the Standard in relation to incident management:

- Each participant is safeguarded by the provider's incident management system, ensuring that incidents are acknowledged, responded to, well managed and learned from.

Section 15 – Human resource management

Section 15 sets out the Standard in relation to human resource management:

- Each participant's support needs are met by workers who are competent in relation to their role, hold relevant qualifications and have relevant expertise and experience to provide person-centred support.

Section 16 – Continuity of supports

Section 16 sets out the Standard in relation to continuity of supports:

- Each participant has access to timely and appropriate supports without interruption.

Part 4 – Provision of supports

Section 17 – Standards relating to the provision of supports to participants

Section 17 sets out the matters specified in this Part of the Schedule. Part 4 specifies the NDIS Practice Standards relating to the provision of supports to participants.

Section 18 – Access to supports

Section 18 sets out the Standard in relation to access to supports:

- Each participant can access the most appropriate supports that meet the participant's needs, goals and preferences.

Section 19 – Support planning

Section 19 sets out the Standard in relation to support planning:

- Each participant is actively involved in the development of their support plans.
- Support plans reflect participant needs, requirements, preferences, strengths and goals, and are regularly reviewed.

Section 20 – Service agreements

Section 20 sets out the Standard in relation to service agreements:

- Each participant has a clear understanding of the supports they have chosen and how the supports will be provided.

Section 21 – Responsive support provision

Section 21 sets out the Standard in relation to responsive support provision:

- Each participant can access responsive, timely, competent and appropriate supports to meet their needs, desired outcomes and goals.

Section 22 – Transitions to and from a provider

Section 22 sets out the Standard in relation to transitions to and from a provider:

- Each participant experiences a planned and coordinated transition to or from the provider.

Part 5 – Support provision environment

Section 23 – Standards relating to the provision of supports to participants

Section 23 sets out the matters specified in this Part of the Schedule. Part 5 specifies the NDIS Practice Standards relating to the environment in which supports are provided to participants.

Section 24 – Safe environment

Section 24 sets out the Standard in relation to safe environment:

- Each participant can access supports in a safe environment that is appropriate to their needs.

Section 25 – Participant money and property

Section 25 sets out the Standard in relation to participant money and property:

- Participant money and property is secure and each participant uses their own money and property as they determine.

Section 26 – Medication management

Section 26 sets out the Standard in relation to medication management:

- This standard applies to a provider that is responsible for administering medication to participants.
- Each participant requiring medication is confident that their provider administers, stores and monitors the effects of the participant's medication and works to prevent errors and incidents.

Section 27 – Waste management

Section 27 sets out the Standard in relation to waste management:

- This standard applies to a provider that is required to manage waste, or infectious or hazardous substances.
- Each participant, each worker and any other person in the support environment is protected from harm as a result of exposure to waste or infectious or hazardous substances generated during the delivery of supports.

Schedule 2 – Module 1: High intensity daily personal activities

The legislative note at the beginning of this Schedule provides a cross-reference to the relevant section in the instrument to this module.

Section 1 – Application of standards to applicants, providers, participants and others

This section sets out to whom the standards in this Schedule apply.

Subsection (1) clarifies that this Schedule applies to a person or entity who is applying to become a registered NDIS provider in the same way as it applies to a provider.

The legislative note in this section provides a cross-reference to the section in the instrument that set out the applicants and providers that must comply with the NDIS Practice Standards specified in this Schedule.

Subsection (2) clarifies that this Schedule applies to those persons set out in this subsection in the same way as it applies to a participant. The relevant persons are:

- a prospective participant;
- a person with disability receiving supports or services from a provider under the arrangements set out in Chapter 2 of the Act;

- a person with disability receiving supports or services from a person included in a class of persons prescribed for the purposes of subparagraph (b)(ii) of the definition of NDIS provider in section 9 of the Act.

Section 2 – Standards relating to high intensity daily personal activities

Section 2 sets out the matters specified in Schedule 2. Schedule 2 specifies the NDIS Practice Standards relating to the provision of high intensity daily personal activities.

Section 3 – Complex bowel care

Section 3 sets out the Standard in relation to complex bowel care:

- This standard applies to a provider that is registered to provide complex bowel care.
- Each participant requiring complex bowel care receives appropriate support that is relevant and proportionate to their individual needs.

