



National Disability Insurance Scheme Amendment (Specialist Disability Accommodation) Rules 2019

I, PAUL FLETCHER, Minister for Families and Social Services, make the following Rules.

Dated 25 March 2019

Paul Fletcher
Minister for Families and Social Services

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1 Name

This instrument is the *National Disability Insurance Scheme Amendment (Specialist Disability Accommodation) Rules 2019*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under section 209 of the *National Disability Insurance Scheme Act 2013*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016

1 Section 2.10

Omit “, and of an alternative interim option if accommodation of that type is not available to the participant in that location”.

2 Sections 3.1-3.3

Repeal the sections, substitute:

3.1 A participant is eligible for SDA if the participant meets the assessment criteria in paragraphs 3.4-3.8.

3 Section 3.11 (heading)

Repeal the heading.

4 Sections 3.11-3.12

Repeal the sections.

5 Sections 4.1-4.2

Repeal the sections, substitute:

4.1 If a participant is eligible for SDA:

(a) the CEO must, in facilitating the preparation of the participant’s plan, ensure that the following matters are determined:

- (i) the appropriate design category or categories as per paragraph 4.4;
- (ii) the appropriate building type or types as per paragraph 4.6;
- (iii) the appropriate location or locations as per paragraphs 4.8-4.9;
- and
- (iv) whether SDA will be provided as an in-kind support.

6 Section 4.4

Repeal the text box.

7 Section 4.5(e)

Omit “, 4.10”.

8 Section 4.6

Repeal the text box.

9 Section 4.8

Add “, or a group of Statistical Areas Level 4”.

10 Section 4.10 (heading)

Repeal the heading.

11 Section 4.10

Repeal the section.

12 Section 4.11

Omit the words “reside there” last occurring and insert “be funded while residing there.”

Repeal the text box.

13 Section 4.12

Repeal the section, substitute:

4.12 The CEO may consider whether support coordination and other capacity building supports are required to assist the participant in finding and moving into SDA.

14 Sections 5.1-5.3

Repeal the sections, substitute:

5.1 If a participant is eligible for SDA, the following matters must be recorded in the participant’s plan, irrespective of whether or not an appropriate dwelling has been identified:

- (a) the fact that the participant is eligible for SDA; and
- (b) the matters determined in accordance with paragraph 4.1(a), which may include a range of categories, types and locations.

5.2 Other features, allowances or factors may also be specified in a participant’s plan, including that the participant is currently residing in SDA of a design category, building type or location not determined under paragraph 4.1(a).

15 Section 5.7

Repeal the section, substitute:

5.7 A determination under paragraph 4.1(a) for a participant does not, subject to paragraph 5.7B, prevent the participant choosing to reside in Basic design category or other SDA and the specification in the participant’s plan at the participant’s request SDA of a design category, building type or location for which they have not been determined as eligible under paragraph 4.1(a).

5.7A The specification in a participant’s plan under paragraph 5.7 of a particular SDA does not result in the participant being eligible for that SDA under paragraph 4.1(a) but may allow the SDA to be funded under Part 6.

5.7B Basic design category SDA may only be specified in a participant’s plan under paragraph 5.7 if:

- (a) it meets the definition of Existing Stock in paragraphs 6.11 and 6.12;
- or
- (b) the dwelling is determined in accordance with paragraph 4.11 for the participant.

5.7C If a participant resides in SDA of a design category, building type or location not determined under paragraph 4.1(a), or a dwelling determined under paragraph 4.11:

(a) this fact and whether the residence is intended to be transitional in nature must be recorded in the participant's plan; and

(b) the SDA for which the person is determined as eligible under paragraph 4.1(a) must also be recorded in the plan (as an annotation, rather than a reasonable and necessary support to be funded).

16 Section 5.8

Repeal the section, substitute:

5.8 The specification in the participant's plan of a particular SDA design category, building type or location does not prevent the participant from:

(a) being required to make reasonable rent contributions, which must not exceed the amount specified in the Agency's terms of business; or

(b) making discretionary rent contributions to either:

(i) access a higher cost SDA design category, building type or location; or

(ii) access a particular SDA dwelling where its market rental value is higher than the relevant amount referred to in paragraph 5.4 plus reasonable rent contributions (which would only be in exceptional circumstances and where the requirements in paragraphs 7.30 and 7.31 are met).

17 Subsection 5.9(b)

After "dwelling" insert ", design category or categories".

18 Section 5.10

Omit "4.2", substitute "4.1".

19 After section 5.11

Insert:

Plan reviews

5.12 The CEO may conduct a review of a participant's plan in circumstances where the CEO has been notified that the participant is residing in or seeks to reside in an SDA of a category, type or location for which they have not been determined as eligible under paragraph 4.1(a).

20 Section 6.12(c)

Omit "other than Basic design".

21 Section 8.3

Repeal the section, substitute:

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

- (a) Agency
- (b) CEO
- (c) NDIS
- (d) participant
- (e) participant's statement of goals and aspirations
- (f) plan
- (g) statement of participant supports

22 Section 8.4

Insert:

appropriate building type for a participant is the building type or types determined for the participant in accordance with paragraph 4.1(a)(ii).

appropriate design category for a participant is the design category or categories determined for the participant in accordance with paragraph 4.1(a)(i).

in-kind support has the meaning given by paragraph 6.8 of the *National Disability Insurance Scheme (Plan Management) Rules 2013*.

23 Section 8.4 (definitions of Agency, alternative interim option, CEO, NDIS, participant, participant's statement of goals and aspirations, statement of participant supports)

Repeal the definitions.

24 Section 8.4 (definition of appropriate SDA type)

Repeal the definition, substitute:

appropriate SDA type for a participant is the SDA type or types determined for the participant in accordance with paragraphs 4.1(a)(i) and (ii).

25 Section 8.4 (definition of appropriate location)

Repeal the definition, substitute:

appropriate location for SDA for a participant is the location or locations determined for the participant in accordance with paragraph 4.1(a)(iii).

26 Section 8.4 (definition of intentional community)

Omit "intention", substitute "intentional".

27 Section 8.4 (definition of SDA building type)

After "*SDA building type*", insert "or *building type*".

28 Section 8.4 (definition of SDA design category)

After "*SDA design category*", insert "or *design category*".