



National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment Rules 2019

I, Graeme Head, as delegate of the Minister for Social Services, make the following rules.

Dated 28 June 2019

Graeme Head
Commissioner of the NDIS Quality and Safeguards Commission

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1 Name

This instrument is the *National Disability Insurance Scheme (Practice Standards—Worker Screening) Amendment Rules 2019*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2019.	1 July 2019

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 (Practice Standards—Worker Screening) Rules 2018

1 After section 14

Insert:

14A Disapplication of exception for jurisdictions with a ‘no card, no start’ policy

- (1) Paragraph 14(a) does not apply to a person if:
 - (a) the person has submitted an application for a clearance to an NDIS worker screening unit; and
 - (b) the law of the jurisdiction in which the application is submitted prohibits a person from engaging in a risk assessed role while the person is in the process of obtaining a clearance; and
 - (c) the person does not have an acceptable check that applies in that jurisdiction; and
 - (d) a decision has not been made on the application.
- (2) For the purposes of paragraph (1)(c), a person has an acceptable check that applies in a jurisdiction if:
 - (a) if the person is providing services to a participant in New South Wales—the person has a check described in subsection 23(6), (7) or (8); or
 - (b) if the person is providing services to a participant in South Australia—the person has a check described in subsection 24(6); or
 - (c) if the person is providing services to a participant in Victoria—the person is allowed to engage in a risk assessed role because of subsection 25(3); or
 - (d) if the person is providing services to a participant in Queensland—the person is allowed to engage in a risk assessed role because of subsection 26(3); or
 - (e) if the person is providing services to a participant in Tasmania—the person is allowed to engage in a risk assessed role because of subsection 27(3); or
 - (f) if the person is providing services to a participant in the Australian Capital Territory—the person is allowed to engage in a risk assessed role because of subsection 28(3); or
 - (g) if the person is providing services to a participant in the Northern Territory—the person is allowed to engage in a risk assessed role because of subsection 29(3).

2 Before paragraph 15(3)(b)

Insert:

- (aa) a registered NDIS provider has confirmed to that unit that the person is, or intends to be, a worker of the provider; and

3 At the end of section 15

Add:

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- (4) For the purposes of paragraph 15(3)(aa), confirmation must be given in accordance with any applicable requirements of the NDIS worker screening legislation of the jurisdiction in which the application has been submitted.

4 Paragraph 23(7)(b)

Omit “between 1 July 2018 and 30 June 2019”, substitute “during the transition period”.

5 Paragraph 23(8)(b)

Omit “prior to 1 July 2019”, substitute “before or during the transition period”.

6 Paragraphs 23(9)(a) and (b)

Omit “2019”, substitute “2020”.

7 At the end of section 23

Add:

Meaning of transition period

- (12) In this section:

transition period means the period:

- (a) starting on 1 July 2018; and
- (b) ending on the earlier of:
 - (i) 30 June 2020; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in New South Wales.

8 Paragraph 24(6)(a)

After “has”, insert “, before or during the transition period,”.

9 Paragraphs 24(7)(a) and (b)

Omit “2019”, substitute “2020”.

10 At the end of section 24

Add:

Meaning of transition period

- (10) In this section:

transition period means the period:

- (a) starting on 1 July 2018; and
- (b) ending on the earlier of:
 - (i) 30 June 2020; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in South Australia.

11 At the end of Part 4

Add:

25 Application—special arrangements for Victoria

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in Victoria.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in Victoria if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the provider is compliant with the safety screening requirements in relation to the person in accordance with the safety screening policy issued by the Victorian Department of Health and Human Services and as in force from time to time; and
 - (c) the person's safety screening is current in accordance with the requirements; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.

Special arrangements after the end of the transition period

- (5) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) before the end of the transition period, the provider was compliant with the safety screening requirements in relation to the person in accordance with the safety screening policy issued by the Victorian Department of Health and Human Services and as in force from time to time; and
 - (c) the person's safety screening is current in accordance with the requirements; and
 - (d) any of the following apply:
 - (i) the person has a current working with children check (within the meaning of the *Working with Children Act 2005* (Vic.)) that was issued to the person before the end of the transition period;
 - (ii) less than 6 months have elapsed since the end of the transition period;

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- (iii) 6 months or more have elapsed since the end of the transition period and the person is in the process of obtaining a clearance (within the meaning of section 15 of this instrument); and
 - (e) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not come into effect.
- (6) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (5)(b), (c) and (d); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.

Notice

- (7) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(b) of this instrument no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (8) In this section:

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 30 June 2020; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in Victoria.

26 Application—special arrangements for Queensland

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in Queensland.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in Queensland if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is during the transition period; and
 - (b) any of the following apply:
 - (i) the person meets the requirements specified in Part 5 of the *Disability Services Act 2006* (Qld) in relation to screening of persons engaged to provide services to people with disability;

- (ii) the person meets the requirements specified in the *Working with Children (Risk Management and Screening) Act 2000* (Qld) in relation to screening for regulated employment or regulated businesses;
- (iii) the person engages in the risk assessed role in the person's capacity as a registered health practitioner (within the meaning of the *Health Practitioner Regulation National Law 2009* (Qld)) and the person has a certificate of registration (within the meaning of that Act); and
- (c) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not come into effect.