Section 4 – Enteral (nasogastric tube-jejunum or duodenum) feeding and management

Section 4 sets out the Standard in relation to enteral (nasogastric tube-jejunum or duodenum) feeding and management:

- This standard applies to a provider that is registered to provide enteral (nasogastric tube-jejunum or duodenum) feeding and management.
- Each participant requiring enteral feeding and management receives appropriate nutrition, fluids and medication that are relevant and proportionate to their individual needs.

Section 5 – Tracheostomy management

Section 5 sets out the Standard in relation to tracheostomy management:

- This standard applies to a provider that is registered to provide tracheostomy management.
- Each participant with a tracheostomy receives appropriate suctioning and management of their tracheostomy that are relevant and proportionate to their individual needs.

Section 6 – Urinary catheter management (in-dwelling urinary catheter, in-out catheter and suprapubic catheter)

Section 6 sets out the Standard in relation to urinary catheter management (in-dwelling urinary catheter, in-out catheter and suprapubic catheter).

- This standard applies to a provider that is registered to provide urinary catheter management (in-dwelling urinary catheter, in-out catheter and suprapubic catheter).
- Each participant with a catheter receives appropriate catheter management that is relevant and proportionate to their individual needs.

Section 7 – Ventilator management

Section 7 sets out the Standard in relation to ventilator management:

- This standard applies to a provider that is registered to provide ventilator management.
- Each participant requiring ventilator management receives appropriate support that is relevant and proportionate to their individual needs and the specific ventilator used.

Section 8 – Subcutaneous injections

Section 8 sets out the relevant Standard in relation to subcutaneous injections:

- This standard applies to a provider that is registered to provide subcutaneous injections.
- Each participant requiring subcutaneous injections receives appropriate support that is relevant and proportionate to their individual needs and the specific subcutaneous injections and medication administered.

Section 9 – Complex wound management

Section 9 sets out the Standard in relation to complex wound management:

- This standard applies to a provider that is registered to provide complex wound management.
- Each participant requiring complex wound management receives appropriate support that is relevant and proportionate to their individual needs.

Schedule 3 – Module 2A: Specialist behaviour support

The legislative note at the beginning of this Schedule provides a cross-reference to the relevant section in the instrument to this module.

Section 1 – Application of standards to applicants, providers, participants and others

This section sets out to whom the standards in this Schedule apply.

Subsection (1) clarifies that this Schedule applies to a person or entity who is applying to become a registered NDIS provider in the same way as it applies to a provider.

The legislative note in this section provides a cross-reference to the section in the instrument that set out the applicants and providers that must comply with the NDIS Practice Standards specified in this Schedule.

Subsection (2) clarifies that this Schedule applies to those persons set out in this subsection in the same way as it applies to a participant. The relevant persons are:

- a prospective participant;
- a person with disability receiving supports or services from a provider under the arrangements set out in Chapter 2 of the Act;
- a person with disability receiving supports or services from a person included in a class of persons prescribed for the purposes of subparagraph (b)(ii) of the definition of NDIS provider in section 9 of the Act.

Section 2 – Standards relating to specialist behaviour support

Section 2 sets out the matters specified in Schedule 3. Schedule 3 specifies the NDIS Practice Standards relating to the provision of specialist behaviour support.

Section 3 – Behaviour support in the NDIS

Section 3 sets out the Standard that applies in relation to behaviour support in the NDIS:

- Each participant can access behaviour support that:
 - is appropriate to their needs; and
 - incorporates evidence-informed practice; and
 - complies with relevant Commonwealth, State and Territory laws and policies.

Section 4 – Regulated restrictive practices

Section 4 sets out the Standard that applies in relation to regulated restrictive practices:

- Each participant is subject only to a regulated restrictive practice that meets:
 - the State or Territory authorisation and consent requirements (if any) in the State or Territory in which the practice will be used; and
 - the relevant requirements and safeguards provided for in relevant Commonwealth, State and Territory laws and policies.

Section 5 – Behaviour support plans

Section 5 sets out the relevant Standard that applies in relation to behaviour support plans:

- Each participant's quality of life is maintained and improved by person-centred, evidence-informed behaviour support plans that are responsive to their needs.

Section 6 – Supporting the implementation of a behaviour support plan

Section 6 sets out the Standard that applies in relation to supporting the implementation of a behaviour support plan:

- Each participant's behaviour support plan is implemented effectively to meet the participant's behaviour support needs.

Section 7 – Behaviour support plan monitoring and review

Section 7 sets out the Standard that applies in relation to behaviour support plan monitoring and review:

- Each participant has a current behaviour support plan that:
 - reflects their needs, improves their quality of life and supports their progress toward positive change; and
 - progresses toward the reduction and elimination of the use of the regulated restrictive practice, where one is in place for the participant.

Section 8 – Reportable incidents involving the use of a regulated restrictive practice

Section 8 sets out the Standard that applies in relation to reportable incidents involving the use of a regulated restrictive practice:

- Each participant that is subject to an emergency or unauthorised use of a regulated restrictive practice by a provider has the use of that practice reported to the Commissioner and reviewed by the provider.

Section 9 – Interim behaviour support plans

Section 9 sets out the Standard that applies in relation to interim behaviour support plans:

- Each participant with an immediate need for a behaviour support plan receives an interim behaviour support plan that minimises the risk to the participant and others.

Schedule 4 – Module 2A: Implementing behaviour support plans

The legislative note at the beginning of this Schedule provides a cross-reference to the relevant section in the instrument to this module.

Section 1 – Application of standards to applicants, providers, participants and others

This section sets out to whom the standards in this Schedule apply.

Subsection (1) clarifies that this Schedule applies to a person or entity who is applying to become a registered NDIS provider in the same way as it applies to a provider.

The legislative note in this section provides a cross-reference to the section in the instrument that set out the applicants and providers that must comply with the NDIS Practice Standards specified in this Schedule.

Subsection (2) clarifies that this Schedule applies to those persons set out in this subsection in the same way as it applies to a participant. The relevant persons are:

- a prospective participant;
- a person with disability receiving supports or services from a provider under the arrangements set out in Chapter 2 of the Act;
- a person with disability receiving supports or services from a person included in a class of persons prescribed for the purposes of subparagraph (b)(ii) of the definition of NDIS provider in section 9 of the Act.

Section 2 – Standards relating to the use of regulated restrictive practices

Section 2 sets out the matters specified in Schedule 4. Schedule 4 specifies the NDIS Practice Standards relating to the use of regulated restrictive practices.

Section 3 – Behaviour support in the NDIS

Section 3 sets out the Standard that applies in relation to behaviour support in the NDIS:

- Each participant can access behaviour support that:
 - is appropriate to their needs; and
 - incorporates evidence-informed practice; and
 - complies with relevant Commonwealth, State and Territory laws and policies.

Section 4 – Regulated restrictive practices

Section 4 sets out the Standard that applies in relation to regulated restrictive practices:

- Each participant is subject only to a regulated restrictive practice that meets:
 - the State or Territory authorisation and consent requirements (if any) in the State or Territory in which the practice will be used; and
 - the relevant requirements and safeguards provided for in relevant Commonwealth, State and Territory laws and policies.

Section 5 – Supporting the assessment and development of behaviour support plans

Section 5 sets out the Standard that applies in relation to the assessment and development of behaviour support plans:

- Each participant's quality of life is maintained and improved by tailored, evidence-informed behaviour support plans that are responsive to their needs.

Section 6 – Supporting the implementation of a behaviour support plan

Section 6 sets out the Standard that applies in relation to supporting the implementation of a behaviour support plan:

- Each participant's behaviour support plan is implemented effectively to meet the participant's behaviour support needs.

Section 7 – Monitoring and reporting the use of regulated restrictive practices

Section 7 sets out the Standard that applies in relation to monitoring and reporting the use of regulated restrictive practices:

- Each participant that is subject to the use of a regulated restrictive practice by a provider has the use of that practice reported to the Commissioner and reviewed by the provider.

Section 8 – Behaviour support plan monitoring and review

Section 8 sets out the Standard that applies in relation to behaviour support monitoring and review:

- Each participant's behaviour support plan is regularly monitored and reviews to ensure that the plan:
 - Reflects their needs, improves their quality of life and supports their progress towards positive change; and

- If a regulated restrictive practice is used in relation to the participant – supports the reduction and elimination of the use of the regulated restrictive practice.