Special arrangements after the transition period

- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) immediately before the end of the transition period, the person satisfied paragraph (3)(b); and
 - (c) it is before the transition time for the person; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.
- (5) For the purposes of paragraph (4)(c), the transition time for a person is the expiry of the relevant notice or certificate that the person held immediately before the end of the transition period.
- (6) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (4)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (7) has not yet come into effect.

Notice

- (7) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(b) of this instrument no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (8) In this section:

regulated business has the meaning given by the *Working with Children (Risk Management and Screening) Act 2000* (Qld).

regulated employment has the meaning given by the *Working with Children (Risk Management and Screening) Act 2000* (Qld).

transition period means the period:

- (a) starting on 1 July 2019; and

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- (b) ending on the earlier of:
 - (i) 30 June 2020; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in Queensland.

27 Application—special arrangements for Tasmania

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in Tasmania.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in Tasmania if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person is registered to engage in a regulated activity under the *Registration to Work with Vulnerable People Act 2013* (Tas.); and
 - (c) the registration is in terms that allow the person to engage in the role concerned; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Special arrangements after the transition period

- (5) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) immediately before the end of the transition period, the person met the requirements of paragraphs (3)(b) and (c); and
 - (c) it is before the transition time for the person; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (6) For the purposes of paragraph (5)(c), the transition time for a person is the earlier of:

- (a) 3 years after the person was registered to engage in a regulated activity under the *Registration to Work with Vulnerable People Act 2013* (Tas.); and
 - (b) the expiry of the registration that the person held immediately before the end of the transition period.
- (7) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (5)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Notice

- (8) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(b) of this instrument no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (9) In this section:

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 30 June 2020; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in Tasmania.

28 Application—special arrangements for ACT

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in the Australian Capital Territory.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in the Australian Capital Territory if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is during the transition period; and
 - (b) the person is registered to engage in a regulated activity under the *Working with Vulnerable People (Background Checking) Act 2011* (ACT); and
 - (c) the registration is in terms that allow the person to engage in the role concerned; and

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- (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is during the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Special arrangements after the transition period

- (5) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) immediately before the end of the transition period, the person met the requirements of paragraphs (3)(b) and (c); and
 - (c) it is before the transition time for the person; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (6) For the purposes of paragraph (5)(c), the transition time for a person is the earlier of:
- (a) 3 years after the person is registered under the *Working with Vulnerable People (Background Checking) Act 2011 (ACT)*; and
 - (b) the expiry of the registration that the person held immediately before the end of the transition period.
- (7) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (5)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Notice

- (8) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(b) of this instrument no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (9) In this section:

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 30 June 2020; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in the Australian Capital Territory.

29 Application—special arrangements for Northern Territory

- (1) This section applies to a person or entity that has applied to be, or is, registered as a registered NDIS provider to deliver any class of support or service to a participant residing in the Northern Territory.
- (2) A registered NDIS provider is complying with the transitional arrangements when delivering services or supports in the Northern Territory if that provider complies with this section.

Special arrangements during the transition period

- (3) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person has a clearance notice granted under the *Care and Protection of Children Act 2007* (NT) that is in force; and
 - (c) the clearance notice is in terms that allow the person to engage in the role concerned; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (4) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is during the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (3)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Special arrangements after the transition period

- (5) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
 - (a) it is after the end of the transition period; and
 - (b) immediately before the end of the transition period, the person met the requirements of paragraphs (3)(b) and (c); and
 - (c) it is before the transition time for the person; and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.
- (6) For the purposes of paragraph (5)(c), the transition time for a person is the earlier of:

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- (a) 2 years after the person was given a clearance notice under the *Care and Protection of Children Act 2007* (NT); and
 - (b) the expiry of the clearance notice that the person held immediately before the end of the transition period.
- (7) A registered NDIS provider may allow a person to engage in a risk assessed role at a time when the person does not have a clearance if:
- (a) it is after the end of the transition period; and
 - (b) the person is a secondary school student on a formal work experience placement with the provider; and
 - (c) the person is directly supervised by a person who meets the requirements of paragraphs (5)(b) and (c); and
 - (d) a notice (if any) issued to the provider by the Commissioner pursuant to subsection (8) has not yet come into effect.

Notice

- (8) The Commissioner may give a written notice to a registered NDIS provider that paragraph 14(b) of this instrument no longer applies to the provider from the day specified in the notice (which must be at least 14 days after the notice is given).

Meaning of transition period

- (9) In this section:

transition period means the period:

- (a) starting on 1 July 2019; and
- (b) ending on the earlier of:
 - (i) 30 June 2020; and
 - (ii) the day notice is given under section 30 that the NDIS worker screening unit is operational in the Northern Territory.

30 Notice that NDIS worker screening unit is operational in a jurisdiction

The Minister may, by notifiable instrument, give notice that the NDIS worker screening unit for a State or Territory is operational in that State or Territory, with the agreement of that State or Territory.