Section 9 – Reportable incidents involving the use of a regulated restrictive practice

Section 9 sets out the Standard that applies in relation to reportable incidents involving the use of a regulated restrictive practice:

- Each participant that is subject to an emergency or unauthorised use of a regulated restrictive practice by a provider has the use of that practice reported to the Commissioner and reviewed by the provider.

Section 9 – Interim behaviour support plans

Section 9 sets out the Standard that applies in relation to interim behaviour support plans:

- Each participant with an immediate need for a behaviour support plan receives an interim behaviour support plan that minimises the risk to the participant and others.

Schedule 5 – Module 3: Early childhood supports

The legislative note at the beginning of this Schedule provides a cross-reference to the relevant section in the instrument to this module.

Section 1 – Application of standards to applicants, providers, participants and others

This section sets out to whom the standards in this Schedule apply.

Subsection (1) clarifies that this Schedule applies to a person or entity who is applying to become a registered NDIS provider in the same way as it applies to a provider.

The legislative note in this section provides a cross-reference to the section in the instrument that set out the applicants and providers that must comply with the NDIS Practice Standards specified in this Schedule.

Subsection (2) clarifies that this Schedule applies to those persons set out in this subsection in the same way as it applies to a participant. The relevant persons are:

- a prospective participant;
- a person with disability receiving supports or services from a provider under the arrangements set out in Chapter 2 of the Act;
- a person with disability receiving supports or services from a person included in a class of persons prescribed for the purposes of subparagraph (b)(ii) of the definition of **NDIS provider** in section 9 of the Act.

Section 2 – Standards relating to early childhood supports

Section 2 sets out the matters specified in Schedule 5. Schedule 5 specifies the NDIS Practice Standards relating to the provision of early childhood supports.

Section 3 – The child

Section 3 sets out the Standard that applies in relation to the child:

- Each participant can access supports that promote and respect their legal and human rights, support their development of functional skills and enables them to participate meaningfully and be included in everyday activities with their peers.

Section 4 – The family

Section 4 sets out the Standard that applies in relation to the family:

- Each participant can access family-centred supports that are culturally inclusive and responsive and that focus on their strengths.

Section 5 – Inclusion

Section 5 sets out the Standard that applies in relation to inclusion:

- Each participant can access supports that engage their natural environments and enable inclusive and meaningful participation in their family and community life.

Section 6 – Collaboration

Section 6 sets out the Standard that applies in relation to collaboration:

- Each participant receives coordinated supports from a collaborative team comprising their family, the provider and other relevant providers, to facilitate the participant's development and address the family's needs and priorities.

Section 7 – Capacity building

Section 7 sets out the Standard that applies in relation to capacity building:

- Each participant receives supports that build the knowledge, skills and abilities of their family and other persons to support the participant's learning and development.

Section 8 – Evidence-informed supports

Section 8 sets out the Standard that applies in relation to evidence-informed supports:

- Each participant receives evidence-informed supports from providers with quality standards and validated practices.

Section 9 – Outcome based approach

Section 9 sets out the Standard that applies in relation to outcome based approach:

- Each participant receives supports that are outcome-based and goal-focused.

Schedule 6 – Module 4: Specialised support coordination

The legislative note at the beginning of this Schedule provides a cross-reference to the relevant section in the instrument to this module.

Section 1 – Application of standards to applicants, providers, participants and others

This section sets out to whom the standards in this Schedule apply.

Subsection (1) clarifies that this Schedule applies to a person or entity who is applying to become a registered NDIS provider in the same way as it applies to a provider.

The legislative note in this section provides a cross-reference to the section in the instrument that set out the applicants and providers that must comply with the NDIS Practice Standards specified in this Schedule.

Subsection (2) clarifies that this Schedule applies to those persons set out in this subsection in the same way as it applies to a participant. The relevant persons are:

- a prospective participant;
- a person with disability receiving supports or services from a provider under the arrangements set out in Chapter 2 of the Act;
- a person with disability receiving supports or services from a person included in a class of persons prescribed for the purposes of subparagraph (b)(ii) of the definition of **NDIS provider** in section 9 of the Act.

Section 2 – Standards relating to specialised support coordination

Section 2 sets out the matters specified in Schedule 6. Schedule 6 specifies the NDIS Practice Standards relating to the provision of specialised support coordination.

Section 3 – Specialised support coordination

Section 3 sets out the Standard that applies in relation to specialised support coordination:

- Each participant receiving specialised support coordination receives tailored support to implement, monitor and review their support plans and reduce the risk and complexity of their situation.

Section 4 – Management of supports

Section 4 sets out the Standard that applies in relation to management of supports:

- Each participant exercises meaningful choice and control over their supports and maximises the value for money they receive from their supports.

Section 5 – Conflict of interest

Section 5 sets out the Standard that applies in relation to conflict of interest:

- Each participant receives transparent, factual advice about their support options and that promotes choice and control.

Schedule 7 – Module 5: Specialist disability accommodation

The legislative note at the beginning of this Schedule provides a cross-reference to the relevant sections in the instrument to this module.

Section 1 – Application of standards to applicants, providers, participants and others

This section sets out to whom the standards in this Schedule apply.

Subsection (1) clarifies that this Schedule applies to a person or entity who is applying to become a registered NDIS provider in the same way as it applies to a provider.

The legislative note in this section provides a cross-reference to the section in the instrument that set out the applicants and providers that must comply with the NDIS Practice Standards specified in this Schedule.

Subsection (2) clarifies that this Schedule applies to those persons set out in this subsection in the same way as it applies to a participant. The relevant persons are:

- a prospective participant;
- a person with disability receiving supports or services from a provider under the arrangements set out in Chapter 2 of the Act;
- a person with disability receiving supports or services from a person included in a class of persons prescribed for the purposes of subparagraph (b)(ii) of the definition of **NDIS provider** in section 9 of the Act.

Section 2 – Standards relating to specialist disability accommodation

Section 2 sets out the matters specified in Schedule 7. Schedule 7 specifies the NDIS Practice Standards relating to the provision of specialist disability accommodation.

Section 3 – Rights and responsibilities

Section 3 sets out the Standard that applies in relation to rights and responsibilities:

- Each participant's access to specialist disability accommodation is consistent with their legal and human rights.
- Each participant is supported to exercise informed choice and control.

Section 4 – Conflict of interest

Section 4 sets out the Standard that applies in relation to conflict of interest:

- Each participant's right to exercise choice and control over other NDIS support provision is not limited by the participant's choice of specialist disability accommodation dwelling.

Section 5 – Service agreements with participants

Section 5 sets out the Standard that applies in relation to service agreements with participants:

- Each participant is supported to understand the terms and conditions that apply to their specialist disability accommodation dwelling and the associated service or tenancy agreements.

Section 6 – Enrolment of specialist disability accommodation dwellings

Section 6 sets out the Standard that applies in relation to enrolment of specialist disability accommodation dwellings:

- Each participant's specialist disability accommodation dwelling meets the requirements of the design type, category and other standards that were identified through the dwelling enrolment process.

Section 7 – Tenancy management

Section 7 sets out the Standard that applies in relation to tenancy management:

- Each participant accessing a specialist disability accommodation dwelling is able to exercise choice and control and is supported by effective tenancy management.

Schedule 8 – Module 6: Verification

The legislative note at the beginning of this Schedule provides a cross-reference to the relevant section in the instrument to this module.

Section 1 – Application of standards to applicants, providers, participants and others

This section sets out to whom the standards in this Schedule apply.

Subsection (1) clarifies that this Schedule applies to a person or entity who is applying to become a registered NDIS provider in the same way as it applies to a provider.

The legislative note in this section provides a cross-reference to the section in the instrument that set out the applicants and providers that must comply with the NDIS Practice Standards specified in this Schedule.

Subsection (2) clarifies that this Schedule applies to those persons set out in this subsection in the same way as it applies to a participant. The relevant persons are:

- a prospective participant;
- a person with disability receiving supports or services from a provider under the arrangements set out in Chapter 2 of the Act;
- a person with disability receiving supports or services from a person included in a class of persons prescribed for the purposes of subparagraph (b)(ii) of the definition of **NDIS provider** in section 9 of the Act.

Section 2 – Standards relating to assessment by verification

Section 2 sets out the matters specified in Schedule 8. Schedule 8 specifies the NDIS Practice Standards that providers of certain classes of support that must be assessed using verification are required to comply with.

Section 3 – Risk management

Section 3 sets out the Standard that applies in relation to risk management:

- Risks to participants, workers and the provider are identified and managed.

Section 4 – Complaints management and resolution

Section 4 sets out the Standard that applies in relation to complaints management and resolution:

- Each participant has knowledge of and access to the provider's complaints management and resolution system.
- Complaints are welcomed, acknowledged, respected and well-managed.

Section 5 – Incident management

Section 5 sets out the Standard that applies in relation to incident management:

- Each participant is safeguarded by the provider's incident management system, ensuring that incidents are acknowledged, responded to, well-managed and learned from.

Section 6 – Human resource management

Section 6 sets out the Standard that applies in relation to human resource management:

- Each participant's support needs are met by workers who are competent in relation to their role, hold relevant qualifications and have relevant expertise and experience to provide person-centred support.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018

This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

Together with the NDIS Code of Conduct, this instrument sets out the applicable standards expected of registered NDIS providers and deals with the following matters:

- The classes of supports for which an NDIS provider is required to be registered;
- Some of the conditions that NDIS providers must comply with to become and remain registered NDIS providers;
- Suitability requirements for a person or entity to become registered as a registered NDIS provider, including the suitability of the key personnel of an applicant for registration;
- How the NDIS Provider Register will be published and how corrections to the Register may be made; and
- the NDIS Practice Standards that apply to registered NDIS providers.

Background

The *National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Act 2017* (the Act) establishes an independent national Commission and Commissioner, to protect and prevent people with disability from experiencing harm arising from poor quality or unsafe supports or services under the National Disability Insurance Scheme (NDIS).

The Commissioner will be responsible for compliance, complaints and risk management arrangements for the registration and regulation of NDIS providers, including practice standards, a code of conduct and mechanisms for complaints and reportable incidents. The Commissioner will also be responsible for national oversight and policy setting in relation to worker screening, behaviour support and monitoring the use of restrictive practices within the NDIS with the aim of reducing and eliminating such practices.

The functions of the Commissioner of the NDIS Quality and Safeguards Commission include functions relating to the quality and safety of services and supports in the NDIS to people with disability and registering and overseeing the operations of NDIS providers. Under the new arrangements, the Commissioner will manage the quality assurance and registration of NDIS providers under a nationally rigorous framework including NDIS Practice Standards and the NDIS Code of Conduct.

Requirement to be registered

This instrument specifies certain classes of supports provided to participants in participating jurisdictions under participants' plans, which can only be provided by registered NDIS providers. This is an important safeguard to ensure that for certain high risk supports, such as specialist disability accommodation and developing or implementing behaviour support plans which may include the use of a restrictive practice, a provider must meet the quality and standards required to deliver those supports.

Where registration is mandated, the registration arrangements provide for a rigorous framework for assessing the quality and safety of supports, prior to a provider entering the NDIS market. The requirement to be registered to deliver certain classes of supports is an important safeguard, specifically when providers are providing higher risk supports, as it enables the Commissioner to have extensive oversight of the provider and the supports and services that are being provided.

The current arrangements for registration by the National Disability Insurance Agency (Agency) contained in Part 3 of Chapter 4 of the Act and the NDIS rules for registered providers of supports will continue to operate and appear in the Act over the transition period until each jurisdiction has become a participating jurisdiction.

Condition to notify of material changes

Registered NDIS providers are subject to conditions of registration. For example, providers must notify the Commissioner of a change of circumstances that materially affects the provider's ability, or the ability of any of the provider's key personnel, to provide the supports or services the provider is registered to provide.

Becoming registered – suitability

In most cases, providers must demonstrate compliance through an independent quality assurance or quality evaluation process. The Commissioner is obliged to determine suitability of applicants (and their key personnel). In determining whether the applicant is suitable to provide supports or services to people with disability, the Commissioner must have regard to relevant matters such as:

- previous registration as an NDIS provider or as a registered provider of supports,
- any banning orders in relation to the applicant, whether the applicant has been convicted of any indictable offences, if the applicant has been insolvent or under administration,
- whether the applicant has been the subject of adverse findings or enforcement action,
- whether the applicant has been the subject of any findings or judgment in relation to fraud, misrepresentation or dishonesty in any administrative, civil or criminal proceedings, or is currently party to any proceedings that may result in the applicant being the subject of such findings or judgment,
- whether the applicant has ever been disqualified from managing corporations under Part 2D.6 of the *Corporations Act 2001*,
- any other matter the Commissioner considers relevant.

NDIS Provider Register

The NDIS Quality and Safeguards Commissioner must establish an NDIS provider Register, under Section 73ZS of the Act. The NDIS Provider Register will provide information to participants and their families in relation to the classes of support a provider is registered for. In addition, information about compliance with the NDIS Practice Standards, or other compliance and enforcement information, will be available to inform participants as active consumers in the NDIS market.

NDIS Practice Standards

Registration requirements will include a risk-based proportionate assessment of an application to deliver categories of supports and services against the NDIS Practice Standards.

All NDIS providers applying to become registered will be required to participate in a verification or certification audit process.

All registered NDIS providers and applicants for registration as a registered NDIS provider, that are delivering (or propose to deliver) higher-risk, more complex supports will be required to gain third party quality assurance certification against the relevant practice standards. These requirements are set out in the NDIS Practice Standards with core practice standards and specific practice standards. The verification audit method will apply for lower-risk, less-complex supports and services.

The NDIS Practice Standard under Schedule 2 is intended to apply where providers are supporting participants with the types of supports as described and these are specified in the participant's plan. These supports are delivered by support workers, rather than the health practitioner support, noting that health practitioner support may be part of a participant's interaction with mainstream health systems.

Schedule 2 is intended to apply to providers only where they deliver or intend to deliver against the specific sections in Schedule 2: Module 1 High intensity daily personal activities. For example, providers delivering or intending to deliver only under Section 6.

Human rights implications

The Convention on the Rights of Persons with Disabilities (CRPD) contains several human rights (including personal mobility, health, habilitation and rehabilitation), that are engaged, either directly or indirectly by this instrument including:

- The right to health – encompassing the right to the enjoyment of the highest attainable standard of physical and mental health – is contained in article 12(1) of the International Covenant on Economic and Social and Cultural Rights (ICESCR). The UN Committee on Economic Social and Cultural rights has stated that health is a fundamental human right indispensable for the exercise of other human rights.

- The right to social security is set out in Article 9 of the ICESCR; Article 28 of the CRPD; and Article 26 of Convention on the Rights of the Child (CRC); and Article 11 of the Convention on the Elimination of all Forms of Discrimination Against Women. Essentially, that right requires that governments, within their maximum available resources, take action to ensure access to a social security scheme that provides a minimum essential level of benefits to all individual and families that will enable them to acquire essential social care.
- The right to an adequate standard of living is specified in Article 11 of the ICESCR, Article 28 of the CRPD and Article 27 of the CRC, which require governments to take appropriate steps to realise this right. The CRPD provides that one step is to ensure access by people with disabilities to appropriate and affordable services, devices and other assistance for disability related needs.

Article 16(3) also obliges States Parties to ensure that, in order to prevent the occurrence of all forms of exploitation, violence and abuse, that all facilities and programmes designed to serve persons with disability are effectively monitored by independent authorities.

In establishing the NDIS Practice Standards, this instrument embeds a requirement for NDIS providers to be independently monitored, in accordance with Article 16 (3). This instrument also provides a framework to enable the effective identification and continuous improvement requirements placed on providers related to exploitation, violence and abuse against persons with disabilities, articulated in Article 16(5). Additional focus on the reduction and elimination of the use of restrictive practices is also contained within this instrument, establishing clear expectation of providers to uphold the rights of persons with disabilities who require behaviour support.

The NDIS Practices Standards contained in this instrument also support Articles 9 and 21, in relation to the requirements placed on providers to provide services in safe and accessible environments, provide information in accessible formats, and to undertake service planning with participants.

This instrument promotes the right to health; right to social security; and right to an adequate standard of living through establishing the suitability requirements and standards that a provider must achieve and adhere to in becoming a registered NDIS provider. This will help people with disability access quality supports and services to enjoy the highest attainable standard of physical and mental health, access to essential social welfare measures, and assist that people with disability to enjoy an adequate standard of living.

The NDIS Code of Conduct will apply to all providers, regardless of whether they are registered and will be used to prevent exploitation, violence and abuse by NDIS providers and workers.

Conclusion

This instrument is compatible with human rights as it forms part of an overall legislative scheme designed to deliver improved quality and safeguards for people with disability receiving supports or services from registered NDIS providers.

Graeme Head, Commissioner of the NDIS Quality and Safeguards Commission